

subpart 1 and those covered under subpart 2. We are proposing rules for three kinds of areas: (a) Areas with attainment dates 3 years or less after designation; (b) Areas with attainment dates between 3 and 6 years after designation; and (c) Areas with attainment dates beyond 6 years after designation. Note that the CAA requires that attainment dates for areas subject only to subpart 1 be no longer than 10 years after designation.

a. *Areas with attainment dates 3 years or less after designation.* We propose a RFP requirement for these areas similar to that for areas under subpart 2 that are classified as marginal. Such an area would not be subject to a separate RFP requirement, but would have to attain the standard by its attainment date.

b. *Areas with attainment dates between 3 to 6 years after designation.* These areas would have attainment dates similar to subpart 2 areas classified as moderate. We propose two options for these areas:

(i) *Option 1.* This option would require the RFP plan to be submitted with the attainment demonstration within 3 years after designation of the nonattainment area. The SIP would have to show that all emissions reductions needed for attainment would be implemented by the attainment date. This situation would occur, for example, for an area with a base year inventory of 2002, designation in 2004, a required attainment SIP submission date of 2007 and an attainment date of 2010. Where areas have only 3 years after SIP submission before attainment, this option recognizes that there may be only a short amount of time available to achieve any specified emissions reductions beyond that needed to demonstrate attainment and therefore would not require a showing that a specified amount of emissions reductions occur between the time of SIP submission and the attainment date.

(ii) *Option 2.* This option would require these areas to be treated in a manner similar to subpart 2 areas classified as moderate. The RFP SIP would have to provide for a 15 percent emission reduction from the baseline year within 6 years after the baseline year. The RFP SIP would have to be submitted within 2 years after designation. However, since the area is subject only to subpart 1, NO_x emissions reductions could be substituted for some or all of the 15 percent reduction requirement, consistent with EPA's NO_x substitution

policy.⁴⁷ Also, we are soliciting comment on whether a percentage other than 15 percent should be required as the minimum. Additional measures that would provide the remaining portion of the emissions reductions needed for attainment would have to be submitted with the area's attainment demonstration within 3 years after designation.

c. *Areas with attainment dates beyond 6 years after designation.* These areas are similar in attainment dates to areas classified under subpart 2 as serious or higher. We are proposing that the RFP plan show increments of progress from the baseline emission inventory year until the attainment date. The RFP SIP would first have to provide for a 15 percent emission reduction from the baseline year within 6 years after the baseline year. The 15 percent RFP SIP would have to be submitted within 2 years after designation. However, since the area is subject only to subpart 1, NO_x emissions reductions could be substituted for some or all of the 15 percent reduction requirement, consistent with EPA's NO_x substitution policy. Also, we are soliciting comment on whether a percentage other than 15 percent would be more appropriate. Then, for each subsequent 3-year period out to the attainment date, another RFP SIP would have to provide for an additional increment of progress no less than the amount of emissions reductions that would be proportional to the time between the end of the first increment (in 2008) to the attainment date. This second RFP SIP would have to be submitted at the same time as the attainment demonstration, namely within 3 years after designation.

9. How Should the RFP Requirements Be Implemented for Areas Designated for the 8-Hour Ozone Standard That Entirely or in Part Encompass an Area That Was Designated Nonattainment for the 1-Hour Ozone Standard?

We are proposing the following approach to address this issue. Develop a new baseline and new ROP/RFP emission reduction targets for the entire 8-hour standard nonattainment area (the old 1-hour standard nonattainment area and the newly added portion of the 8-hour standard nonattainment area). Emissions reductions from measures in the 1-hour ozone SIP that are achieved after the 8-hour ozone NAAQS baseline year could count (subject to creditability restrictions as discussed above in this proposed rulemaking) toward meeting

the RFP requirement for the entire 8-hour area.

This approach would set a ROP target for the entire 8-hour ozone nonattainment area. The State would have to ensure that the target is at least as stringent as the 1-hour ROP/RFP target, thus ensuring no backsliding on the 1-hour NAAQS requirements. Under this approach, the new ROP/RFP target for the 8-hour standard would replace the previous 1-hour ozone target (while ensuring that, at a minimum, the emissions reductions required to meet the old target are met). For example, the 1-hour ozone NAAQS nonattainment area may comprise four counties and have a target level for one future RFP increment of 350 tons/day of VOC and 300 tons/day of NO_x. The 8-hour ozone nonattainment area may comprise the initial 1-hour ozone standard nonattainment area and two more counties. The target for the same increment period for the entire six county nonattainment area may now be, for instance, 400 tons/day of VOC and 350 tons/day of NO_x (assuming that these emission reductions were consistent with the attainment demonstration).

We considered another option for this issue. This option, which is not being proposed, is discussed in a separate document available in the docket.⁴⁸

10. Will EPA's "Clean Data Policy" Continue to Apply Under the 8-Hour Standard for RFP?

We issued a clean data waiver policy on May 10, 1995, which allows EPA to determine that an area has attained the standard and that certain requirements (e.g., RFP) will not apply so long as the area remains in attainment.⁴⁹ We propose that this policy would remain effective under the 8-hour ozone NAAQS.

11. How Will RFP Be Addressed in Tribal Areas?

As mentioned elsewhere in this proposed rulemaking, the TAR provides the Tribes with the ability to develop TIPs to address the NAAQS. However, it also provides the Tribes with

⁴⁸ 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.

⁴⁹ Memorandum of May 10, 1995, "RFP, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," from John S. Seitz, Director, Office of Air Quality Planning and Standards. Available at: <http://www.epa.gov/ttn/oarpg/t1/memoranda/clean15.pdf>.

⁴⁷ NO_x Substitution Guidance. December 15, 1993; available at <http://www.epa.gov/ttn/oarpg/t1pgm.html>.