

## Environmental Protection Agency

## § 51.910

the monitor with the highest 4th highest daily 8-hour average of all the monitors that represent that area.

### **§ 51.908 What modeling and attainment demonstration requirements apply for purposes of the 8-hour ozone NAAQS?**

(a) *What is the attainment demonstration requirement for an area classified as moderate or higher under subpart 2 pursuant to § 51.903?* An area classified as moderate or higher under § 51.903 shall be subject to the attainment demonstration requirement applicable for that classification under section 182 of the Act, except such demonstration is due no later than 3 years after the area's designation for the 8-hour NAAQS.

(b) *What is the attainment demonstration requirement for an area subject only to subpart 1 in accordance with § 51.902(b)?* An area subject to § 51.902(b) shall be subject to the attainment demonstration under section 172(c)(1) of the Act and shall submit an attainment demonstration no later than 3 years after the area's designation for the 8-hour NAAQS.

(c) *What criteria must the attainment demonstration meet?* An attainment demonstration due pursuant to paragraph (a) or (b) of this section must meet the requirements of § 51.112; the adequacy of an attainment demonstration shall be demonstrated by means of a photochemical grid model or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

(d) For each nonattainment area, the State must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season.

[69 FR 23996, Apr. 30, 2004, as amended at 70 FR 71700, Nov. 29, 2005]

### **§ 51.909 [Reserved]**

### **§ 51.910 What requirements for reasonable further progress (RFP) under sections 172(c)(2) and 182 apply for areas designated nonattainment for the 8-hour ozone NAAQS?**

(a) *What are the general requirements for RFP for an area classified under subpart 2 pursuant to § 51.903?* For an area

classified under subpart 2 pursuant to § 51.903, the RFP requirements specified in section 182 of the Act for that area's classification shall apply.

(1) *What is the content and timing of the RFP plan required under sections 182(b)(1) and 182(c)(2)(B) of the Act for an area classified as moderate or higher pursuant to § 51.903 (subpart 2 coverage)?*

(i) *Moderate or Above Area.* (A) Except as provided in paragraph (a)(1)(ii) of this section, for each area classified as moderate or higher, the State shall submit a SIP revision consistent with section 182(b)(1) of the Act no later than 3 years after designation for the 8-hour NAAQS for the area. The 6-year period referenced in section 182(b)(1) of the Act shall begin January 1 of the year following the year used for the baseline emissions inventory.

(B) For each area classified as serious or higher, the State shall submit a SIP revision consistent with section 182(c)(2)(B) of the Act no later than 3 years after designation for the 8-hour NAAQS. The final increment of progress must be achieved no later than the attainment date for the area.

(ii) *Area with Approved 1-hour Ozone 15 Percent VOC ROP Plan.* An area classified as moderate or higher that has the same boundaries as an area, or is entirely composed of several areas or portions of areas, for which EPA fully approved a 15 percent plan for the 1-hour NAAQS is considered to have met section 182(b)(1) of the Act for the 8-hour NAAQS and instead:

(A) If classified as moderate, the area is subject to RFP under section 172(c)(2) of the Act and shall submit no later than 3 years after designation for the 8-hour NAAQS a SIP revision that meets the requirements of paragraph (b)(2) of this section, consistent with the attainment date established in the attainment demonstration SIP.

(B) If classified as serious or higher, the area is subject to RFP under section 182(c)(2)(B) of the Act and shall submit no later than 3 years after designation for the 8-hour NAAQS an RFP SIP providing for an average of 3 percent per year of VOC and/or NO<sub>x</sub> emissions reductions for

(1) the 6-year period beginning January 1 of the year following the year

used for the baseline emissions inventory; and

(2) all remaining 3-year periods after the first 6-year period out to the area's attainment date.

(iii) *Moderate and Above Area for Which Only a Portion Has an Approved 1-hour Ozone 15 Percent VOC ROP Plan.* An area classified as moderate or higher that contains one or more areas, or portions of areas, for which EPA fully approved a 15 percent plan for the 1-hour NAAQS as well as areas for which EPA has not fully approved a 15 percent plan for the 1-hour NAAQS shall meet the requirements of either paragraph (a)(1)(iii)(A) or (B) below.

(A) The State shall not distinguish between the portion of the area that previously met the 15 percent VOC reduction requirement and the portion of the area that did not, and

(1) The State shall submit a SIP revision consistent with section 182(b)(1) of the Act no later than 3 years after designation for the 8-hour NAAQS for the entire area. The 6-year period referenced in section 182(b)(1) of the Act shall begin January 1 of the year following the year used for the baseline emissions inventory.

(2) For each area classified as serious or higher, the State shall submit a SIP revision consistent with section 182(c)(2)(B) of the Act no later than 3 years after designation for the 8-hour NAAQS. The final increment of progress must be achieved no later than the attainment date for the area.

(B) The State shall treat the area as two parts, each with a separate RFP target as follows:

(1) For the portion of the area without an approved 15 percent VOC RFP plan for the 1-hour standard, the State shall submit a SIP revision consistent with section 182(b)(1) of the Act no later than 3 years after designation for the 8-hour NAAQS for the area. The 6-year period referenced in section 182(b)(1) of the Act shall begin January 1 of the year following the year used for the baseline emissions inventory. Emissions reductions to meet this requirement may come from anywhere within the 8-hour nonattainment area.

(2) For the portion of the area with an approved 15 percent VOC plan for the 1-hour NAAQS, the State shall sub-

mit a SIP as required under paragraph (b)(2) of this section.

(2) *What restrictions apply on the creditability of emission control measures for the RFP plans required under this section?* Except as specifically provided in section 182(b)(1)(C) and (D) and section 182(c)(2)(B) of the Act, all SIP-approved or federally promulgated emissions reductions that occur after the baseline emissions inventory year are creditable for purposes of the RFP requirements in this section, provided the reductions meet the requirements for creditability, including the need to be enforceable, permanent, quantifiable and surplus, as described for purposes of State economic incentive programs in the requirements of §51.493 of this part.

(b) *How does the RFP requirement of section 172(c)(2) of the Act apply to areas subject to that requirement?* (1) An area subject to the RFP requirement of subpart 1 pursuant to §51.902(b) or a moderate area subject to subpart 2 as covered in paragraphs (a)(1)(ii)(A) of this section shall meet the RFP requirements of section 172(c)(2) of the Act as provided in paragraph (b)(2) of this section.

(2) The State shall submit no later than 3 years following designation for the 8-hour NAAQS a SIP providing for RFP consistent with the following:

(i) For each area with an attainment demonstration requesting an attainment date of 5 years or less after designation for the 8-hour NAAQS, the attainment demonstration SIP shall require that all emissions reductions needed for attainment be implemented by the beginning of the attainment year ozone season.

(ii) For each area with an attainment demonstration requesting an attainment date more than 5 years after designation for the 8-hour NAAQS, the attainment demonstration SIP—

(A) Shall provide for a 15 percent emission reduction from the baseline year within 6 years after the baseline year.

(B) May use either NO<sub>x</sub> or VOC emissions reductions (or both) to achieve the 15 percent emission reduction requirement. Use of NO<sub>x</sub> emissions reductions must meet the criteria in section 182(c)(2)(C) of the Act.

(C) For each subsequent 3-year period out to the attainment date, the RFP SIP must provide for an additional increment of progress. The increment for each 3-year period must be a portion of the remaining emission reductions needed for attainment beyond those reductions achieved for the first increment of progress (e.g., beyond 2008 for areas designated nonattainment in June 2004). Specifically, the amount of reductions needed for attainment is divided by the number of years needed for attainment after the first increment of progress in order to establish an “annual increment.” For each 3-year period out to the attainment date, the area must achieve roughly the portion of reductions equivalent to three annual increments.

(c) *What method should a State use to calculate RFP targets?* In calculating RFP targets for the initial 6-year period and the subsequent 3-year periods pursuant to this section, the State shall use the methods consistent with the requirements of sections 182(b)(1)(C) and (D) and 182(c)(2)(B) to properly account for non-creditable reductions.

(d) *What is the baseline emissions inventory for RFP plans?* For the RFP plans required under this section, the baseline emissions inventory shall be determined at the time of designation of the area for the 8-hour NAAQS and shall be the emissions inventory for the most recent calendar year for which a complete inventory is required to be submitted to EPA under the provisions of subpart A of this part or a more recent alternative baseline emissions inventory provided the State demonstrates that the baseline inventory meets the CAA provisions for RFP and provides a rationale for why it is appropriate to use the alternative baseline year rather than 2002 to comply with the CAA’s RFP provisions.

[70 FR 71700, Nov. 29, 2005]

**§ 51.911 [Reserved]**

**§ 51.912 What requirements apply for reasonably available control technology (RACT) and reasonably available control measures (RACM) under the 8-hour NAAQS?**

(a) *What is the RACT requirement for areas subject to subpart 2 in accordance with § 51.903?* (1) For each area subject to subpart 2 in accordance with § 51.903 of this part and classified moderate or higher, the State shall submit a SIP revision that meets the NO<sub>x</sub> and VOC RACT requirements in sections 182(b)(2) and 182(f) of the Act.

(2) The State shall submit the RACT SIP for each area no later than 27 months after designation for the 8-hour ozone NAAQS, except that for a State subject to the requirements of the Clean Air Interstate Rule, the State shall submit NO<sub>x</sub> RACT SIPs for electrical generating units (EGUs) no later than the date by which the area’s attainment demonstration is due (prior to any reclassification under section 181(b)(3)) for the 8-hour ozone national ambient air quality standard, or July 9, 2007, whichever comes later.

(3) The State shall provide for implementation of RACT as expeditiously as practicable but no later than the first ozone season or portion thereof which occurs 30 months after the RACT SIP is due.

(b) *How do the RACT provisions apply to a major stationary source?* Volatile organic compounds and NO<sub>x</sub> are to be considered separately for purposes of determining whether a source is a major stationary source as defined in section 302 of the Act.

(c) *What is the RACT requirement for areas subject only to subpart 1 pursuant to § 51.902(b)?* Areas subject only to subpart 1 pursuant to § 51.902(b) are subject to the RACT requirement specified in section 172(c)(1) of the Act.

(1) For an area that submits an attainment demonstration that requests an attainment date 5 years or less after designation for the 8-hour NAAQS, the State shall meet the RACT requirement by submitting an attainment demonstration SIP demonstrating that the area has adopted all control measures necessary to demonstrate attainment as expeditiously as practicable.