

requirements for States subject to the SIP Call.<sup>76</sup>

In 2002, EPA promulgated the CERR. (67 FR 39602, June 10, 2002). The CERR consolidates the various emissions reporting requirements that already exist into one place in the CFR, establishes new reporting requirements for PM<sub>2.5</sub> and its precursors and establishes new requirements for the statewide reporting of area source and mobile source emissions.

The CERR establishes two types of required emission inventories:

- Annual inventories, and
- 3-year cycle inventories.

We anticipate that States will use data obtained through their current annual source reporting requirements (annual inventories) to report emissions from larger point sources annually. States will need to get data from smaller point sources every 3rd year. States may also take advantage of data from emission statements that are available to States but not reported to EPA. New nonattainment areas for the 8-hour standard that are classified under subpart 2 will need to establish an emission statement program as specified under section 182(a)(3)(B). We published guidance on emission statements in July 1992 titled, "Guidance on the Implementation of an Emission Statement Program." As appropriate, States may use the emission statement data to meet their reporting requirements for point sources. We are interested in States' comments on their experience with the emission statement program and how the implementation of the emission statement program can be improved. States are also required to inventory area and mobile source emissions on a statewide basis for the 3-year cycle inventory. Mobile source emissions should be estimated by using the latest emissions models and planning assumptions available. The latest approved version of the MOBILE model (MOBILE6 at the time of this proposed rulemaking, see 67 FR 4254, January 29, 2002) should be used to estimate emissions from on-road transportation sources, in combination with the latest available estimates of VMT. EPA has issued a guidance memo titled "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" dated January 18, 2002, that provides additional information on the use of the MOBILE6 model. The

NONROAD model is currently available in draft form and can be used for initial estimates of off-road mobile source emissions. We expect that the final version of the NONROAD model will be released in late 2004, which will not be in time for States to use it for their 2002 emission inventories, which are due June 1, 2004. However, by the time EPA's rulemaking on implementation of the 8-hour ozone standard is final and States need to begin preparing SIPs, a new draft version of NONROAD will have been released in connection with a planned proposal in early 2003 regarding regulation of certain non-road engine categories. When the NONROAD model is final, States may choose to update their 2002 emission inventories using the final NONROAD model. By merging the information on point sources, area sources and mobile sources into a comprehensive emission inventory, State and local agencies may do the following:

- Set a baseline for SIP development,
- Measure their progress in reducing emissions,
- Have a tool they can use to support future trading programs,
- Answer public requests for information.

Most importantly, States need these inventories to help nonattainment areas develop and meet SIP requirements to reach the NAAQS.

In April 1999, we published "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," EPA-454/R-99-006. We will be updating this guidance and are soliciting comment on several key points to be addressed in the revised document. These points are:

- Section 182(a)(1) requires that marginal and above ozone nonattainment areas submit an emission inventory 2 years after designation as nonattainment in 1990. For nonattainment areas classified under subpart 2 for the 8-hour ozone standard, we propose to interpret this to mean that an emission inventory would be required 2 years after designation (*i.e.*, in 2006 if EPA designates areas in 2004). The CERR requires comprehensive triennial emission inventories, beginning with the 2002 inventory year, regardless of an area's attainment status. Because these emission inventories will be available, we propose that the emission inventories required by the CERR are sufficient to meet the provisions of section 182(a)(1).
- In the past, there have been instances where portions of Tribal areas have been included in designated

nonattainment areas, but when the baseline emission inventory was prepared, emissions from the Tribal lands were not included. This has had the effect of preventing the Tribes from generating emission reductions from existing sources to develop emission offsets, as well as impairing the ability of the State to model as accurately as possible. We are encouraging the States and Tribes to work together to ensure that the information used in developing the baseline emission inventory is inclusive of all emissions from the nonattainment area.

- The emission inventory is used as a tracking metric by some programs such as emission trading, NSR offsets trading and RFP. This requires that a year is designated as a "baseline" year and used as the reference for the particular program.

An external review draft of the emission inventory guidance titled "Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" is available at: <http://www.epa.gov/ttn/chief/eiinformation.html>. Comments on this document are due at the same time as comments on this proposed rulemaking. However, the review of the emission inventory guidance is not part of this proposed rulemaking. Comments submitted on the emission inventory guidance should be identified as such and will not be docketed nor will a comment/response summary of these comments be a part of the final 8-hour ozone implementation rule. Instructions on how to submit comments are included with the draft guidance document.

#### *R. What Guidance Should Be Provided That Is Specific to Tribes?*

This section summarizes guidance for Tribes offered in various parts of this proposal. The TAR (40 CFR part 49), which implements section 301(d) of the CAA, gives Tribes the option of developing TIPs. Unlike States, Tribes are not required to develop implementation plans. Specifically, the TAR, adopted in 1998, provides for the Tribes to be treated in the same manner as a State in implementing sections of the CAA. EPA determined in the TAR that it was inappropriate to treat Tribes in a manner similar to a State with regard to specific plan submittal and implementation deadlines for NAAQS-related requirements, including, but not limited to, such deadlines in CAA sections 110(a)(1), 172(a)(2), 182, 187, and 191. See 40 CFR 49.4(a). If a Tribe elects to do a TIP, we will work with the

<sup>76</sup> Although the United States Court of Appeals has remanded certain limited issues regarding the NO<sub>x</sub> SIP Call to the Agency, those issues do not include the reporting requirements. See *Michigan v. EPA*, 213 F. 3d 663 D.C. Cir. 2000) and *Appalachian Power Co. v. EPA*, 251 F. 3d 1026 (D.C. Cir. 2001).