

control technologies to provide for attainment of the ozone standards.

As stated in section 3, above, we are proposing an alternative option for RACT under subpart 1. In this option, areas that are able to demonstrate attainment of the 8-hour standard as expeditiously as practicable with the control measures in their SIP would be considered as having met RACT.

#### 6. Proposed Approach for NO<sub>x</sub> as an Ozone Precursor

In addition to the issue regarding the nature of the RACT rules that apply under subpart 1, another issue concerns the pollutants (precursors) to which the RACT rules apply. Although NO<sub>x</sub> has long been recognized as a precursor to ozone<sup>57</sup> and several national rules<sup>58</sup> have been promulgated to control NO<sub>x</sub> for purposes of helping attain the ozone standard, subpart 1 does not specifically address either NO<sub>x</sub> or VOC, but rather RACT in general. We propose to clarify this by recognizing both NO<sub>x</sub> and VOCs as precursors to ozone and to require NO<sub>x</sub> and VOC RACT under subpart 1. This is consistent with the application of RACT under subpart 2. Under section 182(f) (in subpart 2), a waiver from NO<sub>x</sub> RACT is possible under certain circumstances (the waiver provision is discussed elsewhere in this proposed rulemaking) for areas subject to subpart 2. We are proposing to allow areas subject to subpart 1, to seek a waiver consistent with the tests set forth in section 182(f).

#### 7. Proposed Approach for RACM

We have also issued guidance for implementing the RACM provisions of the CAA that interprets those provisions to require a demonstration that the State has adopted all reasonable measures to meet RFP and attainment as expeditiously as practicable and thus that no additional measures that are reasonably available will advance the attainment date or contribute to RFP for the area.<sup>59</sup> The RACM requirement,

which is set forth in section 172(c)(1) of the CAA, applies to all nonattainment areas that are required to submit an attainment demonstration, whether covered under only subpart 1 or also subpart 2.

#### 8. Proposed Submission Date for RACT and RACM Requirements

We are proposing that the SIP provisions for RACT for a nonattainment area—regardless of whether the area is covered under subpart 1 or subpart 2—be submitted within 2 years after the area's nonattainment designation; this is consistent with the timing for submission of RACT rules in section 182(b)(2) for moderate areas.<sup>60</sup>

We are proposing that the SIP provisions for RACM for a nonattainment area—regardless of whether the area is covered under subpart 1 or subpart 2—be submitted within 3 years after the area's nonattainment designation; this is consistent with the timing for submission of an area's demonstration of attainment.

#### L. How Will the Section 182(f) NO<sub>x</sub> Provisions Be Handled Under the 8-Hour Ozone Standard?

In subpart 2 of part D, section 182(f) requires States to apply the same requirements to major stationary sources of NO<sub>x</sub> as are applied to major stationary sources of VOC. The applicable requirements are RACT and NSR for major stationary sources in certain ozone nonattainment areas and throughout States in the OTR.<sup>61</sup> In addition, section 182(f) specifies circumstances under which these NO<sub>x</sub> requirements would be limited or would not apply ("NO<sub>x</sub> waiver"). Further, areas granted a NO<sub>x</sub> waiver under section 182(f) may be exempt from motor vehicle I/M and certain Federal requirements of general and transportation conformity.<sup>62</sup> For the

same reasons described in the "Nitrogen Oxides Supplement to the General Preamble" with respect to the 1-hour ozone standard, we propose to also apply the NO<sub>x</sub> requirements and waiver provisions in section 182(f) for 8-hour ozone nonattainment areas under subpart 2 and OTRs.<sup>63</sup>

Elsewhere in today's proposed rulemaking, we propose to establish NO<sub>x</sub> as a precursor to ozone under subpart 1 and require RACT and NSR in subpart 1 nonattainment areas for major sources of NO<sub>x</sub> as well as VOC. As noted in the preceding paragraph, we are also proposing that the NO<sub>x</sub> RACT and NSR requirements apply in certain subpart 2 nonattainment areas and throughout OTRs. While NO<sub>x</sub> emissions are necessary for the formation of ozone in the lower atmosphere, a local decrease in NO<sub>x</sub> emissions can, in some cases, increase local ozone concentrations. This potential "NO<sub>x</sub> disbenefit" resulted in Congress including NO<sub>x</sub> waiver provisions in section 182(f) (in subpart 2 of part D) for areas classified under subpart 2. We believe the NO<sub>x</sub> waiver provisions are a prudent safeguard to avoid unnecessary emissions reductions and that these safeguards should be extended to areas classified under subpart 1 that are subject to the NO<sub>x</sub> RACT and NSR provisions. Therefore, we propose to establish NO<sub>x</sub> waiver provisions identical to those in section 182(f) for areas subject to subpart 1.

In the event that the final rulemaking does not establish NO<sub>x</sub> as a precursor to ozone under subpart 1 and the NO<sub>x</sub> RACT and/or NSR requirements do not apply, a NO<sub>x</sub> waiver provision would be unnecessary with respect to subpart 1 areas. We propose that the concepts contained in the existing 1-hour ozone guidance<sup>64</sup> regarding section 182(f) would apply for the 8-hour ozone program under subparts 1 and 2. We would update the existing guidance to take into account the new ozone and PM standards and modeling techniques now available. For areas that were previously granted a NO<sub>x</sub> waiver under the 1-hour ozone standard, a re-approval would be needed to make it clear that the exemption applies, to allow for public

<sup>57</sup> For example, the 1991 National Academy of Sciences report entitled *Rethinking the Ozone Problem in Urban and Regional Air Pollution* recommends that "To substantially reduce O<sub>3</sub> [ozone] concentrations in many urban, suburban, and rural areas of the United States, the control of NO<sub>x</sub> emissions will probably be necessary in addition to, or instead of, the control of VOCs."

<sup>58</sup> For example, NO<sub>x</sub> SIP Call (published October 27, 1998), Tier 2/Gasoline Sulfur regulations (published on February 10, 2000); and Control of Emissions of Air Pollution from 2004 and Later Model Year Heavy-duty Highway Engines and Vehicles (published October 6, 2000).

<sup>59</sup> "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule." 57 FR 13498 at 13560 (April 16, 1992).

"Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment

Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: [www.epa.gov/ttn/oarpg/t1pgm.html](http://www.epa.gov/ttn/oarpg/t1pgm.html).

Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: "Additional Submission on RACM from States with Severe One-Hour Ozone Nonattainment Area SIPs."

<sup>60</sup> Section 182(a) provided that marginal areas with pre-1990 RACT obligations had to submit corrections to their RACT rules within 6 months after classification under the 1990 CAAA. New 8-hour ozone nonattainment areas that are classified as marginal would not have this requirement.

<sup>61</sup> See 57 FR 55622 ("Nitrogen Oxides Supplement to the General Preamble," published November 25, 1992).

<sup>62</sup> As stated in EPA's I/M (57 FR 52950) and conformity rules (60 FR 57179 for transportation

rules and 58 FR 63214 for general rules), certain NO<sub>x</sub> requirements do not apply where EPA granted an areawide exemption under section 182(f).

<sup>63</sup> See 57 FR 55620, "Nitrogen Oxides Supplement to the General Preamble," published November 25, 1992.

<sup>64</sup> The EPA's primary guidance regarding section 182(f) is contained in the "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)," issued by John S. Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Division Directors, December 16, 1993.