

Overview of the Proposed SIP Requirements Rule for the 2008 Ozone NAAQS

Regional ADD Call

May 29, 2013

Purposes of the Rulemaking

- To provide states with clear rules and guidance for meeting the 2008 ozone NAAQS in designated nonattainment areas.
 - This rulemaking primarily impacts the states with the 10 areas classified higher than Marginal (CA, MD, TX).
 - Some Marginal areas that anticipate being reclassified to Moderate after 2015 are looking to the rules and guidance for planning purposes as well.
- To translate 1-hour ozone requirements listed in the 1990 Clean Air Act Amendments into meaningful requirements for the 2008 8-hour ozone NAAQS.
 - This proposal hews closely to the approach EPA used for the 1997 ozone NAAQS.
- To revoke the 1997 8-hour ozone NAAQS in order to provide additional flexibility to areas still working to complete the control requirements of that NAAQS.

Preamble Outline of SIP Requirements Rule

- A. Nonattainment area SIP deadlines
- B. Modeling and attainment demonstration requirements
- C. RFP requirements
- D. RACM and RACT requirements
- E. Vehicle I/M
- F. Transportation conformity
- G. General conformity
- H. Contingency measures
- I. NSR
- J. Emission inventory and emission statement requirements
- K. Ambient monitoring requirements
- L. 1-year attainment deadline extensions
- M. Transport of ground-level ozone for rural nonattainment areas, multi-state nonattainment areas, and international transport
- N. Section 182(f) NO_x provisions
- O. Emissions benefits of energy efficiency/renewable energy programs, land use planning, and travel efficiency
- P. Multi-pollutant approach to developing SIPs
- Q. Tribes
- R. Ozone Transport Regions (OTRs)
- S. Additional requirements related to enforcement and compliance
- T. Emergency episodes
- U. Clean Data Policy
- V. Assistance
- W. Section 185 penalty fee provision for Severe and Extreme areas

Review of Key Proposals and Flexibilities-SIPs

- Combined SIP submittals for Moderate and above areas
 - We are proposing that emissions inventory, emissions statement, RACT SIP, RFP SIP, attainment plan, and attainment demonstration are due 30 months after designation (January 20, 2015) – or – per regular CAA schedule.
 - Aligning multiple SIP submissions can reduce administrative burden for states.
 - Request comment also on aligning I/M SIP due date with attainment SIP.
- Serious and higher areas have 4 years to develop RFP and attainment demonstration material.
- SIP Deadline for Severe/Extreme Areas Penalty Fee Program SIPs (§185).
 - Propose 10-years from effective date of designations (July 20, 2022).
- All RACT controls must be implemented by January 1, 2017.
 - This is roughly equivalent to 54½ months from the effective date of designations.

Review of Key Proposals and Flexibilities-RFP

- NOx substitution in RFP plans
 - Proposing to allow all areas to substitute NOx for VOC to achieve 15% inventory reduction in the first 6 years after designation.
 - CAA requires these reductions to be VOC-only.
- State can choose a base year for RFP calculations that pre-dates 2011
 - Allows area that achieved early reductions in 2008 when the standard was set to take credit for those reductions in the RFP plans.
 - In exchange for this flexibility, areas need to provide an additional 3% per year RFP for each year that is prior to 2011 (e.g., 2008 baseline year would require $15\% + 3 \times 3\% = 24\%$ reduction for years 2009 through 2017).
- RFP credit for reductions only from within the same nonattainment area.
 - Proposing not to allow “out of area” credit for 2008 NAAQS per reasoning in NRDC v. EPA, which addressed “in the area” for RACT.
 - Soliciting comment on legal basis for allowing “out-of-area” RFP credit.

Review of Key Proposals and Flexibilities-RFP

- Eliminate “pre-1990 adjustments” calculation for RFP
 - Proposing that states no longer need to calculate and deduct emissions related to pre-1990 motor vehicle, RVP, and vehicle I/M program corrections (per CAA section 182(b)(1)(D)).
 - The credit reductions are very small and the calculations are tedious.
- Alternative Calculations for RFP Targets and Compliance. Per request from CA, we are soliciting comment on the legal and technical bases for two alternate approaches for calculating RFP targets and compliance:
 - Translate an area’s RFP emissions reduction targets (tons) into ozone improvement targets (ppb) through modeling.
 - Weight VOCs based on reactivity, thus giving more reduction credit for a ton of highly reactive VOCs than for a ton of non-reactive VOCs.

Review of Key Proposals and Flexibilities – RACT and Contingency Measures

- Proposing that the RACT requirement for EGUs is not presumed to be satisfied by CAIR/CSAPR for 1997 or 2008 NAAQS.
- We are seeking comment on how to provide additional flexibility for VOC RACT requirements for new/revised CTGs.
- Propose to allow Extreme areas to satisfy attainment plan contingency measure requirements with a commitment for future measures.

Vehicle I/M Programs

- This section was rewritten to emphasize
 - There are no new I/M areas
 - The importance of OBD technology
- We also note the ability to approve alternative mobile source controls getting equivalent reductions in place of I/M.
- We identify implementation flexibilities for I/M programs made possible by the predominance of onboard diagnostics (OBD) in the current fleet.
- For areas that do become subject to I/M program requirement, we are soliciting comment on aligning the I/M SIP deadline with the attainment SIP deadline.

Review of Proposed Anti-backsliding Flexibility

- Revoking the 1997 NAAQS allows EPA to approve innovative SIP approaches that are “not less stringent” to meet any remaining applicable 1997 NAAQS control requirements, as determined by the Administrator. Can be applied to:
 - section 185 fee programs triggered by failure of Severe/Extreme areas to attain by the attainment date
 - nonattainment NSR source applicability thresholds and offset requirements
 - redesignation requirements for maintenance plans
- Takes into consideration results of recent court decisions.
- Proposing revocation on the date the final SIP Requirements Rule is published in the Federal Register.
 - Note: This differs from the previous version, which indicated a revocation date of July 20, 2013.

Anti-backsliding Proposals

Designation for 2008 NAAQS	Designation for previous NAAQS (at time of revocation)	Proposed NSR/PSD obligations	Other proposed transition obligations
1. Attainment	Attainment/ Maintenance	PSD remains in effect	<ul style="list-style-type: none"> - Area remains subject to existing section 175A maintenance plan for the previous ozone NAAQS and requirements already in the SIP, subject to revision consistent with sections 110(l) and 193 - Section 175A maintenance plan satisfies maintenance requirement under section 110(a)(1).
2. Attainment	Nonattainment for 1997 ozone NAAQS only; or nonattainment for 1997 <u>and</u> 1-hour NAAQS	Nonattainment NSR in effect until revocation of the 1997 ozone NAAQS; then PSD applies	<ul style="list-style-type: none"> - Area remains subject to measures to meet nonattainment requirements already in its adopted SIP. Removable only with a section 110(l) demonstration and a section 193 demonstration if applicable. - Two alternatives to address section 110(a)(1) maintenance provision: <ul style="list-style-type: none"> a) Area's approved PSD SIP satisfies section 110(a)(1) maintenance provision, or b) additional maintenance showing under section 110(a)(1)
3. Nonattainment	Attainment/ Maintenance	Nonattainment NSR applies based on 2008 ozone NAAQS classification	<ul style="list-style-type: none"> - Area remains subject to existing section 175A maintenance plan for the previous NAAQS and requirements already in the SIP, subject to revision consistent with sections 110(l) and 193
4. Nonattainment	Nonattainment for 1997 ozone NAAQS only; or nonattainment for 1997 <u>and</u> 1-hour ozone NAAQS	Nonattainment NSR applies based on highest applicable classification	<ul style="list-style-type: none"> - Area subject to all applicable anti-backsliding requirements for 1-hr and/or 1997 NAAQS - Anti-backsliding obligations lifted when the area either is redesignated to attainment for the 2008 ozone NAAQS, or the EPA approves a redesignation substitute for the revoked 1-hour or 1997 NAAQS - EPA solicits comment on additional options for lifting anti-backsliding obligations.

Deadlines/Actions Facing States

- Nonattainment area designations were effective July 20, 2012.
- Emission inventories and emissions statements SIPs
 - Due 2 years after the effective date of designations (July 20, 2014).
 - Required of all nonattainment areas.
- RACT SIPs for VOC and NO_x sources
 - Due 2 years after effective date of designations (July 20, 2014).
 - Required of Moderate and higher nonattainment areas and all states in the OTR.
- RFP plans, attainment plans (RACM), and attainment demonstration SIPs
 - Due 3 or 4 years after the effective date of designations, depending on classification.
 - Required of Moderate and higher nonattainment areas.
- Reclassification to higher level for areas that remain nonattainment for the 1997 NAAQS
 - Attainment deadline for Serious areas (Baltimore, Dallas) is June 15, 2013.

Next Steps

- Signature of proposed rule: 5/29
- Posted to web after signature, published in *FR* around 2 weeks after signature
- Proposal followed by a 60-day public comment period
 - One hearing in Washington, D.C.
 - Note: previous version indicated that a second hearing would be held in Sacramento, CA.
- Webinar(s)
- Anticipated signature of final rule: early 2014

APPENDIX

CAA §182 Applicable Requirements

- 1) RACT (40+ source categories as applicable);
- 2) Major source applicability cut-offs for purposes of RACT;
- 3) Vehicle inspection and maintenance programs for certain areas;
- 4) ROP reductions (15% VOC in 6 years) for Moderate and above areas;
- 5) RFP reductions (additional 3% per year) for Serious and above areas;
- 6) Stage II or comparable measures in the OTR;
- 7) Clean fuels fleet program for Serious and above areas;
- 8) Clean fuels for boilers for Extreme areas;
- 9) Transportation control measures for Extreme areas during heavy traffic hours;
- 10) Enhanced (ambient) monitoring;
- 11) Transportation controls for Serious areas;
- 12) Provisions to offset emissions growth from projected increases in vehicle miles traveled for Severe and above areas;
- 13) NO_x control requirements under section 182(f) of the CAA; and
- 14) Attainment demonstrations.

Federal Rules Achieving New NO_x and/or VOC Reductions 2012 - 2020

- EPA has issued or is undertaking rulemakings for a number of rules that will help reduce ozone precursors (NO_x and VOC) during the period states are required to develop and implement ozone-related SIP requirements for the 2008 NAAQS. These include:
 - Clean Air Interstate Rule (CAIR) for EGUs remains in effect pending remand
 - Tier 3 emission and fuel standards for vehicles (interagency review)
 - Mercury and Air Toxics Standards (MATS) rule for EGUs (final)
 - Oil and gas operations NSPS and air toxics standards (final)
 - GHG performance standards for power plants (proposed)
 - Certain stationary engines air toxics standards (RICE rule) (final)
 - GHG rules for HD vehicles (final)
 - GHG performance standards for refineries (planned)
 - Boiler MACT/CISWI (final)
 - Regional Haze (e.g., various BART actions)