

## 1. Requirement for 15 Percent VOC Reductions for Moderate and Above Areas During the First 6 Years After the Base Year

We are proposing two ways to implement the 15 percent requirements for moderate-and-above areas to meet numerical emissions reductions milestones (also known as rate-of-progress, or ROP, requirements).

Under the first option, all such areas would be required to reduce baseline VOC emissions by 15 percent over the first 6 years after a baseline year.

Under the second option, areas that previously reduced VOC emissions by 15 percent as part of implementing the 1-hour standard would be viewed as having already met the requirement. Moderate areas meeting this criterion would comply with the general subpart 1 requirement to demonstrate "reasonable further progress" toward meeting the standard. Serious-and-above areas meeting the criterion would be required to achieve an 18 percent reduction in VOC and/or NO<sub>x</sub> over the first 6 years and 9 percent over subsequent 3-year periods until the area's attainment date.

## 2. Base Year

We are proposing 2002 as the baseline year, and that the 6-year period for reductions would run from January 1, 2003 until December 31, 2008. We propose that States be allowed credit toward meeting the ROP requirements for all emissions reductions that occur after the 2002 base year—including reductions from all post-1990 Federal or other measures (except those specifically excluded under section 182(b)(1)) of the CAA. We have also recently issued a memorandum that sets forth 2002 as the baseline year for planning purposes.

We are also proposing options for other RFP issues, including:

- The timing of ROP reductions relative to attainment date for moderate areas.
- Timing of submission of ROP plan.
- CAA requirements for creditability of control measures.
- Subpart 1 RFP.
- Cases where 8-hr NA area encompasses and is larger than current 1-hr NA area.

## I. RACM/RACT

In the event classification option 2 is selected, we are proposing an interpretation of the requirements for reasonably available control measures (RACM) and reasonably available control technology (RACT) for areas covered by subpart 1.

For RACT, for areas with 8-hour ozone levels that would place them in a moderate or above classification under subpart 2, we are proposing two options. Under the first option, these areas would be required to meet the traditional technology-based RACT control requirement that are applicable to moderate and above areas under subpart 2. Under the second option, if the area is able to demonstrate attainment of the standard as expeditiously as practicable with emission control measures in the SIP, then RACT will be met, and additional measures would not be required as being reasonably available.

For subpart 1 areas with 8-hour ozone levels that would place them in a marginal classification if classified under subpart 2, the RACT requirement would be similar to that for marginal areas covered under subpart 2. This RACT approach also would be available to areas that qualified for marginal status via the incentive feature.

The RACT requirements for areas under subpart 1 would have to be submitted within 2 years after an area's nonattainment designation.

We are proposing that the State does not need to perform a RACT analysis for sources subject to the State's emission cap-and-trade program where we have approved the cap-and-trade program as meeting the NO<sub>x</sub> SIP Call requirements and it does not need to submit a new NO<sub>x</sub> RACT SIP for those sources.

We propose to formally recognize NO<sub>x</sub>, as well as VOC, as an ozone precursor, so that RACT for NO<sub>x</sub> would be required for areas classified under either subpart 1 or subpart 2 for the same kinds of sources covered under the 1-hour ozone standard.

For RACM, we propose to continue with the same interpretation that we have used for implementing the 1-hour ozone standard. To show that all RACM have been included in the plan, the State must show that there are no additional measures that are technically and economically feasible that will advance the attainment date.

## J. Conformity

No changes to the transportation conformity rule are proposed in this rulemaking. Transportation conformity is discussed in this proposal for informational purposes. By statute, transportation conformity applies to 8-hour nonattainment areas 1 year after the effective date of an area's designation. Our proposal to revoke the 1-hour standard 1 year after 8-hour ozone area designations means that transportation conformity requirements under the 1-hour standard would end at

the same time 8-hour transportation conformity requirements begin. We are proposing that conformity would not apply in 1-hour ozone standard maintenance areas after we revoke the 1-hour ozone standard.

For the general conformity program, which ensures that federal actions will not interfere with an area's air quality plan, we are not proposing to revise its General Conformity Regulations in this rulemaking. We plan to retain the existing *de minimis* emissions levels for actions exempt from the rule. Our proposal to revoke the 1-hour standard one year after 8-hour ozone area designations means that general conformity requirements under the 1-hour standard would end at the same time 8-hour general conformity requirements begin. We are proposing that general conformity would not apply in 1-hour ozone standard maintenance areas after we revoke the 1-hour ozone standard.

## K. New Source Review

We are proposing three options for NSR, which could be implemented in conjunction with each other:

1. A "status quo" NSR program under which subpart 1 areas would be covered by subpart 1 NSR, while subpart 2 areas would be covered by subpart 2 NSR.

2. A more flexible "Transitional" NSR program for areas that submit early SIPs and that attain early. This program would be available to areas covered under subpart 1 and that are attaining the 1-hour ozone standard.

3. A "Clean Air Development Community" program that would allow a more flexible NSR program for areas that manage growth in emissions-producing activities.

## VI. What Are EPA's Proposed Frameworks for Implementing the 8-Hour Ozone Standard?

As noted above, we originally intended to implement the 8-hour ozone standard under subpart 1 of part D, title I of the CAA. This would have allowed areas more flexibility to determine whether to regulate NO<sub>x</sub>, VOC or both to address ozone nonattainment.

As also noted above, however, the Supreme Court determined that an approach that did not provide for classifying areas under subpart 2—and thus subjecting those areas to the subpart 2 control requirements—in implementing the 8-hour standard was unreasonable. In structuring a proposed implementation rule, we have tried to stay as close as possible to the principles noted above, particularly with regard to seeking flexible ways for States to address their 8-hour ozone