

address the 8-hour ozone and the PM_{2.5} standards.⁴⁵

We considered other options for addressing this issue that are not being proposed here; discussion of them appears in a separate document, available in the docket.⁴⁶

5. Should Moderate Areas Be Subject to Prescribed Additional RFP Requirements Prior to Their Attainment Date?

For areas initially classified moderate and higher under the 1-hour ozone standard, the baseline inventory was defined as 1990 in the CAA Amendments of 1990. Therefore, the 6-year period for the initial 15 percent ROP requirement ended in the same year as the attainment date for moderate areas, viz., 1996. For areas classified moderate and higher under the 8-hour ozone standard, however, we are proposing that the 15 percent ROP target level of emissions would be calculated for the 6-year period after the 2002 baseline year, *i.e.*, 2003–2008. Moderate areas would be required to meet an attainment date no later than 6 years after the area is designated nonattainment for the 8-hour standard. If the effective date of designation of nonattainment areas is, for instance, May 15, 2004, the attainment date would be May 15, 2010. This leaves approximately a 1½ year gap between the end of the 6-year period for the 15 percent ROP requirement (*i.e.*, December 31, 2008) and the attainment date. If we were to also require moderate areas to obtain an additional three percent per year reduction beyond 2008 for the 1½ additional years until 2010, the ROP requirement would be more than what we believe Congress intended for moderate areas under subpart 2. Additional three percent per year reductions were only required for serious and higher classified 1-hour ozone nonattainment areas. We are proposing that the only specific ROP requirement applicable for moderate areas is the 15 percent VOC requirement between the end of 2002 and the end of 2008. However, section 172(c)(2) also applies, requiring areas to meet RFP generally. Therefore, a moderate area

would also have to provide any additional emissions reductions—VOC and/or NO_x—needed to provide for attainment by the area's attainment date. In proposing this approach, we are interpreting the subpart 1 RFP requirement to mean that the area must achieve whatever further reduction is needed for attainment in the remaining period prior to the attainment date (2009 and 2010).

We are proposing that serious and higher classified areas would need to provide in their SIPs an additional average of three percent per year emissions reductions over each subsequent 3-year period beyond the initial 6-year period through the attainment year, consistent with what Congress specified in section 182(c)(2)(B) of the CAA.

6. What Is the Timing of the Submission of the ROP Plan?

Section 182(b)(1) requires that moderate and higher classified areas submit their 15 percent ROP plans within 3 years after 1990. For the attainment dates under the 8-hour ozone standard, we propose interpreting the CAA's language referring to the date of enactment of the 1990 CAA Amendments to mean the date of designations for the 8-hour standard. If we were to require the ROP plans to be submitted within 3 years after their nonattainment designation date (*i.e.*, in 2007 if we designate in 2004), the plans would have to be implemented within 1 year after submission to ensure the 15 percent emissions reductions are achieved by the end of the relevant 6-year period (*i.e.*, December 2008). We believe this would likely not be sufficient time to ensure that the reductions would occur by the required deadline. Therefore, we propose that the ROP SIP be submitted within 2 years after nonattainment designation—by 2006. This would provide 2 years for the State to develop and submit its ROP plan, and another 2 years for the control measures to be implemented.

7. How Should CAA Restrictions on Creditable Measures Be Interpreted? Which National Measures Should Count as Generating Emissions Reductions Credit Toward RFP Requirements?

Section 182(b)(1) contains provisions that limit creditability toward meeting RFP for certain limited emission reduction measures required prior to the enactment of the CAA Amendments of 1990. We believe these specific restrictions should continue to apply for purposes of the 8-hour NAAQS as written in the CAA. We believe that Congress intended to prevent areas from

taking credit for RFP only for those specific measures that were already adopted and in place (or required to be in place) prior to the date of enactment of the CAA Amendments of 1990 (November 15, 1990). We believe that this same logic holds true for the RFP requirement as it applies to the 8-hour ozone standard, namely preventing credit toward the mandatory RFP percent reductions for continuing reductions from those specific measures cited in the CAA that were already adopted and in place prior to the date of enactment of the CAA Amendments of 1990. There is no indication in the CAA that this exclusion should be changed. Congress mandated many emissions reductions in the 1990 CAA Amendments with no indication that they should not be credited to meeting RFP or attainment of any existing or revised NAAQS. Therefore, we are proposing that all emissions reductions that occur after the baseline emission inventory year from all Federal and any other measures (not otherwise identified in section 182(b)(1)(D)) would be creditable to the RFP requirement. For example, emissions reductions that occur after the 2002 baseline emission inventory year that result from the Tier 2 and sulfur in gasoline rules that were issued by EPA after the CAA Amendments of 1990 are creditable toward the RFP requirement for the 8-hour ozone standard. Another example of emissions reductions that would be creditable toward the RFP requirement for the 8-hour ozone standard would be VOC emissions reductions from certain MACT standards that will not produce emissions reductions until after the 2002 baseline; these would include several recently promulgated MACT standards (such as those covering several surface coating operations) and also MACT standards that are expected to be promulgated in the summer of 2003. Reductions that occur prior to the baseline year would be incorporated into the baseline and could not be credited.

8. For Areas Covered by Subpart 1 Instead of Subpart 2, How Should the RFP Requirement Be Structured?

As described above, the RFP requirement under subpart 1 is more general than that under subpart 2, and EPA thus has more flexibility in determining what RFP means under subpart 1. For instance, the State may rely on emissions reductions of VOC or NO_x or a combination of both to meet its RFP requirement. However, we are also mindful of the need for ensuring equity between areas with similar 8-hour ozone problems covered under

⁴⁵ Memorandum on November 18, 2002, from Lydia Wegman and Peter Tsigotis, "2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, PM_{2.5} and Regional Haze Programs." This document is available at the following Web site: <http://www.epa.gov/ttn/oarpg/meta.442.1.2002baseinv.pdf>.

⁴⁶ Additional Options Considered for "Proposed Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC. March 2003.