



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

MICHAEL A. ABRACZINSKAS
Acting Director

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EPA Docket Center
WJC West (Air Docket)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Subject: Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements

Dear Sir/Madam:

The North Carolina Division of Air Quality (DAQ), within the Department of Environmental Quality, appreciates the opportunity to comment as requested in the U.S. Environmental Protection Agency's (EPA) proposed rulemaking entitled, "*Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements*" published in the *Federal Register* on November 17, 2016 (81 *FR* 81276).

Overall, the DAQ supports the EPA's proposal to rely on the framework and policy approach included in the previous 2008 implementation rule as the basis for implementing the 2015 ozone standards. This approach makes sense and leverages the experience of state and local agencies with implementing the previous 2008 standards.

Like many states in the Eastern U.S., North Carolina has achieved significant progress toward reducing ozone pollution due to successful implementation of federal, state and local air quality programs over the past 20 years. From this success we have learned that future reductions in anthropogenic volatile organic compound (VOC) emissions may have little to no impact on ambient ozone concentrations. Therefore, for nitrogen oxide (NO_x)-limited areas such as North Carolina, I ask that EPA limit the application of VOC control requirements since they would add substantial costs to affected entities and provide minimal if any benefit for reducing ozone pollution in the areas.

The DAQ's detailed comments on the proposed rule are provided in the Attachment to this letter. If you should have any questions regarding this submittal, please contact Randy Strait of my staff at (919) 707-8721.

Sincerely,



Michael A. Abraczinskas, Acting Director
Division of Air Quality, NCDEQ

MAA/rps

Attachment

cc: Sushma Masemore, NCDAQ
Randy Strait, NCDAQ
Scott R. Davis, USEPA
Lynorae Benjamin, USEPA
William Barnette, Forsyth County Office of Environmental Assistance and Protection
Leslie Rhodes, Mecklenburg County Air Quality
David Brigman, Western Regional Air Quality Agency

Attachment

North Carolina Division of Air Quality (DAQ) Comments on EPA’s Proposed Rulemaking Entitled: “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements”

The DAQ offers the following detailed comments on the U.S. Environmental Protection Agency’s (EPA) proposed rulemaking entitled, “*Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements*” published in the *Federal Register* on November 17, 2016 (81 FR 81276).

III. Provisions of the 2008 Ozone NAAQS Implementing Regulations To Be Retained Without Significant Revision

2. Form and Content of Nonattainment and OTR SIP Element Submissions Required Under a Revised NAAQS

Page 81279, Column 1: In cases where a previously-approved provision is modified for any reason, or where no provision exists, air agencies must provide the new or modified provision as a SIP submission. This would include new or modified RACT provisions for states with nonattainment areas and states in an OTR, which must be reviewed to ensure that emissions from affected stationary sources are appropriately controlled. However, where an air agency believes that an existing regulation is adequate to meet the nonattainment requirements of CAA section 182 (or OTR RACT requirements of CAA section 184) for a revised ozone NAAQS, that air agency’s SIP submission may provide a written statement of the rationale for that determination in lieu of submitting new revised regulations. For example, a state may have an emissions statement regulation (per CAA section 182(a)(3)(B)) that has been previously approved by the EPA for a prior ozone NAAQS that covers all of the state’s nonattainment areas and relevant classes and categories of sources for the 2015 ozone NAAQS, and is likely to be sufficient for purposes of the emissions statement requirement for the 2015 ozone NAAQS.

Page 81279, Column 2: An air agency choosing to provide a written statement to meet the submission requirement of the CAA must provide the statement to the EPA as a SIP submission in accordance with CAA section 110 and 40 CFR 51.102, 103 and Appendix V. An air agency should identify the related applicable requirements and how each is met for the revised ozone NAAQS by the regulation previously approved for a prior ozone NAAQS. The purpose of the statement is to demonstrate compliance with the nonattainment plan requirements for the new NAAQS. These written statements must be treated in the same manner as any SIP submission and must be provided to the EPA in accordance with applicable SIP submission requirements and deadlines.

Comment: The DAQ agrees with this proposal.

D. Redesignation to Nonattainment Following Initial Designations

Page 81279, Column 3: The EPA is proposing to retain its existing requirements for areas initially designated attainment for the current ozone NAAQS and subsequently redesignated to nonattainment for the same standards, which are codified for the 2008 ozone NAAQS in 40 CFR 51.1106. These provisions generally allow an extension of any absolute, fixed date for SIP requirements under part 51—excluding attainment dates—equal to the length of time between the effective date of the initial designation for the NAAQS and the effective date of redesignation, unless otherwise provided in the implementation provisions for those standards. The maximum attainment date for a redesignated area would be based on the area’s classification (see Section IV.A of this preamble for discussion of classification thresholds and attainment dates). The EPA is proposing to retain the same requirements for the 2015 ozone NAAQS, without revision.

Comment: The DAQ agrees with this proposal.

G. Requirements for RFP

Page 81280, Column 2: The EPA is proposing to retain its existing RFP requirements and to add new regulatory provisions codifying statutory requirements for RFP milestone compliance demonstrations (MCDs) (see Section IV.C of this preamble). The EPA is also seeking comment on requiring states to use the year of an area’s designation as nonattainment as the baseline year for the emission inventory for the RFP requirement.

Page 81280, Column 3: The EPA is proposing to retain the same RFP approach and requirements for the 2015 ozone NAAQS, except that they would also apply to areas with approved RFP plans for the 2008 ozone NAAQS, in addition to the 1-hour and 1997 standards. This proposed approach includes continuing to state that the baseline year for RFP should be the calendar year for the most recently available triennial emission inventory at the time ROP/RFP plans are developed (e.g., 2017 for initial designations effective in 2018), but states may elect an earlier alternate year to be used to recognize investments in implementing early reductions to achieve improved air quality. We propose that states may use an alternate year (i.e., other than 2017) between the year of the revised NAAQS issuance (2015) and the year in which nonattainment designation is effective. However, the EPA is inviting comment on an alternate approach of requiring that states use the year of the effective date of an area’s designation as the baseline year for the emission inventory for the RFP requirements.

Comment: The DAQ supports defining the baseline year for RFP as the calendar year for the most recently available triennial emission inventory at the time ROP/RFP plans are developed (e.g., 2017 for initial designations effective in 2018), but allowing states to elect an earlier alternate year to be used to recognize investments in implementing early reductions to achieve improved air quality. This approach reinforces state efforts to take early action to reduce emissions while fulfilling RFP requirements.

IV. Provisions of the 2008 Ozone NAAQS Implementing Regulations To Be Retained With Specific Revisions

A. Application of Classification and Attainment Date Provisions in CAA Section 181 to Areas Subject to Subpart 2 of Part D of Title I of the CAA

4. Proposed Classification Thresholds

b. Proposed classification threshold method.

Page 81283, Column 3: In this action, we are proposing to use the same “percent-above-the-standard” methodology as was used for establishing thresholds for classifications for the 1997 and 2008 8-hour ozone standards. The percent-above-the-standard method is a simple and straightforward method for establishing classification thresholds that is based on principles inherent in the subpart 2 classification table itself.

Comment: The DAQ agrees with this proposal.

6. Attainment Dates for Nonattainment Areas in Each Classification of the 2015 ozone NAAQS

Page 81285, Columns 1 and 2: The EPA is proposing to retain its current approach in establishing attainment dates for each nonattainment area classification, which run from the effective date of designation. This approach is codified at 40 CFR 51.1103 for the 2008 ozone NAAQS, and we are proposing to retain the same approach for the 2015 ozone NAAQS without revision.

Comment: The DAQ agrees with this proposal.

B. Transition From the 2008 Ozone NAAQS to the 2015 Ozone NAAQS and Anti-Backsliding Requirements

1. Background and Summary of Proposal

Page 81286, Columns 1 and 2: The EPA is proposing and seeking comment on two alternative approaches for revoking the 2008 ozone NAAQS and is also seeking comment on whether to revoke the NAAQS at the current time. The first approach to revoking the 2008 ozone NAAQS would parallel the approach used in revoking the 1-hour and 1997 ozone NAAQS. Under this first approach, the 2008 ozone NAAQS would be revoked at essentially the same time for all areas of the U.S., and a set of protective anti-backsliding requirements would be promulgated for all areas that are designated nonattainment for the 2008 and 2015 NAAQS as of one year after the effective date of designation for the 2015 ozone NAAQS. Under the second approach, the 2008 ozone NAAQS would continue to apply in any area designated nonattainment for the 2008 ozone NAAQS until that area is redesignated to attainment with an approved CAA section 175A 10-year maintenance plan; but in no case earlier than 1 year after the effective date of designation for the 2015 ozone NAAQS. The 2008 ozone NAAQS would be

revoked in all other areas 1 year after the effective date of designation for the 2015 ozone NAAQS.

Comment: The DAQ supports EPA's proposal to revoke the 2008 ozone standards 1 year after the effective date of designation for the 2015 ozone standards.

D. Requirements for RACT: Deadlines for Submittal and Implementation of RACT SIP Revisions

2. RACT SIP Revision Submittal and Implementation Deadlines for Newly-Reclassified Areas

Page 81294, Columns 1 and 2: We are proposing a generic RACT SIP implementation deadline of no later than January 1 of the third year after the associated SIP revision submittal deadline. This generic implementation deadline would apply where the Administrator elects to not establish a specific alternate implementation deadline in an area reclassification action. The proposed interval between the RACT SIP revision submittal deadline and the implementation deadline was developed by drawing a parallel to the construct of the overall RACT SIP revision submittal and implementation timeframe articulated in section 182(b)(2) of the CAA. In the statute, SIP revisions for sources of VOCs were required by 2 years after November 15, 1990, and were required to provide for RACT implementation as expeditiously as practicable, but no later than the start of the ozone season that is the third year after the SIP revision deadline (i.e., May 31, 1995, approximately 54 months total).

We invite comment on the proposed submission and implementation deadlines for SIP revisions resulting from reclassification actions.

Comment: The DAQ agrees with the application of the proposed generic RACT SIP revision submittal deadline (within 2 years after designation) and implementation deadline (no later than January 1 of the third year after the associated SIP revision submittal deadline) for newly-reclassified areas. However, I also want to remind EPA that due to the abundance of biogenic VOC emissions in certain areas such as the southeastern U.S., future reductions in anthropogenic VOC emissions may have little to no impact on ambient ozone concentrations. Therefore, for nitrogen oxide (NO_x)-limited areas that are designated as moderate or above for the first time, I ask that EPA, in consultation with the affected state and local agencies, use the Administrator's authority to limit VOC RACT/RACM requirements since they would add substantial costs to affected entities and provide minimal if any benefit for reducing ozone pollution in the areas.

3. RACT SIP Revision Submittal and Implementation Deadlines Associated With New Control Techniques Guidelines

Page 81294, Columns 2 and 3: The CAA is silent regarding the schedule for implementation of RACT SIP revisions triggered by new CTGs. When new CTGs are issued, these RACT SIP revisions would be applicable to areas classified Moderate or higher, and any portion of a state located in an OTR. For CTGs in effect at the time of initial designations for a

revised NAAQS, the EPA has interpreted the CAA provisions to require implementation of related RACT SIP revisions as expeditiously as practicable, but no later than January 1 of the fifth year after the effective date of initial designations for the revised NAAQS (80 FR 12279; March 6, 2015). For new CTGs issued after initial area designations, we considered several approaches for establishing deadlines for submitting and implementing RACT SIP revisions.

Under the first approach, we are proposing a RACT SIP submission deadline of no later than 24 months after the effective date of the action issuing the CTG, or the deadline established by the Administrator in the action issuing the CTG. We are proposing that the RACT SIP revisions be implemented no later than January 1 of the third year after the associated SIP revision submittal deadline. This deadline is based on the same rationale and approach used for our proposed generic implementation deadline for RACT SIP revisions triggered by reclassification actions, discussed in the preceding section. We are requesting comment on the appropriate implementation deadline, and propose that it should in no case exceed January 1 of the third year after the SIP revision submittal deadline.

Under the second approach, we would also articulate in the general RACT provisions the Administrator's authority to establish an alternate to the generic deadline for implementing RACT SIP revisions in the action issuing a new CTG. Under this option, setting a RACT SIP revision implementation deadline in a CTG action would allow the Administrator to tailor the implementation timeframe to the particular technical considerations and attainment objectives associated with the sources subject to the CTG.

Comment: The DAQ agrees with the application of the proposed generic RACT SIP implementation deadline for establishing implementation deadlines for new control techniques guidelines (CTGs). The DAQ supports Option 1 (*...proposing a RACT SIP submission deadline of no later than 24 months after the effective date of the action issuing the CTG, or the deadline established by the Administrator in the action issuing the CTG. We are proposing that the RACT SIP revisions be implemented no later than January 1 of the third year after the associated SIP revision submittal deadline.*). The DAQ feels it is important for EPA to provide state and local agencies at least a minimum of 24 months to complete their rulemaking and SIP revision processes while providing ample opportunity for public involvement. In addition, as noted in the DAQ's previous comment, it is important to provide state and local agencies the flexibility in deciding whether implementing new RACT/RACM requirements for controlling VOC emissions are appropriate for their area.

E. Requirements for RACM: Consideration of Sources of Intrastate Transport of Pollution

Page 81295, Column 1: Background and Summary of Proposal: The EPA is proposing to retain its existing general RACM provisions (see Section III.H of this preamble), and to clarify in the rule that, in addition to sources located in an ozone nonattainment area, air agencies must also consider the impacts of emissions from sources outside an ozone nonattainment area (but within a state's boundaries), and must require other measures for emissions reductions from

these intrastate sources if needed to attain the ozone NAAQS by the applicable attainment date. This proposed rule provision is consistent with SIP elements required under the CAA, as well as existing EPA policy articulated in previous NAAQS implementation rulemakings.

Page 81295, Column 1: Applicability of CAA Requirements and Existing EPA Policy: 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 this provision to include “additional reasonable measures,” which are 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. Upwind sources within a state may have a significant impact on air quality in a nonattainment area, and failure to consider and require, as appropriate, reasonable control measures for these sources may preclude the expeditious attainment of a NAAQS in the area. Though not directly a part of 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.

Page 81295, Columns 1 and 2: Proposed Requirement for RACM, Other Control Measures and Sources of Intrastate Transport of Pollution: The EPA is proposing that, for each nonattainment area required to submit an attainment demonstration (see Section III.F of this preamble), an air agency shall submit with the attainment demonstration a SIP revision demonstrating that it has adopted all RACM necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements. This SIP revision shall include, as applicable, other control measures on sources of emissions of ozone precursors located outside the nonattainment area or portion thereof, located within the state if doing so is necessary to provide for attainment of the applicable ozone NAAQS within the area by the applicable attainment date.

Page 81295, Column 2: We invite comment on the proposed inclusion of this SIP revision requirement for RACM and other control measures in the ozone implementation rule provisions. As discussed in Section III.H of this preamble, the EPA is proposing to otherwise adopt all existing RACM requirements for purposes of the 2015 ozone NAAQS, based on the current rationale and approach articulated in the final 2008 Ozone NAAQS SIP Requirements Rule.

Comment: North Carolina has interpreted CAA section 172(c)(6) to require RACM outside of a nonattainment area’s boundaries if the state believes it is necessary and appropriate to achieve expeditious attainment of the NAAQS for the area. The DAQ requests that EPA not increase the demonstration burden beyond what has been required in the past.

F. Nonattainment NSR Offset Requirement: Interprecursor Trading for Ozone Offsets (page 81295)

Comment: Following are the DAQ's comments on the EPA's *Technical Guidance Demonstration of Interprecursor Trading (IPT) for Ozone in the Nonattainment New Source Review Program*, Draft for Public Review and Comment, 10/04/2016:

#1: For urban environments, emission offsets based on IPT ratios should be shared across source groups (e.g., mobile and stationary). Mobile source NO_x emissions have been shown to significantly influence ozone formation and transport, especially near urban areas dominated by NO_x-limited conditions. Thus, implementation of certain mobile source emission control strategies for NO_x reductions would create offsets that would lower overall ozone concentrations as well as provide added flexibility for stationary source NO_x/VOC increases under nonattainment new source review (NNSR). The margin of conservatism for this approach would be dependent on source group sensitivity to ozone chemistry and model uncertainty (if required).

#2: IPTs should apply to stationary or area sources located outside of the nonattainment area if it can be shown that reductions are beneficial to expeditious attainment of the NAAQS in an area. Regional ozone episodes show that existing sources located 10-100's of kilometers (km) have an impact on ozone formation in the nonattainment area in some cases in NC. Therefore, any emission reductions from NO_x and/or VOC sources locating outside of the nonattainment area should apply to offsets achieved in the nonattainment area, that is, as demonstrated by existing or case-specific photochemical modeling.

#3: The IPT approach should maintain consistency between different NNSR applicants, control strategies, area-specific assumptions, source types, modeling platforms (e.g., Comprehensive Air Quality Model with Extensions (CAMx) or Community Multi-scale Air Quality (CMAQ) model). This could be accomplished by using a budgetary approach to IPT for the nonattainment area based on the best model(s) available. The IPT guidance does not address issues with consistency and a budgetary approach for managing offsets between different NNSR projects.

#4: IPT ratios theoretically could vary by hour of day, daily, weekly, and seasonally, especially given the temporal trends of ozone formation and destruction. The EPA guidance does not discuss this possibility. NNSR applicants could theoretically propose emission offsets based on time-varying IPT ratios and associated source controls. Permitted rolling average emission rates could be reviewed and evaluated in accordance with any time-varying IPT ratios and proposed source controls during ozone episodes.

#5: Analogous to "area-specific" IPT ratios, the DAQ proposes to include "time-specific" IPT ratios. These time-specific IPT ratios would be linked to source control strategies implemented during ozone episodes (e.g., air quality advisories). Area-specific IPT ratios are more susceptible to spatial uncertainties inherent to photochemical model performance. Tying IPT ratios to time-specific events and targeted contributing sources during specific ozone

episodes would allow for additional flexibility across all areas and sources within the nonattainment area.

#6: The 1:1 IPT ratio (1 ton NO_x decrease per 1 ton VOC increase) proposed for NO_x-limited ozone impact areas seems like a reasonable place to start for rural portions of the nonattainment area located far enough away (e.g., ~10 km or more) from mobile sources and other NO_x-rich environments in any metro area. The DAQ proposes that the 1:1 IPT default ratio should be expanded to 1:4 for rural areas that are shown to be NO_x-limited as shown by the most conservative ozone modeling values derived under EPA's draft guidance on Model Emission Rates for Precursors (MERPs). So an applicant and/or group of sources locating in rural areas outside of the urban core could plan for up to 4 tons of VOC emissions increases in exchange for 1 ton of NO_x emissions reductions (credits) (or vice versa) across all rural areas of the nonattainment area.

#7: Assumptions on the conservatism of any IPT ratio would be dependent on expected source growth within the nonattainment area. Industrial, commercial, and population growth pattern influences on ozone need more refined technical discussion not found in the draft IPT guidance.

#8: Model performance should be carefully assessed in support of conservatism and application of IPT ratios for a specific source or source group project affecting the nonattainment area. The IPT guidance should specifically address model performance evaluation in terms of acceptable statistical metrics similar to those relied upon in ozone SIP demonstration modeling.

G. Emissions Inventory and Emissions Statement Requirements

Emissions Inventories

Page 81298, Columns 1 and 2: To support the periodic emissions inventory requirement, the EPA is proposing revisions to the AERR point source reporting thresholds in AERR Table 1 (40 CFR 51, subpart A, appendix A) to be consistent with the major source thresholds for ozone nonattainment areas. These reporting thresholds are in tons of potential emissions per year. The existing AERR Table 1 includes Moderate area thresholds of 100 tpy for NO_x and VOC, which are the same as the triennial thresholds for all areas. The existing AERR table also includes lower VOC thresholds for the Serious, Severe, and Extreme areas of 50, 25 and 10 tpy. With this proposed revision, the AERR table would be updated to also explicitly include these same Serious, Severe and Extreme area thresholds for NO_x. The same thresholds as have existed for VOC also apply for NO_x, consistent with definition of "major source" in both 40 CFR 70.2 and 40 CFR 71.2. In addition, the VOC and NO_x thresholds also depend on whether the source is within an OTR in accordance with CAA 184(b)(2). Thus, the EPA proposes to include in the AERR table a 50 tpy potential-to-emit (PTE) VOC threshold for sources within an OTR and a 50 tpy PTE NO_x threshold for sources both within an OTR and within a Moderate ozone nonattainment area. The latter requirement applies the same definition noted above in 40 CFR 70.2 and 40 CFR 71.2. Finally, this proposal removes the lower 100 tpy PTE carbon monoxide (CO) threshold from Appendix A for ozone nonattainment areas because there is no

major source threshold for CO in the current or proposed implementing regulations for the ozone NAAQS. The EPA notes that these proposed revisions are technical corrections, and we are not proposing or accepting comment on any substantive revisions to the AERR itself.

Comment: The DAQ supports these proposed revisions.

Emissions Statements

Page 81298, Column 3/Page 81299, Column 1: For nonattainment areas, air agencies must develop, and include in their SIP, emission reporting programs for certain VOC and NOX sources in accordance with CAA section 182(a)(3)(B). The required state program defines how air agencies obtain emissions data directly from certain facilities, and these data, along with other information, are then reported to the EPA as part of SIP inventories required by CAA sections 182(a)(1) and 182(a)(3)(a). This state program is generally referred to as an emissions statement regulation, and it outlines how certain facilities must report emissions and facility activity data to an air agency, typically a state. Reports submitted to air agencies must be accompanied by “a certification that the information contained” in the report is “accurate to the best knowledge” of the facility. To properly implement the emissions reporting requirements, emissions statement regulations should be coordinated carefully with the data (existing requirements at 40 CFR 51.1115 and proposed at 40 CFR 51.1315). An air agency must submit the emissions statement regulation required by CAA section 182(a)(3)(B), or a written statement certifying a previously-approved regulation, to the EPA as a SIP revision for approval (see Section III.A.2 of this preamble). CAA section 110, in conjunction with 40 CFR 51.102, 103 and Appendix V, establishes the procedure for submitting a SIP revision.

Comment: The DAQ supports the EPA’s proposed clarification to allow an air agency to submit the emissions statement regulation, or a written statement certifying a previously-approved regulation, to the EPA as a SIP revision for approval.

V. Additional Considerations

A. Managing Emissions From Wildfire and Wildland Prescribed Fire

Pages 81299, Column 3/Page 81300, Column 1: However, for several reasons, the EPA does not believe it would be effective policy or technically appropriate to recommend that control measures for wildland fire be adopted into the SIP as enforceable measures and credited for emissions reductions (of ozone and precursors) that would help the area attain the standard. Instead, EPA recommends that ozone nonattainment plans (and in particular the attainment demonstrations) not expressly account for expected air quality changes over the planning period resulting from changes in the use of wildland prescribed fire to reduce future wildfires, or air quality changes over the planning period resulting from changes in wildland fire emissions due to a program of prescribed fire or due to any other cause including climate change. In most cases, state attainment demonstration modeling should assume that wildland prescribed fire and

wildfire emissions in the attainment year will be equal to, and have the same temporal and geographic pattern as, those assumed in the baseline inventory year.

Page 81300, Column 2: A consequence of the recommendation of not expressly accounting for changes in wildland fires in attainment demonstrations is that measures to reduce emissions from wildland fires, such as prescribed fire to prevent catastrophic wildfires and for mitigation purposes or smoke management programs and BSMP for prescribed fires in wildland, need not be included as RACM for the respective fire types. This is because the changes in emissions due to such measures would not be accounted for in determining what is necessary for attainment and/or what would advance the attainment date, which is how the EPA is recommending that RACM be determined. So, for example, in an area that can attain in 6 years with measures that do not address wildland fire, the EPA does not recommend that states attempt to quantify whether increased prescribed fire could advance the attainment date by 1 year, due to aforementioned difficulties associated with such quantification.

Comment: The DAQ supports this proposed revision.

D. International Transport and Background Ozone

International Transport

Page 81304, Column 1: Consistent with the particular showing required by the statutory language, the EPA will consider section 179B demonstrations on a case-by-case basis. The EPA asks for comment on whether the opportunity for such a demonstration should be limited to nonattainment areas adjoining international borders, and on any technical and legal basis for determining whether it is appropriate to have, or conversely whether it is appropriate not to have, such a limitation.

Comment: The DAQ agrees with EPA’s statement on page 81303 of the preamble that “...contributions to U.S. ozone concentrations from sources outside of the U.S., which can be from nearby sources in a bordering country or from sources many thousands of miles away, can affect to varying degrees the ability of some areas to attain and maintain the 2015 ozone NAAQS.” Given the significant accomplishments that states and their stakeholders have achieved at reducing ozone nationwide, the contribution from sources outside of the U.S. has become more prominent in the overall ozone profile for many areas. For this reason, the DAQ requests that EPA provide the states with the flexibility to prepare demonstrations for nonattainment areas regardless of their location relative to an international border. Long-range transport of ozone is well documented and not restricted to impacting only areas adjacent to Canada or Mexico.

In addition, based on the DAQ’s review of EPA the Cross-State Air Pollution (CSAPR) Update Rule modeling, EPA held 2011 emissions for Mexico constant in the 2017 forecast, and, thus may understate ozone contributions from Mexico in the 2017 modeling. The DAQ requests that for future modeling studies EPA take the time to improve emission inventories for Mexico

and Canada to provide a more accurate representation of the contributions of our neighboring countries on ozone levels in the U.S. Furthermore, initial and boundary conditions account for contributions associated with natural background sources and international sources (i.e., the portions of Mexico and Canada not included in the 12-km modeling domain plus other countries). For the final CSAPR Update Rule, initial and boundary conditions accounted for a large portion (e.g., approximately 15 to 20 percent) of total ozone levels modeled for many of the monitors in the Eastern U.S. From this modeling study the contributions from international sources is unclear. For future modeling studies, it will be most helpful if EPA would break-out the contribution of all international sources to understand the magnitude of ozone contributions from international sources versus natural background.

Page 81304, Columns 2 and 3: The EPA believes that adopting an interpretation of CAA section 179B that would allow people to continue to be subjected to levels of ozone above the NAAQS that a state could reasonably reduce—in this case not to attainment level, but to a level below the current level—would be antithetical to the objectives of the CAA. The EPA believes it is appropriate for the Administrator to take this general construct of the CAA into account in determining during the application of CAA section 179B whether, “to the satisfaction of the Administrator,” an area would have attained the ozone NAAQS by the applicable attainment date but for emissions emanating from outside of the U.S. Accordingly, the EPA is proposing and seeking comment on a requirement that all demonstrations under CAA section 179B(b), regardless of an area’s classification (including nonattainment areas classified as Marginal), must include a showing that the air agency adopted all RACM, including RACT, for the area in accordance with CAA section 172(c)(1), 42 U.S.C. 7502(c)(1). Under this interpretation, if the air agency did not adopt reasonable control measures before making a section 179B(b) demonstration, it will be missing a critical component of the demonstration that the area would have attained the ozone NAAQS by the attainment date “but for” international impacts, namely a showing that the area could otherwise attain by application of reasonable controls on sources of emissions that are within the state’s jurisdiction. We are proposing to add new regulatory provisions at 40 CFR 51.1309 to establish that air agencies must also demonstrate RACM for Marginal areas for treatment under CAA section 179B.

...The EPA invites comment as to whether the EPA should develop technical guidance for the “but for” analysis in a section 179B demonstration, and invites comment about which methodologies and tools would be most effective to help states develop section 179B demonstrations.

Comment: The DAQ supports the use of Section 179(B) demonstrations for a nonattainment area that would have attained the ozone NAAQS by its applicable attainment date “but for” emissions emanating from outside of the U.S. However, the DAQ does not support EPA’s proposal that marginal areas be required to implement RACT and RACM requirements in order to qualify for a Section 179B demonstration. For example, for NO_x-limited areas, application of VOC controls would not improve air quality but could impose a significant regulatory burden on the VOC sources affected. Section 179B appears to be straightforward in its intent which is to provide regulatory relief to those areas that would be attaining the ozone

standard “but for” impacts associated with emissions originating from outside of the U.S. I do encourage EPA to develop technical guidance for preparing Section 179B demonstrations which should provide flexibility to accommodate each area’s situation on a case-by-case basis.

Background Ozone

Page 81304, Column 3/Page 81305 Column 1: With respect to the larger issue of background ozone (or U.S. background, (USB)), the EPA has solicited input from air agencies, tribes, and interested stakeholders on aspects of USB that are relevant to attaining the 2015 ozone NAAQS in a manner consistent with the provisions of the CAA. To establish a common understanding and foundation for discussion, the EPA released a white paper titled, “Implementation of the 2015 Primary Ozone NAAQS: Issues Associated with Background Ozone” in December 2015, and held a workshop in February 2016 to discuss information in the white paper.

Workshop attendees included representatives of state, local and tribal air agencies, and other interested stakeholders. A general theme among attendee comments was a concern that the EPA is underestimating the magnitude and effects of USB, and that available policy solutions do not provide meaningful relief from nonattainment designations in affected areas. The EPA continues to refine and conduct its national and global model simulations to better characterize USB, and is actively evaluating the need for further guidance and/or rules to address USB based on feedback received.

The EPA also recently finalized revisions to the Exceptional Events Rule to further facilitate review and approval of exceptional events that contribute to USB, such as stratospheric intrusions and wildfires (81 FR 68216; October 3, 2016).

Comment: The DAQ strongly encourages EPA to continue research and coordination with stakeholders to better understand background ozone levels for nonattainment areas. As EPA continues to lower the ozone standards, at some point it will be either technically and/or economically infeasible to control anthropogenic emissions sources to attain the more stringent standards in some parts of the U.S. The EPA needs to invest time and resources in understanding the contribution of background ozone levels in order to develop guidance for states to ensure that local economies are actively maintained while protecting the public health and welfare.