

the upwind area will solve the remaining nonattainment problem in the rural transport area as well. In these cases, the timing for attainment will depend on the schedule for adoption and implementation of control measures in the upwind areas.

2. Multi-State Nonattainment Areas

Section 182(j)(2) for multi-State nonattainment areas (*i.e.*, portions of the nonattainment area lie in two or more States) recognizes that one State may not be able to demonstrate attainment for the portion of the nonattainment area within its borders if other States containing the remaining portions of the nonattainment area do not adopt and submit the necessary attainment plan for their portions of the nonattainment area. In such cases, even though the area as a whole would not be able to demonstrate attainment, the sanction provisions of section 179 shall not apply in the portion of the nonattainment area located in a State that submitted an attainment plan.

Section 182(j) defines a multi-State ozone nonattainment area as an ozone nonattainment area, portions of which lie in two or more States. Section 182(j)(1)(A) and (B) set certain requirements for such areas. First, each State in which a multi-State ozone nonattainment area lies, must take all reasonable steps to coordinate the implementation of the required revisions to SIPs for the given nonattainment area [section 182(j)(1)(A)]. Next, section 182(j)(1)(B) requires the States to use photochemical grid modeling or any other equally effective analytical method approved by EPA for demonstrating attainment. EPA is prevented by section 182(j) from approving any SIP revision submitted under that section if a State has failed to meet the above requirements.

Pursuant to section 182(j)(1)(A), States that include portions of a multi-State ozone nonattainment area are required to develop a joint work plan as evidence of early cooperation and integration. The work plan should include a schedule for developing the emissions inventories, and the attainment demonstration for the entire multi-State area. Each State within a multi-State ozone nonattainment area is responsible for meeting all the requirements relevant to the given area. Care should be taken to coordinate strategies and assumptions in a modeled area with those in other, nearby modeled areas in order to ensure that consistent, plausible strategies are developed.

3. Intrastate Transport

Several State air agency representatives have voiced a concern about intrastate transport of ozone and precursor emissions and have asked EPA to address this concern. One State, for instance, notes that it has upwind areas that are affecting downwind areas and in some cases may be preventing a downwind area from attaining the standard by its statutory date.

We believe that the CAA requires individual States, as an initial matter, to deal with intrastate transport. We realize that some States are structured with semi-autonomous local air agencies that are empowered to address major elements of the SIP process, including preparation of the attainment demonstration. In those situations, the CAA provides that the State retain sufficient backstop authority to ensure all areas within its borders reach attainment, (110(a)(2)(E)). A State could, of course, recommend designation of nonattainment areas that are large enough to encompass upwind and downwind areas of the State and require that the individual jurisdictions work together on an attainment plan that accounts for transport and results in attainment by the attainment date for the entire nonattainment area. Or a State could require the individual agencies to work together in the same manner as multi-State organizations. In this case, there would be separate nonattainment areas with independent agencies expected to work together to address transport among the nonattainment areas. To facilitate this process, the State could require the agencies to sign a memorandum of agreement which describes the technical and administrative approach for performing the modeling analysis and identifying the appropriate controls measures. Upon a State's request, we would be willing to provide support for these activities.

We also solicit comments on other ways of addressing intrastate transport within the context of the CAA provisions.

4. International Transport

a. *International transboundary transport.* International transboundary transport of ozone and ozone precursors can contribute to exceedances of the NAAQS. It is likely that the international transport of air pollutants will affect the ability of some areas to attain and maintain the 8-hour ozone NAAQS. As States and EPA implement control strategies and national emission reduction programs, the impact of high background levels emanating from

outside the U.S. may play a larger role in future attainment demonstrations. We have developed an information document on "International Transboundary Influences and Meeting the NAAQS," which is located in the Docket to this proposed rulemaking. This document provides information on efforts with Canada and Mexico to address transboundary air pollution as well as additional information for intercontinental modeling work currently underway within EPA.

b. *Section 179B and the SIP approval process.* Section 179B of the CAA (International Border Areas), applies to nonattainment areas that are affected by emissions emanating from outside the United States. This section requires EPA to approve a SIP for a nonattainment area if: It meets all of the requirements applicable under the CAA, other than a requirement that the area demonstrate attainment and maintenance of the ozone NAAQS by the applicable attainment date; and the affected State establishes to EPA's satisfaction that the SIP would be adequate to attain and maintain the ozone NAAQS by the applicable attainment date but for emissions emanating from outside the United States. Further, any State that establishes to the satisfaction of EPA that the State would have attained the 8-hour ozone NAAQS, but for emissions emanating from outside the U.S., would not be subject to the attainment date extension provided in section 181(a)(5), the fee provisions of section 185, and the bump-up provisions for failure to attain for 8-hour ozone NAAQS specified in section 181(b)(2).³⁸

In demonstrating that an area could attain the 8-hour ozone NAAQS but for emissions emanating from outside the U.S., approved EPA modeling techniques should be used to the best extent practicable. An emission inventory incorporating vehicle emissions released in the U.S. by foreign vehicles, *i.e.*, those vehicles registered in the adjacent foreign country, must be completed by the States before modeling the U.S. side only and attempting to demonstrate attainment.³⁹ We recognize that adequate data may not be available for mobile and stationary sources outside the United States. Therefore, modeling, per EPA's "modeling

³⁸ The statute contains a typographical error referring to section 181(a)(2) instead of 181(b)(2).

³⁹ As noted elsewhere in this notice, the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) has established basic emission inventory requirements for all areas of the country and generally requires periodic inventories of emissions that actually occur in the year of the inventory in the U.S. area of interest. This would include emissions from foreign-registered vehicles.