8-hr O3 NAAQS Implementation Proposed Rule
(signed May 14, 2003)
"ROADMAP"

U.S. Environmental Protection Agency
Office of Air Quality Planning and Standards
Research Triangle Park, NC

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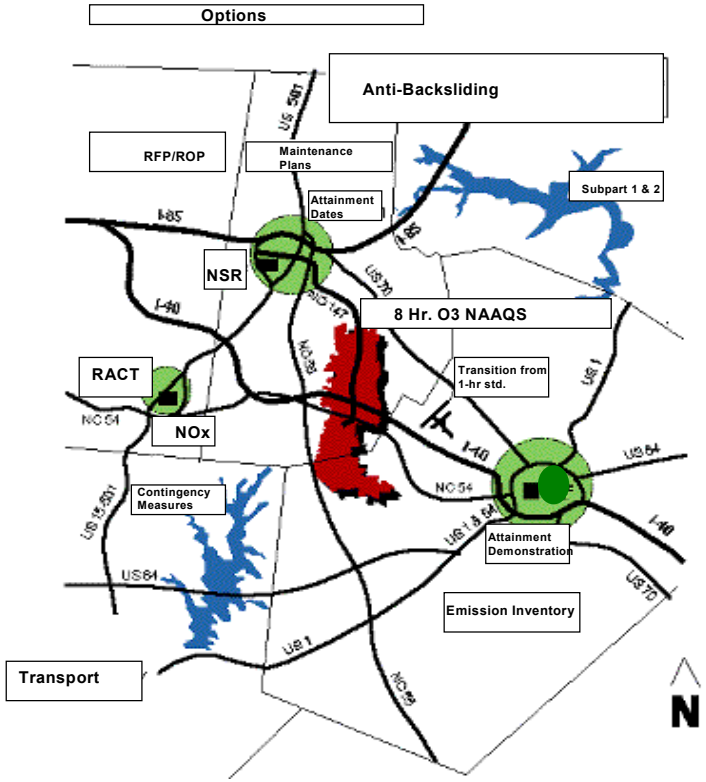
(Not reviewed by EPA management)



8-hr O3 NAAQS Implementation Proposed Rule
Outline of Proposal and Options

This outline is intended *only* as a roadmap through the options being proposed and should not be relied on completely as the proposal. The reader/commenter should read and rely only on the actual proposed rulemaking notice. This document has not been reviewed by EPA management.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	**OPTIONS**
A. How will EPA reconcile subparts 1 and 2? How will EPA classify nonattainment areas for the 8-hour standard? What attainment dates would apply?	
A.3. Options for classification.	Option 1–All areas would be classified under subpart 2 according to 8-hour ozone levels. All areas would be classified as marginal, moderate, serious, severe or extreme and would be subject to control requirements specified in the Act for each classification. Table 2 of the proposed rulemaking (attached) depicts how the translation would be done and the results. Option 2--If the area has a 1-hour design value equal to or greater than 0.121 ppm, it would be covered under subpart 2 and be classified using the area's 8-hour design value using attached Table 2. If the area has a 1-hour design value less than 0.121, it would be covered under subpart 1.
A.4. Under classification option 2, how would EPA classify subpart 1 areas?	Option 1–-Subpart 1 areas would not have different classifications. Option 2-–Create an overwhelming interstate transport classification. An area could be classified as a "Transport Area" upon submission of a SIP that demonstrates, using modeling, that the nonattainment problem in the area is due to "overwhelming transport" emissions.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	**OPTIONS**
A.6. Proposed incentive feature.	Areas would qualify for a lower classification under subpart 2 than their air quality would dictate if they demonstrate they will attain by the earlier attainment date of a lower classification. For example, an area that would be classified "moderate" based on air quality data could qualify for a "marginal" classification by showing it will attain within 3 years of designation. The "incentive feature" is proposed for use in conjunction with either classification option.
B. How will EPA treat attainment dates for the 8-hour ozone standard?	

B.1. Background	• For areas classified under subpart 2, the period for attainment (running from date of designation/classification) would be:
	  • marginal – 3 years
	  • moderate – 6 years
	  • serious – 9 years
	  • severe – 15 or 17 years
	  • extreme – 20 years
	• For areas classified under subpart 1, attainment dates would be set under section 172(a)(2)(A), which provides that the SIP must demonstrate attainment as expeditiously as practicable, but no later than 5 years after designation or 10 years after designation if the severity of the area's air pollution and the availability and feasibility of pollution control measures indicate more time is needed.

B.2. How will EPA address the provision regarding 1-year extensions for an area that fails to attain by its attainment date?	For both subparts 1 and 2, for the 8-hour standard, the area would be eligible for the first of the 1-year extensions if, for the attainment year, the area's 4th highest daily 8-hour value is 0.084 ppm or less. An area that has received the first of the 1-year extensions under the 8-hour standard would be eligible for the second extension if the area's 4th highest daily 8-hour value, averaged over both the original attainment year and the first extension year, is 0.084 ppm or less.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	**OPTIONS**
B.4. What documentation is required for EPA to establish early attainment dates under the "incentive" feature proposed under the classification section or for areas covered under subpart 1?	For these areas, States must submit a SIP--within 1 year after designation--that provides documentation (viz., concerning the modeling and analyses that the area is relying on to support its claim) that the area will attain within 3 years following designation.
C. How will EPA implement the transition from the 1-hour to the 8-hour standard in a way to ensure continued momentum in States' efforts toward cleaner air?	
C.2. When will EPA revoke the 1-hour standard?	[Note: these two options represent two legal mechanisms intended to achieve the same effect – that is, to retain the requirements described in C3.] <u>Option 1: Revocation of the 1-hour standard.</u> Under this option, which is our preferred option, EPA would revoke the 1-hour standard and the associated designations and classifications 1 year following the effective date of the designations for the 8-hour NAAQS. <u>Option 2: Partial Revocation of 1-hour Standard.</u> Under this option, EPA would retain the 1-hour standard and its associated designations and classifications for limited purposes (viz., those discussed and proposed below in section c.3.) until the area meets the 1-hour standard. For all remaining purposes, EPA would revoke the 1-hour standard and the associated designations and classifications 1 year after the effective date of designations for the 8-hour standard.
C.3. What obligations should continue to apply as an area begins to implement the 8-hour ozone NAAQS and what obligations should no longer apply?	
C.3.a. What obligations should continue to apply for an area that is designated *nonattainment* for the 8-hour NAAQS and that was designated *nonattainment* for the 1-hour ozone NAAQS on or after November 15, 1990?	

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	**OPTIONS**
C.3.a.(i) Control measures.	(i) All areas designated nonattainment for the 8-hour ozone NAAQS would remain subject to control measures that applied by virtue of the area's classification for the 1-hour standard.
C.3.a.(ii) Discretionary control measures.	(ii) States may revise or remove discretionary control measures so long as they make a demonstration consistent with section 110(l) that such removal or modification would not interfere with attainment of or progress toward the 8-hour ozone NAAQS (or any other applicable requirement of the Act).
C.3.a.(iii) Measures to address growth.	(iii) For areas subject to 1-hour nonattainment NSR at the time an area is designated nonattainment for the 8-hour standard, the major source applicability cut-offs and offset ratios continue to apply to the extent the area has a higher classification for the 1-hour standard than for the 8-hour standard.
C.3.a.(iv) Planning SIPs–Attainment demonstrations (Note: -We propose how to address ROP in Section VI.I. in the proposed rulemaking (the RFP/ROP section)	(iv) Option 1: Retain the obligation to develop a 1-hour attainment demonstration Option 2: Determine that the requirement no longer applies. In addition, we are soliciting comment on two other alternatives Alternative 1: Areas that are subject to an obligation to submit a new or revised attainment demonstration would instead be required to submit a SIP revision that would obtain an advance increment of emission reductions toward attainment of the 8-hour ozone standard within a specified, short-term timeframe. Alternative 2: Areas with an outstanding obligation to submit a 1-hour attainment demonstration would be required to submit their 8-hour ozone attainment demonstration early in lieu of being required to submit a 1-hour attainment demonstration.
C.3.a.(v) Other Obligations (e.g., enforceable commitments)	(v) The State remains obligated to honor enforceable commitments approved in their SIPs.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	**OPTIONS**
C.3.b. What obligations continue to apply for areas that are designated *attainment* under the 8-hour standard and that were designated nonattainment for the 1-hour standard on or after November 15, 1990?	
C.3.b.(i) Obligations Related to NSR.	These areas would be subject to PSD and would not be subject to the nonattainment NSR offset and major source thresholds that applied under their classification for the 1-hour standard.
C.3.b.(ii) Planning Obligations–Attainment demonstrations, rate of progress plans (maintenance plans addressed in section C.3.b.(iii))	SIP planning requirements that applied for purposes of the 1-hour standard would not continue to apply to these areas as long as they continue to maintain the 8-hour NAAQS, but would apply if they violate the 8-hour NAAQS prior to having an approved 8-hour maintenance plan.

C.3.b.(iii) Obligations Related to Maintenance Plans.	• These areas must adopt and submit a maintenance plan consistent with section 110(a)(1) within 3 years of designation as attainment for the 8-hour NAAQS. The maintenance plan should provide for continued maintenance of the 8-hour standard for 10 years following designation for the 8-hour NAAQS and should include contingency measures.
	• Areas with approved 1-hour section 175A maintenance plans will be able to modify those maintenance plans consistent with their obligation to have a maintenance plan for the 8-hour NAAQS under section 110(a)(1) and may remove from their SIPs--
	  • the obligation to submit a maintenance plan for the 1-hour standard 8 years after approval of their initial 1-hour maintenance plan;
	  • the requirement to implement contingency measures upon a violation of the 1-hour ozone standard.

C.3.c. What happens with respect to the NO_x SIP Call?	States must continue to adhere to the emission budgets established by the NO_x SIP Call after the 1-hour standard is revoked in whole or in part, as proposed below. Similarly, we are not proposing to revoke or modify the section 126 regulation.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
C.3.d. What additional obligations under part D of title I of the CAA would not continue to apply after the 1-hour standard is revoked in whole or in part?	(1) Areas would not be obligated to continue to demonstrate conformity for the 1-hour standard once the 1-year grace period for application of conformity for the 8-hour standard has elapsed. (2) We would no longer make findings of failure to attain the 1-hour standard and, therefore, would not reclassify areas to a higher classification for the 1-hour standard based on a failure to meet the 1-hour standard.
C.4. Does the requirement for continued implementation of the obligations addressed above expire at some point?	• For those control obligations required due to the area's classification for the 1-hour NAAQS that continue to apply to an area after the 1-hour standard is revoked, the State may move the measures to a maintenance plan in the SIP and treat them as contingency measures: a. Option 1. When the area achieves the level of the 1-hour ozone standard (even if the area has not yet attained the 8-hour standard). b. Option 2. When the area attains the 8-hour standard and is designated attainment (regardless of when, if ever, the area attains the 1-hour standard). • States must retain NOx SIP call controls that have already been approved sufficient to meet the NOx SIP call budget. In the absence of appropriate regional scale modeling that would demonstrate that changing a SIP Call control to a contingency measure would not interfere with attainment or maintenance in any other State, the State could not shift SIP Call control strategies to contingency measures if such a shift would mean that the State does not meet its budget. The State would, of course, also have to submit a demonstration that the SIP change would not interfere with attainment or reasonable further progress for any air quality standard or other applicable requirement of the Act.
D.2. Should prescribed requirements of subpart 2 apply in all 8-hour nonattainment areas classified under subpart 2, or is there flexibility in application in certain narrowly defined circumstances?	Subpart 2 requirements would apply to each area classified under subpart 2 consistent with the area's classification. However, we would consider allowing case-by-case waivers when sufficient evidence is presented that application of a specific requirement in a particular area would cause absurd results.

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E. What is the required timeframe for obtaining emission reductions to ensure attainment by the attainment date?	If an area needs more than the reductions required by ROP in order to demonstrate attainment, then any additional reductions would have to be achieved by the beginning of the ozone season prior to the area's attainment date.
F.2. How will EPA address long-range transport of ground-level ozone and its precursors when implementing the 8-hour ozone standard?	We intend to investigate the extent, severity and sources of interstate ozone transport that will exist after the NO_x SIP Call and the Section 126 rule are implemented in 2004. The Agency believes that any additional requirements for reducing the transport of ozone or ozone precursors should be considered along with the need to reduce interstate pollution transport that contributes to unhealthy levels of $PM_{2.5}$ in downwind areas. Under this approach, any additional reduction in ozone transport would be accomplished through legislation such as Clear Skies or through a separate rulemaking, not through the 8-hour ozone implementation rule.
G. How will EPA address transport of ground-level ozone and its precursors for rural nonattainment areas, multi-State nonattainment areas, and areas affected by intrastate transport, or international transport?	
G.1. Rural transport nonattainment areas.	Section 182(h) recognizes that the ozone problem in a rural transport area is almost entirely attributable to emissions from upwind areas. Therefore, the only requirements for the rural area are the minimal requirements specified for areas expected to attain within 3 years of designation, the assumption being that the controls in the upwind area will solve the remaining nonattainment problem in the rural transport area as well. In these cases, the timing for attainment will depend on the schedule for adoption and implementation of control measures in the upwind areas.

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G.2. Multi-State Nonattainment Areas.	Section 182(j)(2) for multi-State nonattainment areas (i.e., portions of the nonattainment area lie in two or more States) recognizes that one State may not be able to demonstrate attainment for the portion of the nonattainment area within its borders if other States containing the remaining portions of the nonattainment area do not adopt and submit the necessary attainment plan for their portions of the nonattainment area. In such cases, even though the area as a whole would not be able to demonstrate attainment, the sanction provisions of section 179 shall not apply in the portion of the nonattainment area located in a State that submitted an attainment plan.
G.3. Intrastate transport	We believe that the CAA requires individual States, as an initial matter, to deal with intrastate transport. We also solicit comments on other ways of addressing intrastate transport within the context of the Clean Air Act provisions.
G.4. International Transport.	
G.4.a. International Transboundary Transport.	No regulatory proposal--provides reference to guidance document for addressing transboundary transport.
G.4.b. Section 179B and the SIP approval process.	Under section 179B, EPA is required to approve a SIP for a nonattainment area if: it meets all of the requirements applicable under the CAA, other than a requirement that the area demonstrate attainment and maintenance of the ozone NAAQS by the applicable attainment date; and the affected State establishes to EPA's satisfaction that the SIP would be adequate to attain and maintain the ozone NAAQS by the applicable attainment date but for emissions emanating from outside the United States. Further, any State that establishes to the satisfaction of EPA that the State would have attained the 8-hour ozone NAAQS, but for emissions emanating from outside the U.S., would not be subject to the attainment date extension provided in section 181(a)(5), the fee provisions of section 185, and the bump-up provisions for failure to attain for 8-hour ozone NAAQS specified in section 181(b)(2).
G.6. State-Tribal Transport	States have an obligation to notify Tribes as well as other States in advance of any public

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
	hearing(s) on their State plans that will significantly impact these other jurisdictions. See 40 CFR 51.102(6)(i) and part 49, and CAA section 301(d). Affected Tribes that have achieved "treatment as States" status must be informed of the contents of such plans and the extent of documentation to support the plans. EPA will review SIPs for their effectiveness in preventing significant contributions to nonattainment in downwind Tribal areas with the same scrutiny it applies to reviewing SIPs with respect to impacts on downwind States. Where a Tribe has "treatment in the same manner as States," EPA will support the Tribe in reviewing upwind area SIPs during the State public comment period.
H. How will EPA address requirements for modeling and attainment demonstration SIPs when implementing the 8-hour ozone standard?	
H.1. Multi-pollutant assessments (one-atmosphere modeling).	The Clear Skies Act, if enacted as introduced, would provide substantial improvement in air quality for ozone, $PM_{2.5}$ and visibility. States are encouraged to follow EPA's lead and perform similar multi-pollutant assessments as part of their ozone attainment demonstrations, considering the programs that are in place at the time of the assessment.
H.2. Areas with early attainment dates.	A modeled attainment demonstration is required for any nonattainment area except under the following circumstances: (1) The area is covered under subpart 2 and classified marginal; or (2) The area is covered under subpart 1 and all of the following conditions apply: (A) the 8-hour ozone design value for the area at designation is 0.090 ppm or less; (B) regional or national modeling exists that is appropriate for use in the area and (C) that regional or national modeling demonstrates that the area will attain the 8-hour NAAQS within 3 years after the effective date of designation.

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H.3. Areas with later attainment dates.	Areas with attainment dates later than 3 years after designation, regardless of whether they are covered under subpart 1 or subpart 2, would be required to submit an attainment demonstration SIP consistent with EPA's modeling guidance.
H.4. Modeling guidance.	The EPA's "DRAFT Guidance on the use of models and other analyses in attainment demonstrations for the 8-hour ozone NAAQS" * provides a set of general requirements which an air quality model should meet to qualify for use in an attainment demonstration for the 8-hour ozone NAAQS. We plan to finalize this guidance at the same time the final implementation rule is published. Comments on this document are solicited as part of this proposal. *http://www.epa.gov/ttn/scram, (Modeling Guidance, File name: DRAFT8HR).
H.5. Mid-Course review.	A commitment to perform a mid-course review (MCR) is a critical element in an attainment demonstration that employs a long-term projection period and relies on weight of evidence. States should commit to complete the MCR midway between the time attainment SIP is due to EPA and the applicable attainment date to ensure that any additional controls that may be needed can be adopted in sufficient time to reduce emissions by the start of the ozone season in the attainment year.
I. What requirements for reasonable further progress should apply under the 8-hour ozone standard? [See attached table for an additional display of the RFP/ROP proposal]	
I.2. Proposed Features in General. (In general, we have used the term "RFP" as the more generic progress requirement, and the term "rate of progress" or "ROP" to denote the specific subpart 2 progress requirements that are defined as specific percent reductions from a baseline emissions inventory.)	–The same baseline year would be used both to address growth (in emissions, vehicle miles traveled (VMT) or otherwise) and to calculate the RFP/ROP target level. –Emissions reductions from outside the nonattainment area up to 100 km for VOC and 200 km for NO_x (and Statewide if under a regional strategy) would be allowed consistent with EPA's existing December 1997 interim implementation policy for 1-hour ozone NAAQS. –For areas classified under subpart 2, the RFP/ROP requirements specified in subpart 2 would apply

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
I.3. For subpart 2 areas, should the initial 15 percent ROP requirement be limited to VOC emissions?	Option 1. Require 15 percent VOC reductions within 6 years after the baseline year for all areas classified as moderate and above for the 8-hour ozone NAAQS. After 6 years, all serious and above areas would be required to achieve a nine percent reduction in VOC and/or NO_x emissions every 3 years, i.e., an average of three percent per year. Option 2. (Preferred approach) For those areas that have approved 15 percent plans for their 1-hour ozone SIPs, an additional 15 percent VOC reduction is not required. Areas that are classified as moderate under the 8-hour standard that have already implemented their 15 percent plans under their 1-hour ozone SIPs would be considered to have met the statutory 15 percent requirement and would be covered under the more generic RFP requirements of subpart 1 (see section I.8 for the two options being proposed). Areas that are classified as serious and above under the 8-hour standard that have already implemented their 15 percent plans under the 1-hour ozone standard would have to include in their SIPs an additional ROP plan that would achieve an average of three percent per year of VOC and/or NO_x over each 3-year period out to their attainment year. The first ROP increment would be averaged over 6 years. An area classified serious or above would submit its ROP plan within 2 years after designation that provides for 18 percent emissions reductions (VOC and/or NO_x) over the first 6 years from the baseline year and then submit within 3 years after designation an ROP plan that provides nine percent emission reductions (VOC and/or NO_x) over each of the next 3-year periods until the area's attainment date.
I4. What baseline year should be required for the emission inventory for the RFP/ROP requirement?	The proposal would require use of the 2002 inventory as the baseline inventory for the RFP/ROP requirement.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
I.5. Should moderate areas be subject to prescribed additional RFP requirements prior to their attainment date?	• 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 still also have to provide any additional emissions reductions–VOC and/or NO_x–needed to provide for attainment by the beginning of the ozone season prior to the area's attainment date. • Serious and higher classified areas would need to provide in their SIPs an additional average of three percent per year emission reduction 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 Act.
I.6. What is the timing of the submission of the ROP plan?	For moderate and higher classified areas, the first ROP SIP would be submitted within 2 years after nonattainment designation–-namely by 2006. This would provide for 2 years for the State to develop and submit its ROP plan, and another 2 years for the control measures to be implemented. The ROP SIP for any remaining 3-year periods beyond the first 6 years out to the attainment date would be submitted with the attainment demonstration within 3 years after the effective date of the nonattainment designation, namely in 2007.
I.7. How should CAA restrictions on creditable measures be interpreted? Which national measures should count as generating emissions reductions credit toward ROP requirements?	These specific restrictions should continue to apply for purposes of the 8-hour NAAQS as written in the CAA. 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.
I.8. For areas covered by subpart 1 instead of subpart 2, how should the RFP requirement be structured?	
I.8.a. Areas with attainment dates 3 years or less after designation.	For areas classified under subpart 1, RFP would be similar to RFP 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.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
I.8.b. Areas with attainment dates between 3 to 6 years after designation.	Areas classified under subpart 1 with attainment dates similar to subpart 2 areas classified as moderate-- Option 1. Would be required to submit the RFP/ROP plan 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 beginning of the ozone season prior to the attainment date. Option 2. Would be treated in a manner similar to subpart 2 areas classified as moderate. The RFP/ROP SIP would have to provide for a 15 percent emission reduction from the baseline year within 6 years after the baseline year. The RFP/ROP SIP would have to be submitted within 2 years after designation. However, since the area is subject only to subpart 1, NO_x or VOC emission reductions could be relied on to achieve the 15 percent reduction requirement. 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 emission reductions needed for attainment would have to be submitted with the area's attainment demonstration within 3 years after designation.
I.8.c. Areas with attainment dates beyond 6 years after designation.	The attainment period for these areas is similar to that for areas classified under subpart 2 as serious or higher. The RFP/ROP plan must show increments of progress from the baseline emission inventory year out to the attainment date. The RFP/ROP 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/ROP SIP would have to be submitted within 2 years after designation. However, since the area is subject only to subpart 1, NO_x or VOC emission reductions could be relied on to achieve the 15 percent emission reduction requirement. 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/ROP SIP would have to provide for an additional increment of progress no less than the amount of emission reductions that would be proportional to the time between the end of the first increment (in 2008) and the attainment date. This second RFP/ROP SIP would have to be submitted within 3 years

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	after the effective date of designation.
I.9. How should the RFP/ROP 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?	The State would have to 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 in the proposed rulemaking) toward meeting the RFP requirement for the entire 8-hour 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. 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).
I.10. Will EPA's "Clean Data Policy" continue to apply under the 8-hour standard for RFP?	The "Clean Data Policy" would remain effective under the 8-hour ozone NAAQS.
I.11. How may Tribes develop RFP/ROP plans for Tribal areas?	The modular approach provided for Tribes in the Tribal Authority Rule allows the TIP to address a particular problem on the reservation. Therefore, it might include one or two source-specific requirements but might not include provisions for RFP and other SIP requirements. We will review and approve these TIPs as a step in addressing an overall air quality plan to achieve health and environmental goals. In addition, a Tribe may later add other elements to the plan, or EPA may be obligated to step in to fill air quality gaps. In approving the TIPs, we will ensure that they will not interfere with the overall air quality plan for an area when Tribal lands are part of a multi-jurisdictional area.
I.12. How will ROP targets be calculated?	Three detailed methods are described in the proposed rulemaking notice.
J.2. Are contingency measures required in the event of failure to meet a milestone or attain	For the 8-hour ozone standard, we intend to continue to observe our existing policies regarding contingency measures for areas covered under subpart 2. Areas that are

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the 8-hour ozone NAAQS?	nonattainment for the 8-hour ozone standard that have unused adopted contingency measures for the 1-hour ozone NAAQS may use those measures as appropriate as contingency measures for the 8-hour ozone NAAQS. For areas covered under subpart 1, we will provide additional guidance on the contingency measure requirement, but we anticipate that it will be patterned after the subpart 2 requirement.
K. What requirements should apply for RACM and RACT for 8-hour ozone nonattainment areas?	
K.2. Proposed approach for RACT in general for areas covered under subpart 2.	The RACT requirement for areas covered under subpart 2 would apply as specified in subpart 2. Thus areas classified as marginal that had a pre-1990 obligation for RACT would continue to have that obligation. Areas classified as moderate and above would be required to adopt RACT for the categories covered by the CTG's that EPA has issued and to adopt non-CTG RACT measures for major sources.
K.3. Proposed approach for RACT in general for areas covered under subpart 1.	Option 1: Treatment of RACT Similar to Subpart 2 Areas. Areas covered under subpart 1 would face different RACT requirements based on the magnitude of the ozone problem, similar to subpart 2 areas. (i) Areas Similar to Marginal Areas. Those 8-hour nonattainment areas covered under subpart 1 that have an ozone problem that is similar in degree to that of a marginal area would be subject to the same RACT requirement as areas classified as marginal under subpart 2. (ii) Areas Similar to Moderate and Higher-classified Areas. Those 8-hour nonattainment areas covered under subpart 1 that have an ozone problem that is similar in degree to that of a moderate or higher-classified area would be subject to the same RACT requirements as those that apply in subpart 2 for moderate and above areas. Option 2: Alternative Treatment for RACT Under Subpart 1. If the area is able to demonstrate attainment of the standard as expeditiously as practicable with emission control measures in the SIP, then RACT will be met, and additional measures would not be required as being reasonably available. Ozone transport regions. All areas of the OTR are required to adopt NO_x and VOC RACT requirements, regardless of their attainment classification.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
K.4. Proposed approach for previous source-specific major source RACT determinations where a CTG does not apply.	• In portions of 8-hour ozone nonattainment areas where all major sources or source categories were previously reviewed and controls subsequently applied to meet the RACT requirement under the 1-hour standard, States need not submit a new RACT SIP. • A RACT determination would be necessary for major sources in any portion of the 8-hour nonattainment area that was not subject to RACT for the 1-hour standard. • In cases where the initial RACT analysis for the 1-hour standard for a specific source or source category concluded that no additional controls were necessary, a new RACT determination would be required. • Any major VOC or NO_x source that exists at the time of final rulemaking on implementation of the 8-hour ozone standard but that did not exist during a previous RACT determination must be subject to a RACT determination as part of the SIP for the 8-hour ozone standard.
K.5. Proposed approach for NO_x RACT determinations in areas affected by the NO_x SIP Call.	• Where a nonattainment area is located in a State with an EPA-approved cap-and-trade program, sources subject to the cap-and-trade program would be deemed to have already met the NO_x RACT requirements. The State need not perform a NO_x RACT analysis for sources subject to the State's emission cap-and-trade program where the cap-and-trade program has been approved by EPA as meeting the NO_x SIP Call requirements and need not submit a new NO_x RACT SIP for those sources. • In cases where States have adopted controls consistent with the NO_x SIP Call for cement kilns (i.e., 30 percent reduction), the State need not submit a new NO_x RACT SIP for those sources. • Through the NO_x SIP Call or other programs (e.g., new source review) States may have adopted control measures for specific NO_x sources that equal or exceed RACT requirements. For these sources, States may choose to submit, as part of its NO_x RACT SIP revision, documentation that the previously adopted control measure meets the RACT requirement. • In developing the NO_x SIP Call, States may have considered control measures for

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	sources not in the cap-and-trade program–or may consider additional sources in responding to the second phase of the NO_x SIP Call. States can submit a demonstration as part of their RACT submittal showing that the weighted average emission rate from sources in the nonattainment area subject to RACT–including sources reducing emissions to meet the NO_x SIP Call requirements–meet RACT requirements.
K.6. Proposed approach for NO_x as an ozone precursor.	Both NO_x and VOCs would be recognized as precursors to ozone under subpart 1 as well as subpart 2.
K.7. Proposed approach for RACM.	Informational statement in preamble–no proposal.
K.8. Proposed submission date for RACT and RACM requirements.	• The SIP provisions for RACT for a nonattainment area–-regardless of whether the area is covered under subpart 1 or subpart 2-–would be submitted within 2 years after the area's nonattainment designation. • The SIP provisions for RACM for a nonattainment area–regardless of whether the area is covered under subpart 1 or subpart 2–would be submitted within 3 years after the area's nonattainment designation.
L. How will the section 182(f) NO_x provisions be handled under the 8-hour ozone standard?	• The NO_x requirements and waiver provisions in section 182(f) for 8-hour ozone nonattainment areas would be applied under subpart 2 and would apply to areas within an OTR. • NO_x waiver provisions would be established identical to those in section 182(f) for areas subject to subpart 1.
M. What aspects of transportation conformity and the 8-hour ozone standard are addressed in this proposal?	Informational statement only in preamble–no proposal
N. What requirements for general conformity should apply to the 8-hour ozone standard?	Informational statement in preamble–no proposal

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
O. How should the NSR Program be implemented under the 8-hour ozone NAAQS?	
O.2. Nonattainment NSR under the 8-hour ozone standard	Informational statement in preamble–no proposal provided in section O.2.
O.3. Under what circumstances is a transitional program needed during the interim period?	A transitional program is proposed that would provide States flexibility regarding major source nonattainment NSR program. [Details in notice of proposed rulemaking.]
O.4. Elements of the Appendix S transitional program.	
O.4.a. Which nonattainment areas would be eligible for the transitional program?	• The Appendix S transitional program would be available to 8-hour ozone nonattainment areas that are subject to NSR only under subpart 1 and not subpart 2. • In addition, in order to be eligible for the transitional option, by the date EPA publishes the nonattainment designations under the 8-hour standard (currently expected in 2004) a subpart 1 nonattainment area must: (1) be attaining the 1-hour ozone standard; (2) be subject to subpart 1, not subpart 2, of part D; (3) have submitted an attainment plan that demonstrates attainment within 3 years after designation; the attainment plan would have to include control measures under the NO_x SIP Call rule where applicable; and (4) have submitted an attainment plan containing any additional local control measures needed for attainment of the 8-hour standard. • These plans must commit the State to implement, by December 31, 2004, all measures necessary to bring the nonattainment area into attainment within 3 years after the effective date of the designation. • In addition, when a State submits its attainment plan, it should note that it intends to implement a program under Appendix S, Section VI that meets the requirements for transitional areas discussed below.
O.4.b. What would be the basic requirements of a transitional nonattainment NSR program under Appendix S, section VI?	

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
O.4.b.i. Major source applicability threshold.	Consistent with the subpart 1 part D NSR requirements, an Appendix S, subpart VI transitional nonattainment program will use a major source threshold of 100 tons per year for each ozone precursor.
O.4.b.ii. Emission Control.	A BACT requirement, consistent with the BACT approach described in the NSR workshop manual, could be required in transitional Appendix S nonattainment NSR programs in lieu of requiring LAER.
O.4.b.iii. Relief from source-specific offsets requirements.	Major sources and major modifications would not be required to obtain case- and source-specific offsets under the transitional program. However, despite locating in a nonattainment area which qualifies for the NSR transitional program, a new major source may not cause or contribute to the existing violation in the nonattainment area. If the State determines that the source does not contribute to the existing violation, then mitigation would not be required.
O.4.b.iv. Other requirements.	Sources locating in transitional areas will be required to certify statewide compliance of all existing major sources under the same ownership or control.
O.4.b.v. Backstop Provisions.	Comment is solicited on the need for a backstop provision that requires a State to notify us--at the time of a failure to meet its SIP obligations to attain the NAAQS before the end of the interim period--that it is reverting to the traditional nonattainment requirements under Appendix S. Comment is also solicited on any other findings which should end eligibility for the transitional program.
6. What happens at the end of the interim period?	
O.6.a. Transitional NSR Areas.	States must submit, by the attainment date in 2007, an attainment demonstration with a maintenance plan. A State may continue implementing transitional NSR under Appendix S, section VI for six months following submission of its attainment plan, or until its attainment plan is approved, whichever is earlier.

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
O.6.b. Traditional NSR Areas.	If a State has never been or is no longer operating under a section VI transitional program, it must submit a part D nonattainment NSR plan within 3 years after designation (in 2007). The State may continue implementing traditional part D nonattainment requirements under Appendix S until we approve its part D plan.
O.8. How should the NSR requirements be implemented for new 8-hour ozone areas that encompass the old 1-hour ozone nonattainment areas after EPA revokes the 1-hour ozone standard?	Newly-designated 8-hour ozone areas which include areas which have never attained the 1-hour standard will have two different sets of requirements in place until a point in time proposed elsewhere in this proposed rulemaking under the anti-backsliding provisions. The 1-hour NSR requirements and higher offset ratios (if applicable) will remain in place in the area that was designated nonattainment for the 1-hour standard until that point in time. The remaining portion of the newly-designated 8-hour ozone area must comply only with the 8-hour ozone NSR requirements and offset ratios (if applicable).
O.9. NSR Option to Encourage Development Patterns that Reduce Overall Emissions- –Clean Air Development Communities.	• Two options are proposed to recognize the air quality benefits which can accrue when areas site new sources and plan development in a manner that results in overall reduced emissions. • The EPA would define a community that changes its development patterns in such a way that air emissions within the non-attainment area are demonstrably reduced as a "Clean Air Development Community" (CADC). • Areas that qualify as CADCs would obtain certain flexibilities in implementing Clean Air Act programs. • Comment is requested on the options listed here and on other ways under the Clean Air Act for encouraging development that will result in lower emissions. • Option 1: A CADC would have a more flexible NSR program by 1) being subject to subpart 1 NSR as opposed to subpart 2 NSR; 2) lowering NSR major source thresholds for these areas to make them similar to the thresholds for PSD areas; and 3) allowing areas that meet certain development criteria (development zones) to receive NSR offsets from State offset pools. • Option 2: A CADC would be able to receive a pool of NSR offset credits equal to the reduced emissions from new development patterns. Credits from the pool

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
	could be provided to any new or modified source in a "development zone" as offsets.
P. How will EPA ensure that the 8-hour ozone standard will be implemented in a way which allows an optimal mix of controls for ozone, $PM_{2.5}$, and regional haze? 3. What is EPA proposing?	No regulatory proposal–contains guidance only.
Q. What emission inventory requirements should apply under the 8-hour ozone NAAQS?	For nonattainment areas classified under subpart 2 for the 8-hour ozone standard, an emission inventory would be required 2 years after designation (i.e., in 2006 if EPA designates areas in 2004). The EPA's regulation, the Consolidated Emissions Reporting Rule (CERR),* already 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, the emission inventories required by the CERR would be sufficient to meet the provisions of section 182(a)(1).
	*(67 FR 39602, June 10, 2002)
R. What guidance should be provided that is specific to Tribes?	Informational statement in preamble–no proposal
S. What are the requirements for OTRs under the 8-hour ozone standard?	We believe the clearest legal interpretation of section 184 is that the current OTR and section 184 control requirements apply for purposes of the 8-hour standard.
T. Are there any additional requirements related to enforcement and compliance?	Informational statement in preamble–no proposal

ELEMENT (section/paragraph numbers match those of proposal from Section VI.)	OPTIONS
U. What requirements should apply to emergency episodes?	No proposal at this time.
V. What ambient monitoring requirements will apply under the 8-hour ozone NAAQS?	Informational statement in preamble–no proposal
W. When will EPA require 8-hour attainment demonstration SIP submissions? 2. Option being proposed.	All nonattainment areas that are required to perform photochemical grid modeling-–regardless of coverage under subpart 1 or 2 or regardless of classification under subpart 2-–would be required to submit an attainment demonstration within 3 years after designation.

TABLE 2 TABLE 1 OF SUBPART 2 1-HOUR OZONE CLASSIFICATION TABLE TRANSLATION TO 8-HOUR DESIGN VALUES				
Area class		CAA design value thresholds 1-hour ozone ppm	Percent above 1-hour ozone NAAQS	Translated 8-hour design value thresholds ppm ozone
Marginal	from	0.121	0.833	0.085*
	up to	0.138	15.000	0.092
Moderate	from	0.138	15.000	0.092
	up to	0.160	33.333	0.107
Serious	from	0.160	33.333	0.107
	up to	0.180	50.000	0.120
Severe-15	from	0.180	50.000	0.120
	up to	0.190	58.333	0.127
Severe-17	from	0.190	58.333	0.127
	up to	0.280	133.333	0.187
Extreme	equal to or above	0.280	133.333	0.187

* The percentages used were calculated based on the level of the 1-hour standard as it appears in 40 CFR 51.9, viz., 0.12 ppm. The percentages were applied to the 8-hour standard as it appears in 40 CFR 51.10, viz., 0.08 ppm. Our guidance uses a rounding convention for 1-hour air quality data such that values less than 0.125 round down to 0.12 and therefore represent attainment; values of 0.125 up to and including 0.129 round up to 0.13, and therefore indicate nonattainment. An exact translation of the 0.121 1-hour threshold would have produced 0.081 ppm as the corresponding 8-hour threshold; however, since any value less than 0.085 ppm would indicate an area is attaining the 8-hour ozone standard, the table's lowest value reflects the lowest value representing nonattainment, viz., 0.085 ppm.

TABLE 1
8-HR O3 NAAQS IMPLEMENTATION PROPOSAL
RFP/ROP SYNOPSIS

Subpart 2 Areas	
Option 1–continue to require 15% even if they already have 1-hr 15% plan	
1st submission date	2 years after designation
Requirement	develop new 15% VOC plan 2002-2008;
2nd submission date	3 years after designation
Requirement–moderate areas	subpart 1 RFP from 2008 to attainment date (i.e., all additional reductions implemented by attainment date)
Requirement–serious & above areas	additional 3%/year NOx/VOC reductions for each 3 year period after 2008 out to attainment date
Option 2–areas with approved 15% plans for 1-hr NAAQS (Preferred approach) Case 1: Moderate areas	
submission date	same as for subpart 1 RFP (see 2 options below)
Requirement	develop subpart 1 RFP plan (see 2 options below)
Option 2–areas with approved 15% plans for 1-hr NAAQS Case 2: Serious & above areas	
1st submission date	2 years after designation
Requirement	first 6 years after baseline–show 18 % NOx and/or VOC reductions (2002-2008)
2nd submission date	3 years after designation
Requirement	additional 3%/year NOx/VOC reductions for each 3 year period after 2008 out to attainment date

TABLE 1 CONT'D

Subpart 1 Areas	
Case 1: Areas with attainment dates 3 years or less after designation	Treatment similar to RFP for areas under subpart 2 classified as marginal (no separate RFP/ROP requirement–would have to attain by attainment date).
Case 2: Areas with attainment dates between 3 to 6 years after designation–2 Options (* We don't state a preference for either option)	
Option 1:	
Submission date	3 years after designation
Requirement	SIP must show all emission reductions would be implemented by its attainment date
Option 2:	
1st Submission date	2 years after designation
Requirement	SIP must show 15% VOC and/or NOx reductions over first 6 years after baseline (2002-2008)
2nd Submission date	3 years after designation (with attainment demonstration)
Requirement	Additional measures that would provide the remaining portion of the emissions reductions needed for attainment by the attainment date.
Case 3: Areas with attainment dates beyond 6 years after designation (treatment similar to serious)	
1st Submission date	2 years after designation
Requirement	SIP must show 15%* VOC and/or NOx reductions over first 6 years after baseline (2002-2008)
2nd Submission date	3 years after designation (with attainment demonstration)
Requirement	For each 3 year period after 2008, an additional increment of progress (NOx/VOC) no less than the amount of emission reduction proportional to time between the end of the first increment (in 2008) to the attainment date.
* Soliciting comment on whether another percentage would be appropriate.	