

2015 Ozone National Ambient Air Quality Standards Proposed Implementation (Classifications & SIP Requirements) Rule

PUBLIC WEBINAR

December 7, 2016

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Background

- National Ambient Air Quality Standards (NAAQS) for ozone established in 1979 and revised in 1997, 2008 and 2015.
- Revised 8-hour ozone NAAQS promulgated October 1, 2015: 0.070 ppm
- The Clean Air Act (CAA) requires air agencies to submit plans to implement the revised ozone NAAQS (commonly known as state implementation plans, or SIPs).
- Proposed implementation rule published November 17, 2016 (81 FR 81276) proposes a framework for nonattainment area classifications and SIP requirements for the 2015 ozone NAAQS.
- Proposed rule largely follows approach adopted for the previous Classifications Rule and SIP Requirements Rule (SRR) for the 2008 ozone NAAQS.

1. Classification thresholds and attainment dates

- Propose to retain current “percent-above-the-standard” method in establishing nonattainment area classification thresholds.
- Propose to retain current approach in establishing attainment dates for each nonattainment area classification.

Area class		Percent above 1-hr ozone NAAQS	8-hour ozone design values (ppm)		Proposed attainment date (years after designation)
			2008 NAAQS (0.075 ppm)	2015 NAAQS (0.070 ppm) (<i>proposed</i>)	
Marginal	From up to ¹	0.833 15	0.076 0.086	0.071 0.081	3
Moderate	From up to ¹	15 33.333	0.086 0.100	0.081 0.093	6
Serious	From up to ¹	33.333 50	0.100 0.113	0.093 0.105	9
Severe-15	From up to ¹	50 58.333	0.113 0.119	0.105 0.111	15
Severe-17	From up to ¹	58.333 133.333	0.119 0.175	0.111 0.163	17
Extreme	Equal to or above	133.333	0.175	0.163	20

Note 1: But not including.

1. Classification thresholds and attainment dates (cont.)

- Based on final 2013-2015 design values, it is anticipated that a majority of nonattainment areas would be classified Marginal for the 2015 standards by applying the proposed classifications threshold method.
- This rule also proposes to reclassify 6 California nonattainment areas that have been voluntarily reclassified for previous ozone standards.
 - Areas were voluntarily reclassified for the 1997 ozone NAAQS, and EPA applied these previous reclassifications for the 2008 NAAQS.
 - Intended to ensure that area attainment dates for more-stringent 2015 ozone standards are no earlier than those for less-stringent 2008 NAAQS.
 - If EPA finalizes these reclassifications, it likely would occur in the initial area designations action for the 2015 ozone NAAQS.

2. Revoking the 2008 ozone NAAQS

- Propose two alternative options:
 1. revoke the 2008 ozone NAAQS for all areas and purposes one year after designations for the 2015 NAAQS are effective.
 2. revoke the 2008 ozone NAAQS only in areas designated attainment for the 2008 NAAQS at time of its revocation, and later for areas upon redesignation to attainment for the 2008 or 2015 NAAQS.
- Option 1 is consistent with revocation of the 1997 ozone NAAQS, and would trigger a set of protective “anti-backsliding” requirements for areas designated nonattainment for the 2015 standards that have not yet attained the 2008 NAAQS upon the effective date of its revocation.
- Option 2 parallels the approach most recently used for the PM_{2.5} NAAQS, and is consistent with the revocation approach used previously for lead and sulfur dioxide NAAQS. Anti-backsliding requirements would not be needed because the 2008 ozone NAAQS would be revoked only for those areas that have attained the 2008 standards.

3. Submitting nonattainment area and OTR SIP elements

- Propose to retain the existing approach to calculating deadlines for submitting revised SIP elements under the 2015 ozone NAAQS, for states with nonattainment areas and states in the ozone transport region (OTR).
- States with nonattainment areas must submit various SIP elements required under CAA section 182 based on their statutory timeframes, measured from the effective date of area designations for the revised ozone NAAQS. Examples include (but are not limited to):
 - Emissions inventory and emissions statement regulations, reasonably available control technology (RACT) requirements (2 years)
 - Nonattainment New Source Review SIPs, Moderate area attainment demonstrations (3 years)
 - Attainment demonstrations for areas classified Serious and higher (4 years)
- Similarly, OTR states must submit SIP revisions based on their statutory timeframe under CAA section 184, measured from the effective date of area designations for the revised ozone NAAQS (*e.g.*, RACT requirements due in 2 years).
- The proposed rule provides additional guidance on the form and content of SIP element submissions, which may be a written certification statement (also subject to state notice-and-comment procedures).

4. RFP – milestone compliance demonstrations

- Propose to allow use of a measure that correlates with reasonable further progress (RFP) emissions reductions for purposes of RFP milestone compliance demonstrations (MCDs).
- RFP requires that nonattainment SIPs provide for annual incremental emissions reductions needed to ensure attainment of the ozone NAAQS by an area's applicable attainment date.
- CAA section 182(g) requires that areas classified Serious and higher submit a compliance demonstration within 90 days after a RFP milestone showing that the area achieved reasonable further progress; the demonstration shall be “in such form and manner... as the Administrator shall require, by rule.”
- To date, the EPA has not codified MCD requirements for the ozone NAAQS.
- Our proposed approach is similar to that taken for quantitative milestones in the PM_{2.5} NAAQS implementation final rule, allowing a measure that correlates with emissions reductions in its milestone demonstrations (*e.g.*, percent implementation of control strategies).

5. RACT – SIP revision submissions & implementation

- Propose SIP submission control measure and implementation deadlines for reasonably available control technology (RACT) requirements triggered by specific events occurring after initial area designations:
 - Redesignations to nonattainment or area reclassifications
 - Issuance of new Control Techniques Guidelines (CTGs)
- Proposed approach provides generic fixed deadlines, while articulating the Administrator’s authority to set case-specific deadlines.
 - Submission (redesig/reclass) – 24 months from effective date of action, or case-specific
 - Submission (CTG) – 24 months from effective date of CTG issuance, or case-specific
 - Implementation (both) – no later than January 1 of the 3rd year after the associated SIP revision submission deadline, or case-specific
- The proposed rule retains current approach for SIP revisions triggered by initial area designations, where RACT SIP revisions must be submitted no later than 24 months after the effective date of initial designations, and control measures implemented no later than January 1 of the fifth year after the effective date of initial designations.

6. RACM – consideration of sources of intrastate transport

- Propose to retain existing general reasonably available control measures (RACM) provisions, and to clarify that air agencies must also consider the impacts of emissions from sources outside an ozone nonattainment area (but within a state’s boundaries) as necessary to attain the ozone NAAQS.
- CAA section 172(c)(6) requires that SIP provisions include enforceable emission limitations and other control measures, means or techniques as may be necessary to attain a standard by the applicable attainment date.
- The EPA interprets “other control measures” as those measures and technologies that can be applied to any emission source within an air agency’s jurisdiction, including those outside of a nonattainment area.
- Though not directly a part of CAA section 172(c)(6) RACM, the EPA has addressed this “other control measures” provision in the preamble discussions for previous NAAQS implementation rulemakings, and proposes to codify this interpretation in the ozone implementation rules.

7. NNSR – interprecursor trading (IPT)

- Propose criteria and rule language to reaffirm the EPA’s longstanding IPT policy that it is permissible under the CAA for air agencies to allow major stationary sources to use either NO_x or VOC emissions reductions to satisfy specific nonattainment New Source Review (NNSR) offset requirements in ozone nonattainment areas.
- The proposal responds to a petition for reconsideration challenging the IPT provision in the 2008 ozone NAAQS SRR.
- Ozone IPT provisions would allow any new or modified major stationary source locating in an ozone nonattainment area to satisfy the NNSR emissions offset requirements for ozone with emissions reductions of VOC or NO_x interchangeably.
- IPT ratios could be area-specific (default) ratios for a specific nonattainment area or permit-specific ratios, at the state’s discretion.
- Draft technical guidance available in the rulemaking docket.

8. CAA section 179B policy on international emissions impacts

- Section 179B allows the EPA to (a) approve prospective attainment plans if the demonstration shows the area would attain “but for emissions emanating from outside the U.S.”, and (b) not reclassify an area upon a determination that an area would have attained by its attainment date “but for emissions emanating from outside the U.S.”
- Solicit comment on whether the opportunity for 179B demonstrations should be limited to nonattainment areas adjoining international borders (historical 179B actions have all been for areas along the Mexican border).
- Propose that demonstrations under CAA section 179B(b) intended to show that an area would have attained the ozone NAAQS but for international emissions (and therefore should not be reclassified upon failure to attain) must include a showing that the air agency adopted all RACM (including RACT) for the area, regardless of classification.
- The EPA believes CAA section 179B does not alter the CAA’s general construct that states with nonattainment areas are expected to adopt reasonable emissions controls to lessen emissions of criteria pollutants to promote citizen health protection. This would include nonattainment areas classified Marginal.

Additional Information and Contacts

- Proposed rule notice and fact sheet posted on EPA website: <https://www.epa.gov/ozone-pollution/implementation-2015-national-ambient-air-quality-standards-naaqs-ozone-state>
- See also Docket No. EPA-HQ-OAR-2016-0202 at: <https://www.regulations.gov/>
- Public comment period closes January 17, 2017.
- Final implementation rule and initial area designations for the 2015 ozone NAAQS anticipated Fall 2017.
- Questions?
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