

US EPA ARCHIVE DOCUMENT

MEMORANDUM

SUBJECT: Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS

FROM: Richard D. Wilson, Acting Assistant Administrator
for Air and Radiation (6101)

TO: Regional Administrator, Regions I-X

As you know, on July 18, 1997, EPA replaced the 1-hour ozone standard with an 8-hour standard at a level of 0.08 parts per million (ppm). The Agency also revised the primary and secondary national ambient air quality standards (NAAQS) for particulate matter (PM) by establishing annual and 24-hour PM_{2.5} standards and by changing the form of the existing 24-hour PM₁₀ standard. The existing annual PM₁₀ standard is retained; however, for the revised PM NAAQS, the standard conditions of temperature and pressure adjustment have been removed. These new standards became effective September 16, 1997.

Guidance for continuing the implementation of the Clean Air Act (Act) requirements for the 1-hour ozone and pre-existing PM₁₀ NAAQS following EPA's promulgation of the new 8-hour ozone and PM NAAQS is attached. This guidance is intended to ensure that momentum is maintained by the States in their current programs while moving toward developing their plans for implementing the new NAAQS, and it applies to all areas now subject to the 1-hour ozone standard and the pre-existing PM₁₀ standard regardless of attainment status. On July 16, 1997, President Clinton issued a directive to Administrator Browner on implementation of the new standards for ozone and PM. In that directive, the President laid out a plan on how these new standards, as well as the current 1-hour ozone and pre-existing PM standards, are to be implemented. The attached guidance reflects the Presidential Directive.

Although the 8-hour ozone standard replaces the 1-hour standard, the 1-hour standard will continue to apply to an area for an interim period until EPA makes a determination that the area has air quality meeting the 1-hour standard. As a consequence, under the Act, the provisions of subpart 2 of part D of title I, which govern implementation of the 1-hour ozone standard in nonattainment areas, will continue to apply in those areas until EPA makes a determination that the area has air quality meeting the 1-hour standard. Similarly, the provisions of subpart 4 of part D of title I, which govern implementation of the pre-existing PM-10 standards in nonattainment areas, will continue to apply for an interim period until the pre-existing PM₁₀ standard is revoked. Guidance on how EPA will revoke the applicability of the 1-hour ozone and pre-existing PM₁₀ standards is also in the attachment.

The EPA interprets the Act to provide that the detailed provisions of subpart 2 of part D of title I are clearly and explicitly tied to the ozone NAAQS in existence at the time of the enactment of the 1990 Amendments to the Act. Moreover, the provisions of subpart 4 of part D apply only to PM₁₀ NAAQS (this includes pre-existing and revised PM₁₀ NAAQS). Thus, the provisions of subparts 2 and 4 would not govern the implementation of the 8-hour ozone and PM_{2.5} NAAQS. Instead, the general planning requirements of part A of title I and the nonattainment planning requirements of subpart 1 of part D of title I govern the implementation of the new 8-hour ozone standard and the PM_{2.5} standard. The EPA will prepare guidance and proposed regulations on implementing these new standards in the near future.

The purpose of this guidance is to set forth EPA's current views on the issues discussed herein. These issues will be addressed in future rulemakings as appropriate, e.g., actions approving or disapproving State implementation plans submittals. In those rulemakings, EPA will propose to take a particular action based in whole or in part on its views of the relevant issues, and the public will have an opportunity to comment on EPA's interpretations during the rulemakings. When EPA issues final rules based on its views, those views will be binding on the States, the public, and EPA as a matter of law.

If you have any questions during implementation of this guidance, please contact John Seitz, Director of the Office of Air Quality Planning and Standards. The staff contacts are Sharon Reinders (ozone) at 919/541-5284 and Robin Dunkins (PM) at 919/541-5335.

Attachment

cc: Air Division Director, Regions I-X
 Air Programs Manager, Regions I-X
 William Hunt, EMAD
 Margo Oge, OMS
 Rich Ossias, OGC
 Sally Shaver, AQSSD
 John Seitz, OAQPS
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EPA:OAR:OAQPS:AQSSD:OPSG:SREINDERS\LTilley:NCM RM 510A:(MD-15)1-5526
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 Coordinated w/ the all Regions, Gay MacGregor w/ OMS, Rich Ossias of OGC. Please note that Sally Shaver and Lydia Wegman have cleared this.

Guidance for Implementating the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS

PREFACE

The purpose of this guidance is to set forth EPA's current views on the issues discussed herein. These issues will be addressed in future rulemakings as appropriate, e.g., actions approving or disapproving State implementation plans submittals. In those rulemakings, EPA will propose to take a particular action based in whole or in part on its views of the relevant issues, and the public will have an opportunity to comment on EPA's interpretations during the rulemakings. When EPA issues final rules based on its views, those views will be binding on the States, the public, and EPA as a matter of law.

OZONE GUIDANCE

The following guidance presents EPA's view on key issues regarding the ongoing programs implemented by State, local, and tribal air pollution control agencies to attain the 1-hour ozone national ambient air quality standards (NAAQS). The purpose and intent are to ensure that the momentum gained by States, local governments, and tribes to attain this NAAQS is not lost when moving toward implementation and attainment of the new 8-hour NAAQS. The topics covered are:

1. Continued Applicability of the 1-Hour Ozone NAAQS
2. Revocation of the 1-Hour Ozone NAAQS While Retaining the 8-Hour Ozone NAAQS
3. Reclassifications and Attainment Date Extensions
4. Rate of Progress (ROP) Requirements for Serious and Above Areas
5. Substitution of Credits for ROP Emission Reductions
6. Findings of "Failure to Submit" Certain Planning Elements
7. Attainment Demonstrations for the 1-hour Ozone NAAQS
 - a. State Implementation Plan Requirements for Serious and Higher Classified Nonattainment Areas
 - b. States with Areas that are Bumped Up from Moderate to Serious

1. Continued Applicability of the 1-Hour Ozone NAAQS

On July 18, 1997 (62 FR 38856), EPA promulgated a regulation replacing the 1-hour ozone NAAQS with an 8-hour NAAQS at a level of 0.08 ppm (40 CFR part 50). On that date, EPA also announced that the 1-hour standard would no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard.

Subpart 2 of part D of title I of the Clean Air Act (Act) addresses the implementation program for areas designated since 1991 as nonattainment for the 1-hour ozone standard. On December 13, 1996, in the proposed interim implementation policy (61 FR 65764), EPA proposed that the provisions of subpart 2 would not apply directly to the implementation of a

new ozone NAAQS, but would continue to apply during the interim period after promulgation of a new NAAQS to the extent they are retained under a no-backsliding principle and to the extent they are needed to comply with the general provisions of subpart 1. However, in light of the comments received on that proposal, EPA reconsidered and now has determined that the provisions of subpart 2 continue to apply directly as a matter of law to ozone nonattainment areas for the purposes of achieving that standard. Therefore, in the July 18 rulemaking, the EPA announced that the provisions of subpart 2 continue to apply to an area as a matter of law until EPA determines that the area has air quality data meeting the 1-hour standard and revokes the standard. The EPA will not revoke the 1-hour standard in an area that is violating that standard. The revocation process is discussed below.

Subpart 2 addresses the requirements for different classifications of nonattainment areas for the 1-hour standard (i.e., marginal, moderate, serious, severe and extreme). For example, these requirements include such items as mandatory control measures, annual rate of progress requirements for emission reductions, attainment demonstrations and attainment dates, and offset ratios for the emissions from new or modified stationary sources. The requirements in subpart 2 have contributed significantly to improvements in air quality since 1990. The EPA believes that retaining the provisions of subpart 2 until areas have air quality meeting the 1-hour standard will result in numerous benefits. Retention will provide continuity in implementation programs to reduce ozone and protect public health and the environment, provide greater assurance that the currently existing and required control measures will continue to be implemented, and position nonattainment areas on the path toward eventual attainment of the new 8-hour NAAQS. Consistent with these goals, EPA intends to interpret section 110(l) of the Act to require that a State may not remove, relax, or delay an ozone control measure or control measure commitment that is included in the SIP unless the State has demonstrated that such removal, relaxation, or delay will not adversely affect the ability of the State to prepare and submit a SIP that satisfies requirements for reasonable further progress toward any NAAQS or attainment and maintenance of any NAAQS, including the revised ozone NAAQS and new PM_{2.5} NAAQS. The continued applicability of the 1-hour ozone standard is explained in the final regulation promulgating the new ozone standard at 62 FR 38873 (July 18, 1997) and the Presidential Directive issued to the EPA on July 16, 1997 (62 FR 38421). In certain cases where air quality data through 1997 show nonattainment, EPA may be redesignating areas from attainment to nonattainment for the 1-hour standard. Where this occurs, States should follow implementation guidance on the applicable subpart requirements issued at the time of redesignation.

2. Revocation of the 1-Hour Ozone NAAQS While Retaining the 8-Hour Ozone NAAQS

The EPA will publish a list of areas where the 1-hour standard is being revoked. That determination will be based solely on air quality showing attainment of that NAAQS. At the effective date of the determination, the 1-hour NAAQS will no longer be in effect for these areas although the 8-hour ozone NAAQS continues in effect. Also, at the effective date of the revocation, the existing area designations for such areas will no longer be

applicable since the purpose of the provisions of subpart 2 will have been achieved and those provisions will no longer apply. As long as an area is violating the 1-hour standard, the provisions of subpart 2 and the 1-hour standard continue to apply. In the future, the EPA intends to review areas eligible for revocation of the 1-hour standard on an annual basis and take appropriate action. The implications of revoking the 1-hour NAAQS on the Ozone Transport Region are not discussed in this guidance. The EPA will issue separate guidance on these relationships.

In the past, States with air quality data showing attainment have submitted, and EPA has approved, redesignation requests and maintenance plans for these areas. From now on, because the 1-hour standard and subpart 2 will no longer apply to an area once the area achieves that standard, new redesignation requests as well as new maintenance plans for that standard will no longer be required.

The EPA-approved maintenance plans remain effective for areas where the 1-hour standard is revoked. However, EPA believes maintenance plans for areas that have been redesignated to attainment for that standard may be revised to withdraw certain contingency measure provisions that have not been triggered or implemented prior to EPA's determination of attainment and revocation of that standard. Where the contingency measure is linked to the 1-hour standard or air quality ozone concentrations, this measure may be removed from the maintenance plan. Where the contingency measure is linked to a non-air quality element, such as emission increases or vehicle miles traveled, this measure can only be removed if a demonstration shows that its removal will not adversely affect the ability of the area to attain the 8-hour standard. Contingency measure provisions linked to the 1-hour standard are designed to assure that the States will promptly correct any violation of the 1-hour standard which occurs after the redesignation of the area as an attainment area for that standard. After the 1-hour standard is revoked for an area, the EPA believes that it would be permissible for States to revise their plans to withdraw contingency measures related to the old standard and air quality for the area. Allowing such revisions would be consistent with section 110(l) of the Act since it would not interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the Act. Since such contingency measures are designed to address future violations of a standard which would no longer exist as to that area, it is no longer necessary to retain them. Further, EPA believes that future attainment and maintenance planning efforts should be directed toward the new 8-hour NAAQS.

With respect, however, to contingency measures that were triggered and/or implemented prior to EPA's revocation of the 1-hour standard, such measures were shown to be necessary to correct violations that occurred while that standard was in existence for the area. Therefore, the measures should be retained unless the State can show under section 110(l) that it would not interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the Act.

The conformity provisions of section 176(c) of the Act apply to nonattainment and

maintenance areas. Because EPA-approved maintenance plans remain effective for areas where the 1-hour standard is revoked, transportation and general conformity will continue to apply in those areas with EPA-approved maintenance plans, even after the 1-hour ozone standard is revoked. However, transportation and general conformity will no longer apply in those areas that do not have EPA-approved maintenance plans and for which the 1-hour standard is revoked. Since these areas will no longer be designated nonattainment, and nothing in the ozone NAAQS rule provides a basis for retaining conformity requirements for ozone, conformity will no longer apply.

Nevertheless, EPA strongly encourages these areas to continue coordinating their transportation planning and air quality planning processes. Air quality agencies should be consulting with transportation agencies when developing the SIP, in order to ensure that the SIP properly anticipates future motor vehicle emissions and adopts appropriate emission reduction strategies. Likewise, as plans for transportation investments are subsequently developed, a process for considering the long-term air quality impacts of proposed transportation investments is a common-sense planning step that promotes the efficient use of state and local resources. Additionally, reconciling proposed transportation investments with the SIP's goals and strategies ensures that the standards are achieved on time and through an efficient allocation of emission reductions among sources. Finally, the integration of air quality and transportation planning emphasizes strategies that improve the efficiency of the transportation system, which in itself offers long-term environmental benefits such as reducing greenhouse gas emissions.

The EPA recognizes that for other Federal actions normally subject to general conformity, coordination with the State is usually initiated by the Federal agency when an action is expected to occur. It is difficult for the State to coordinate in advance with each of the many Federal agencies that could potentially take an action. However, EPA does encourage states to contact the major Federal facilities/activities in their nonattainment areas to ensure that potential future Federal activities are considered when the SIP is developed.

Retaining the provisions contained in subpart 2 until EPA determines that an area has air quality meeting the 1-hour standard helps areas to transition to attainment planning for the new NAAQS and to avoid backsliding to degraded air quality. Although the provisions of subpart 2 will no longer apply to an area when EPA determines that the area has air quality meeting the 1-hour standard, at which time the 1-hour standard will be revoked, EPA does not believe that the revocation authorizes States to suspend, delay, or revoke any SIP measures adopted in response to provisions of subpart 2 unless the State demonstrates under section 110(1) that such suspension, delay, or revocation will not adversely affect the ability of the State to make reasonable further progress or attain or maintain any NAAQS.

Designations for areas regarding the new 8-hour NAAQS will take place in the future. Implementation of the new 8-hour standard will be governed by the provisions of subpart 1 of part D of title I of the Act. Designations, implementation guidance and regulations for the new 8-hour NAAQS are not addressed in this memo. The EPA plans to

address implementation of the new NAAQS during the next year.

3. Reclassification and Attainment Date Extensions

Retention of subpart 2 subjects States with areas failing to attain the 1-hour NAAQS to reclassification to a higher class and to the mandatory requirements of the higher class. With respect to moderate areas that did not attain the 1-hour NAAQS by the attainment date in the Act, those areas are subject to: (1) the reclassification requirements in section 181(b)(2) of the Act, which state that areas will be reclassified (bumped up) to the next higher classification or classification associated with the area's design value; and (2) all the requirements of the classification to which they are bumped as specified in section 182. Section 181(b)(2) provides that this bump-up action is to occur unless the area is granted an extension of its attainment date by EPA in accordance with section 181.

The EPA recently initiated individual rulemaking actions proposing that certain moderate nonattainment areas failed to attain the 1-hour NAAQS by November 15, 1996 as required by the Act (62 FR 46233, and 62 FR 46238), in addition to publishing a final rulemaking action on a moderate nonattainment area (62 FR 60001). The reader is referred to these notices for additional information. With respect to extensions for attainment dates, EPA will continue to consider granting up to two 1-year extensions as specified in the Act.

4. Rate of Progress (ROP) Requirements for Serious and Above Ozone Areas

In numerous earlier guidance documents, the EPA has interpreted the section 182(c)(2) reasonable further progress requirement as mandating volatile organic compounds (VOC) or nitrogen oxides (NO_x) reductions of 3 percent per year, averaged over a 3-year period, for serious and above ozone nonattainment areas that were designated and classified under the 1-hour 0.12 ppm ozone NAAQS. The EPA refers to these reductions as the rate-of-progress (ROP) requirement. After promulgation of the new NAAQS, the continuation of the ROP requirement is grounded in both the retention of the 1-hour 0.12 ppm ozone NAAQS and the requirements of section 182(c)(2)(B) in subpart 2. The ROP requirements continue until the area has air quality meeting the 1-hour standard. Accordingly, areas with ROP plans approved by EPA should continue to implement the ROP requirements of their plans, and areas that have not submitted plans remain subject to the requirement.

5. Substitution of Credits for ROP Emission Reductions

The EPA previously proposed some additional flexibility for a nonattainment area as it attempts to meet its annual ROP emission reductions. This flexibility expanded the geographic size of the area from which States could obtain emission reductions to meet their annual average 3 percent per year ROP requirement. Specifically, EPA proposed that an area in nonattainment for the 1-hour NAAQS should be allowed to take credit for emissions reductions obtained from sources outside the designated nonattainment area for the post-1999 ROP requirement as long as the sources are no farther than 100 km (for VOC sources)

or 200 km (for NO_x sources) away from the nonattainment area. The proposal restricted credits to emission reductions from measures not otherwise mandated by the Act. Because the ROP requirement is a general ROP requirement for at least 3 percent-per-year and not a requirement for specific programs or measures such as vehicle inspection and maintenance, this flexibility would continue to provide the same ROP in terms of reducing emissions. As explained in the proposed policy, EPA believes that this additional flexibility for crediting reductions outside nonattainment areas is consistent with the Act.

Under this approach, the geographic area for substitution of VOC emission reductions remains at 100 km from the nonattainment area and the geographic area for substitution of NO_x reductions remains at 200 km from the nonattainment area with the possibility for additional expansion of the NO_x substitution area as follows. Based on its review of the public comments, EPA believes that it should expand the allowable area for NO_x substitutions up to the entire State for those States in the core part of the Ozone Transport Assessment Group (OTAG) domain¹, i.e., the fine grid area, if they so choose. (The OTAG modeling results provide an adequate technical justification for statewide NO_x emission substitutions for ROP.) All other States implementing a NO_x substitution strategy for ROP would be restricted to a distance of 200 km from the nonattainment area, unless a substitution for a greater distance is accompanied by adequate technical justification. There are some cases in the western portions of the United States where 100 km for VOC substitution or 200 km for NO_x substitution from the nonattainment areas are not appropriate for ROP credit. In those cases, States should obtain approval from the appropriate Regional Office to verify credit and applicability prior to implementing such a substitution.

The reductions obtained outside the nonattainment area are subject to the same use restrictions as if they were obtained inside the nonattainment area. For example, the same reduction should not be double counted for ROP credit and for new source growth offsets. EPA believes that emissions from the source(s) outside the nonattainment area that are involved in the substitution must be included in the baseline ROP emissions and target ROP reduction calculation. Emissions from source(s) outside the nonattainment area that are not involved in the substitution would not have to be inventoried or included in the baseline ROP emissions and target ROP calculation. Under this approach, States will need to track and

record emission reductions and certify to EPA the amount of emission reductions achieved for ROP.

¹ For purposes of this notice, the core part of the OTAG domain consists of the following States: Alabama, Connecticut, District of Columbia, Delaware, Georgia, Illinois, Indiana, Kentucky, Maine, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Wisconsin, and West Virginia.

Further, whereas the initial Agency proposal disallowed ROP credit from measures mandated by the Act and implemented by States outside of their nonattainment areas to reduce precursors of ozone, EPA now believes that it should allow ROP credit for such reductions of ozone precursors. That is, creditable reductions achieved outside a nonattainment area should include those occurring from measures such as those proposed by EPA in its regional NO_x State implementation plan call (signed by the Administrator on October 10, 1997) for States to reduce interstate pollution transport, even though these reductions are not specifically required by the Act. Also now creditable outside the nonattainment area are those reductions mandated by the Act. Examples are credit for maximum achievable control technology standards controlling hazardous air pollutants that are precursors of ozone or the Act's title IV NO_x emission reduction requirements. (These are merely illustrative examples of such programs, not an inclusive list of all such programs.) This is consistent with EPA's previous interpretations of section 182(c)(2)(B) and related provisions regarding the creditability of reductions inside nonattainment areas toward ROP.

The EPA is clarifying its proposal for areas having approved NO_x waivers granted under section 182(f). EPA believes that the NO_x reductions achieved outside the nonattainment area with waivers may be substituted for VOC reductions within the nonattainment area if accompanied by adequate technical justification at the time of submittal. In general, EPA believes that substitutions in waiver areas may be allowed only if EPA determines that the substitution would result in a reduction in ozone concentrations in the nonattainment area with waivers. For most areas, NO_x waivers were granted because the areas were already attaining the ozone NAAQS and are not at issue for ROP. For other areas, NO_x waivers were granted based on modeling showing that NO_x reductions were not needed to attain or resulted in ozone disbenefits. Accordingly, although EPA generally intends to allow the substitution policy as described above to apply in nonattainment areas that received NO_x waivers, EPA does not believe that it should allow NO_x reductions from within such areas to be substituted for required VOC reductions without certain technical assurances in cases where the waiver was granted based on a showing that NO_x reductions resulted in ozone disbenefits or otherwise provided no benefits. Thus, in order for substitutions to be allowed in such ozone disbenefit waiver areas, the technical justification should be accompanied by an adequate showing that the NO_x reductions will lead to lower ozone concentrations in the nonattainment area and should also be accompanied by an amended NO_x waiver request with modeling data supporting the revised NO_x waiver.

The EPA believes that the start date of the expanded locality-based substitution credit for ROP is changed from post-1999 ROP requirements to post-1996 requirements. EPA does not believe that it may allow credit for substitutions to complete or revise the 15 percent ROP requirement for VOC emission reductions in nonattainment areas through 1996. Although the start date for application of ROP substitution reductions from outside the nonattainment area would apply to post-1996 ROP requirements, consistent with past Agency policy, States would be able to bank excess earlier reduction credits (NO_x or VOC)

to apply to post-1996 and later requirements.

The EPA believes the Act does not allow States to substitute other controls for specifically mandated measures such as inspection/maintenance or reasonably achievable control technology that are required by the Act due to the area classification or location within the Ozone Transport Region. In these cases, the measures are prescribed, required controls that the Act does not allow EPA discretion to remove.

Substitutions are restricted to intrastate areas unless two or more States involved reach mutual agreement. Similarly, application of credits from substitutions should be limited to only one nonattainment area unless two or more areas involved reach agreement on dividing the credit between them, such that the same emission reductions are not credited toward the progress requirements for more than one area. Interstate substitutions, like intrastate substitutions, must be enforceable by the States in which the affected sources are located.

6. Findings of "Failure to Submit" Certain Planning Elements

By notice published July 10, 1996 (61 FR 36292), EPA issued three types of findings for nine nonattainment areas in ten States and the District of Columbia and thereby started sanctions clocks for these areas. These findings were for failure to submit: (1) a SIP provision requiring emissions reductions of 9 percent in ozone precursors from the end of 1996 to 1999, (2) a SIP commitment to adopt any additional regulations needed to complete the requirements for ROP reductions after 1999 and until the attainment date, and (3) a SIP commitment to adopt additional measures needed for attainment of the 1-hour 0.12 ppm NAAQS. Note that areas classified as serious only received the first and third findings.

In addition, EPA issued two types of findings to the Commonwealth of Pennsylvania for the Philadelphia area and, thereby, started sanctions clocks for that area (62 FR 27201, May 19, 1997). These findings were for failure to submit: (1) a SIP commitment to adopt any additional regulations needed to complete the requirements for ROP reductions after 1999 and until the attainment date, and (2) a SIP commitment to adopt additional measures needed for attainment of the 1-hour 0.12 ppm NAAQS.

Because the provisions of subpart 2, section 182(c)(2), that relate to ROP plans and attainment demonstrations continue to apply to areas not attaining the 1-hour ozone standard, all findings made by EPA and associated sanctions and Federal implementation plan clocks continue to apply. Also, because the current subpart 2 implementation program is retained, all other previously-issued findings pertaining to required elements in the Act's ozone program are carried forward.

7. Attainment Demonstrations for the 1-Hour Ozone NAAQS

a. State Implementation Plan Requirements for Serious and Higher Classified Nonattainment Areas

The Act requires attainment demonstrations for the 1-hour NAAQS.² In an earlier policy statement issued on March 2, 1995 by Mary D. Nichols, titled “Ozone Attainment Demonstrations,” the EPA provided guidance on attainment demonstrations for the 1-hour NAAQS for serious and higher classified nonattainment areas. That policy was closely tied to the progress of the OTAG, which was a group of States assembled to assess the transport of ozone across the eastern portion of the United States. The policy indicated that States participating in the OTAG would have until mid-1997 to submit attainment demonstrations to EPA. The additional time beyond 1994 was necessary to provide States with time to: (1) participate in the OTAG assessment of ozone transport and its impact, (2) review and complete the assessment of transported ozone and precursors, and (3) complete local-area modeling needed to support attainment demonstrations.

Because the conclusion of the OTAG assessment was delayed for approximately 9 months, in this guidance, EPA now believes States should have until April 1998 to submit attainment demonstrations. On or before that date, States with serious and higher classified nonattainment areas should forward to the appropriate EPA Regional Office their attainment demonstrations for the 1-hour standard, modeling analysis, and supporting documentation. In addition, the submittal should contain the following five elements:

(1) Evidence that all measures and regulations required for the nonattainment area by subpart 2 of title I of the Act to control ozone and its precursors have been adopted and implemented or are on an expeditious schedule to be adopted and implemented.

(2) A list of measures and regulations and/or a strategy including technology forcing controls needed to meet ROP requirements and attain the 1-hour NAAQS.

(3) For severe and higher classified nonattainment areas, a SIP commitment to submit a plan on or before the end of 2000 which contains (a) target calculations for post-1999 ROP milestones up to the attainment date³ (unless already submitted to satisfy EPA’s

² Exceptions are international border areas, where States are allowed to defer the adoption of plans to attain and maintain the 1-hour NAAQS due to emissions emanating from outside the United States and beyond their control. The EPA has previously issued guidance for these areas, and this guidance remains applicable. The General Preamble provided SIP guidance for international border areas (57 FR 13569, April 16, 1992).

³ Note that EPA addressed ROP and attainment plans for serious classified nonattainment areas in the Nichols policy statement mentioned above. That policy states that remaining regulations needed for serious classified nonattainment areas to attain should be adopted and implemented in time for those areas to meet their attainment date of

previous findings of failure to submit) and (b) adopted regulations needed to achieve the post-1999 ROP requirements up to the attainment date and to attain the 1-hour NAAQS. (Note that for many States, EPA has proposed in its regional NO_x SIP call to require submittal of NO_x reduction programs by the earlier date of September 1999 and that reductions from these programs can contribute to achieving ROP.)

(4) A SIP commitment and schedule to implement the control programs and regulations in a timely manner to meet ROP and achieve attainment.

(5) Evidence of a public hearing on the State submittal.

The modeling analysis now due in April 1998 should demonstrate attainment of the 1-hour NAAQS by the date required in the Act. States may wish to conduct additional modeling analyses to support the attainment demonstration; however, EPA is not requiring any additional modeling and will accept as sufficient existing modeling analyses performed in the OTAG assessment and/or local area modeling that is already available. States that are covered by EPA's proposed NO_x SIP call can submit a modeling analysis that reflects boundary conditions that are consistent with the regional reductions required in EPA's proposed NO_x SIP call. In the event the final SIP call changes significantly from what was proposed, States will be permitted to adjust their attainment demonstrations to reflect the effects of the final SIP call. All States should document the boundary conditions assumed in the analysis and quantify the percent of VOC and NO_x reductions needed to attain the 1-hour standard.

The modeling analysis should be based on the guidance documents issued by the EPA titled "Guideline for Regulatory Application of the Urban Airshed Model," July 1991, and "Guidance on Urban Airshed Model Reporting Requirements for Attainment Demonstrations," March 1994. States may base the attainment test on the document titled "Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS" issued by EPA in June 1996. Taken together, these documents address regulatory model application, modeling reporting requirements, and the use of corroborative data such as air quality monitored trends and results from observational models and/or other photochemical grid models for demonstrating attainment.

b. States with Areas that are Bumped Up from Moderate to Serious

In accordance with the Act, areas designated as moderate ozone nonattainment were required to submit to EPA a SIP with specific annual reductions in ozone precursors sufficient to attain the 1-hour NAAQS by November 15, 1996. As discussed previously,

November 1999.

failure to attain by the Act's required date subjects the moderate area to reclassification (bump up) to a higher classification and new control requirements.

Individual area bump ups will be addressed by EPA in separate regulatory actions. While subpart 2 contains the general SIP requirements for serious areas, the details of the plan requirements for areas bumped up from moderate to serious will be addressed in connection with individual area bump ups. Similarly, SIP requirements for redesignated areas will be addressed within the redesignation process for an individual area.

Several moderate areas submitted plans, including an attainment demonstration, for the 1-hour NAAQS but did not in fact attain the NAAQS by the November 15, 1996 attainment deadline in the Act. Where States submitted attainment demonstrations for areas that failed to attain the 1-hour NAAQS or where these areas are bumped up to serious areas, such attainment demonstrations are no longer relevant because their actual air quality data reflect nonattainment. Thus, these areas become subject to bump up to the serious classification and the statutory requirements applicable to serious areas. Once such areas are bumped up, the obligation to demonstrate attainment by the former attainment date will be superseded by the requirement to demonstrate attainment by the serious area attainment deadline. In addition to the serious area requirements, all of the statutory requirements for the moderate classification and regulations submitted by States and approved by EPA, except for the requirement to demonstrate attainment by November 15, 1996 remain in effect.

PM GUIDANCE

The following guidance presents EPA's view on key issues regarding the ongoing programs implemented by State, local and tribal air pollution control agencies to attain the pre-existing PM₁₀ NAAQS. It is intended to ensure that the improvements in air quality achieved to date are not lost when moving toward implementation and attainment of the new PM NAAQS. The topics covered are:

- 1. Retention of the PM₁₀ Standard**
- 2. Attainment Determinations**
- 3. Areas Not Attaining the Pre-Existing PM₁₀ NAAQS**
- 4. Areas Attaining the Pre-Existing PM₁₀ NAAQS**
 - a. Designated Nonattainment Areas with an Approved Part D SIP in Place**
 - b. Designated Nonattainment Areas that Do Not Have an Approved Part D SIP**
 - c. Attainment Areas**
 - d. Unclassifiable Areas**

1. Retention of the PM₁₀ Standard

On July 18, 1997 (62 FR 38652), the Agency revised the primary and secondary NAAQS for PM by establishing annual and 24-hour PM_{2.5} standards and by changing the form of the existing 24-hour PM₁₀ standard. In addition, the existing annual PM₁₀ standard was retained. With respect to the newly-revised suite of PM NAAQS⁴, 40 CFR part 50, section 50.3, was revised to remove the requirement to correct the temperature and pressure of measured PM concentrations to standard reference conditions. The revised PM NAAQS and their associated appendices became effective on September 16, 1997. Since it will take a number of years for States to identify PM problems under the revised standards and to develop effective means for addressing those problems, EPA believes it is necessary for all areas, including those that may have already attained the pre-existing PM₁₀ standards to maintain their current PM₁₀ implementation efforts for the purpose of protecting public health during the transition to implementing the revised PM standards. To provide for an effective transition from the pre-existing PM standards to the revised PM standards (in light of the need to establish PM_{2.5} monitoring networks, designate areas, and develop control strategies for PM_{2.5}), in 40 CFR part 50, section 50.6, the Administrator determined that the existing standards and associated provisions will continue to apply for an interim period. The duration of the interim period will depend on when the area in question has attained the pre-existing PM₁₀ standards, has included all state adopted and implemented PM10 measures in an EPA approved SIP, and has received EPA approval of a SIP that must be submitted pursuant to section 110(a)(1) which will generally provide for implementation, maintenance and enforcement of the revised PM NAAQS. For those areas which have not attained the pre-existing PM₁₀ NAAQS, that

⁴PM NAAQS refers to both PM₁₀ and PM_{2.5} standards.

standard will remain until EPA promulgates a rule pursuant to section 172(e) of the Act to assure that no backsliding occurs during the interim period (for further information, see paragraph 3 below).

On September 16, 1997, the revised PM NAAQS became effective, triggering the requirement for the collection and reporting of PM₁₀ data at local temperature and pressure conditions. However, consistent with guidance issued in EPA's memo entitled "Collection and Reporting of PM₁₀ Data," signed by William Hunt on September 15, 1997, collection and reporting of data for the revised PM₁₀ NAAQS at local ambient conditions will not be required until January 1, 1998. Beginning January 1, 1998, all areas will be required to collect and report ambient PM₁₀ concentrations to AIRS-AQS at local temperature and pressure conditions. However, until the pre-existing PM₁₀ NAAQS is revoked for an area, monitoring and reporting of PM₁₀ air quality data under both the pre-existing PM₁₀ NAAQS methodology (i.e., corrected to standard temperature and pressure) and the revised PM₁₀ methodology (i.e., reported at local temperature and pressure) are required. In order to accommodate this requirement, EPA is adjusting the AIRS-AQS system to handle these dual data reporting requirements. The EPA realizes the short-term burden this may place on the States but is committed to working with them to revoke the standards as expeditiously as possible. Guidance on the technical details of this process is in preparation.

2. Attainment Determinations

Consistent with 40 CFR part 50, Appendices K and J, for the pre-existing PM₁₀ NAAQS, attainment determinations are based on a calendar year of ambient monitored data corrected to standard temperature and pressure, and are exceedance based. Under these regulations, an area is considered to be in attainment if it meets the criteria of no more than one exceedance per calendar year of the pre-existing PM₁₀ NAAQS averaged over 3 consecutive years. Since the PM NAAQS were revised mid-year (i.e., as of September 16, 1997), the Agency has concluded that in order to comply with the requirement of a full calendar year of data, it will base attainment determinations for the pre-existing PM₁₀ NAAQS on ambient monitored data reported to the AIRS database for the years 1994 - 1996. Thus, data covering these years will be used to identify those areas that are attaining the pre-existing PM₁₀ NAAQS. These data will also serve to identify the existing PM₁₀ areas that are not attaining the pre-existing PM₁₀ NAAQS and, therefore, are subject to the section 172(e) rulemaking to avoid backsliding in the maintenance of acceptable ambient air quality. More details on this rulemaking are provided below.

Also, consistent with the natural events policy issued by Mary Nichols on May 30, 1996, if an attainment or unclassifiable area has data showing violations of the PM₁₀ NAAQS due to natural events and is complying with the policy by having in place or developing a natural events action plan (NEAP), then EPA will not use those data in any air quality analysis to determine whether that area is attaining or not attaining the pre-existing PM₁₀ NAAQS. In the event an area fails to comply with the natural events policy within the specified time frames, then the area will be subject to the section 172(e) no backsliding

rulemaking. Additionally, if an area has violations of the PM₁₀ NAAQS due to a significant contribution of nonanthropogenic emissions or would attain but for the influence of PM₁₀ emissions from another country and has an approved waiver pursuant to section 188(f) or 179(B), respectively, of the Clean Air Act, then EPA will continue application of the waivers, provided the data continue to support the initial finding that was the basis for approving the waiver. Attainment provisions for the revised PM₁₀ NAAQS are covered in 40 CFR part 50, Appendices M and N, and are based on a 99th percentile form of the standard; however, they will not be used for attainment determinations of the pre-existing PM₁₀ NAAQS.

3. Areas Not Attaining the Pre-Existing PM₁₀ NAAQS

For those areas that are not attaining the pre-existing PM₁₀ standards as of September 16, 1997, the pre-existing standards will continue to apply until EPA has completed its rulemaking under section 172(e) of the Act to assure that no backsliding occurs in the interim period (62 FR 38701 and 62 FR 38429). Section 172(e) provides that, if the Administrator relaxes a national ambient air quality standard, she shall, within 12 months after the relaxation, promulgate requirements applicable to all areas that have not attained that standard as of the date of the relaxation. Those requirements shall provide for controls that are not less stringent than the controls applicable to areas designated nonattainment before such relaxation. The suite of revised PM standards, when viewed as a whole, is more stringent than the set of pre-existing PM standards; however, the shift from the pre-existing PM₁₀ standards to the revised PM₁₀ standards, when viewed by itself, represents a relaxation of the existing PM₁₀ standard. As a result, section 172(e) requires EPA to issue a rule within 12 months to apply implementation requirements no less stringent than the currently-applicable requirements for those areas that had not attained the existing PM₁₀ standards by September 16, 1997. Pursuant to the Presidential Directive, EPA plans to propose the section 172(e) rule for notice and comment in the near future and, therefore, is deferring a detailed discussion of the implementation requirements for subject areas until that time.

4. Areas Attaining the Pre-Existing PM₁₀ NAAQS

For the areas that are attaining the pre-existing PM₁₀ standards at the time of the effective date of the revised PM standards, i.e., September 16, 1997, the pre-existing PM₁₀ standards will continue to apply until the areas have received EPA approval of a SIP that includes all control measures which were adopted and implemented at the State level to meet the pre-existing PM₁₀ NAAQS. As indicated in the Ozone Section with regard to contingency measures, EPA believes that where the contingency measure is linked to the pre-existing PM₁₀ standard or air quality PM₁₀ concentrations, this measure may be removed from the maintenance plan. Where the contingency measure is linked to a non-air quality element, such as emission increases or vehicle miles traveled, this measure can only be removed if a demonstration shows that its removal will not adversely affect the ability of the area to attain the revised PM₁₀ standard or the PM_{2.5} standard. Contingency measure

provisions linked to the pre-existing PM_{10} standard are designed to assure that the States will promptly correct any violation of the pre-existing PM_{10} standard which occurs after the redesignation of the area as an attainment area for that standard. After the pre-existing PM_{10} standard is revoked for an area, EPA believes that it would be permissible for States to revise their plans to withdraw contingency measures related to the old standard and air quality for the area. Allowing such revisions would be consistent with section 110(l) of the Act since it would not interfere with any applicable requirement concerning attainment and reasonable progress, or any other applicable requirement of the Act. Since such contingency measures are designed to address future violations of a standard which would no longer exist as to that area, it is no longer necessary to retain them. In addition, the NAAQS rule provides that before EPA revokes the pre-existing PM_{10} standard, these areas must receive EPA approval of a SIP under section 110(a)(1) that addresses the revised PM NAAQS.

The Act requires all States to submit SIPs under section 110(a)(1) within 3 years of the promulgation of any NAAQS. The section 110 SIP must generally provide for "implementation, maintenance, and enforcement" of the NAAQS. These SIPs, once approved, establish the general authority that is needed for implementation of any NAAQS and constitute the infrastructure of the air quality management program which has been in place since the Act was enacted in 1970. As previously discussed, the pre-existing PM_{10} NAAQS will remain in place until States with areas that are attaining that NAAQS have submitted and EPA has approved a section 110 SIP that addresses the revised PM NAAQS. Therefore, each State will need to review and revise, as appropriate, its section 110 SIP for this purpose. For example, an adequate section 110 SIP should enable the State to develop a PM infrastructure by identifying and/or establishing: 1) the authority and adequate resources to develop an accurate, complete, and comprehensive inventory; 2) the authority and resources to develop, deploy, and operate the PM monitoring network; and 3) the authority and resources to perform modeling. It should be noted that EPA believes that many of the existing section 110 SIPs for currently-attaining PM_{10} areas may be adequate to meet many of the new section 110 SIP elements. The EPA is currently in the process of developing guidance which will more fully address the necessary requirements for an adequate section 110 SIP. This guidance will be completed in the near future.

Consistent with the Presidential Directive, States will have up to 3 years (July 2000) to submit their section 110 SIP for the revised PM NAAQS for EPA approval. States are encouraged to submit these SIPs early in order to have the pre-existing PM_{10} NAAQS revoked as expeditiously as possible. Since the goal of retaining the pre-existing PM_{10} NAAQS while transitioning from an existing to revised NAAQS is to first, preserve control measures implemented to date, and second, to ensure that States have the authority and ability to implement the revised PM NAAQS, EPA believes that, while section 110 could conceivably encompass a broad range of requirements, including ones that are primarily procedural and administrative in nature, there are certain fundamental requirements that will be key to the States' ability to demonstrate that the section 110 SIP is adequate to implement the revised PM_{10} and $PM_{2.5}$ standards. Thus, EPA will, on a case-by-case basis, consider and fully approve those section 110 SIPs that adequately demonstrate that these key

requirements have been met, that is, that the areas in question have adopted all state-implemented measures in the SIP, and have identified and/or established the authority and ability to develop the infrastructure needed to implement the revised suite of PM standards. In those instances where a State believes its current section 110 SIP is adequate to provide the authority to implement any PM NAAQS, the Governor, or his/her designee, should submit a letter certifying that the existing section 110 SIP is adequate to implement the revised PM NAAQS. The EPA will then initiate rulemaking on the adequacy of the SIP for the purpose of satisfying the necessary requirements of section 110.

Once EPA approves (1) a SIP that has all State-adopted and implemented measures and (2) the section 110 SIP, EPA will take action to revoke the pre-existing PM₁₀ NAAQS for that area. When EPA revokes the pre-existing 24-hour PM₁₀ NAAQS in a particular area, the section 107 designation for PM₁₀ for that area will also be revoked. However, the revocation of the area designations for PM₁₀ will not affect the applicability of the PSD program, including the PM₁₀ increment, which will continue to apply to an area even after the revocation of the existing PM₁₀ designation occurs. EPA will provide guidance on the applicability of conformity requirements before any revocation of the pre-existing PM₁₀ NAAQS.

a. Designated Nonattainment Areas with an Approved Part D SIP in Place

For those areas designated nonattainment that attained the pre-existing PM₁₀ NAAQS as of September 16, 1997 and that have already received EPA approval of their part D SIP embodying all of the measures that were adopted and implemented at the State level, no further submission or approval pursuant to part D is necessary. As described above, these areas will still need to satisfy the 40 CFR part 50, section 50.6, requirement to have a section 110 SIP to implement the revised PM NAAQS approved before EPA will revoke the pre-existing PM₁₀ NAAQS.

b. Designated Nonattainment Areas That Do Not Have an Approved Part D SIP

For those designated nonattainment areas that attained as of September 16, 1997 and do not have an approved part D SIP in place, all measures that were adopted and implemented at the State level for the purpose of meeting the pre-existing PM₁₀ standards must be submitted and approved by EPA. If an area has already submitted a part D SIP embodying all such measures to EPA, then EPA will take action to approve those measures and incorporate them into the SIP for the State. In parallel with this action, the Governor, or his/her designee should submit to EPA, a letter certifying that the measures submitted as part of the part D SIP include all State-level adopted and implemented measures which resulted in attainment of the pre-existing PM₁₀ NAAQS.

If an area has not yet submitted all State-level adopted and implemented measures for inclusion in the SIP, then the area needs to submit such measures for EPA approval for inclusion in the SIP. In parallel with this action, the Governor, or his/her designee should

submit to EPA, a letter certifying that the measures submitted as part of the part D SIP include all State-level adopted and implemented measures which resulted in attainment of the pre-existing PM₁₀ NAAQS. As stated previously, although the revocation of the existing PM NAAQS is inherent in the concept of establishing a revised PM NAAQS, EPA has decided, for the purposes of ensuring that air quality protection is not diminished on the way to meeting the revised PM₁₀ and PM_{2.5} NAAQS, to continue the applicability of the pre-existing PM₁₀ NAAQS for an interim period. Inclusion of these measures in the SIP will assure that air quality gains made by the State are preserved. However, given the narrow, targeted purpose underlying retention of the pre-existing PM₁₀ standards and the limited, temporary period during which those standards will continue to apply, EPA does not believe it is appropriate, either as a practical or regulatory matter, to insist on the submission of measures beyond those already developed and being implemented pursuant to part D at the State level to address the PM problem. As described above, these areas will still need to satisfy the 40 CFR part 50, section 50.6, requirement to have a section 110 SIP to implement the revised PM NAAQS approved before EPA will revoke the pre-existing PM₁₀ NAAQS.

c. Attainment Areas

For those areas that were redesignated to attainment pursuant to section 107(d)(3)(E) of the Act and have approved maintenance plans embodying all of the measures that were adopted and implemented at the State level, no further submission or approval pursuant to part D is necessary. As described above, these areas will still need to satisfy the 40 CFR part 50, section 50.6, requirement to have a section 110 SIP to implement the revised PM NAAQS approved before EPA will revoke the pre-existing PM₁₀ NAAQS.

d. Unclassifiable Areas

The PM NAAQS rule provides that, for areas that are currently designated as unclassifiable, all control measures that were adopted and implemented at the State level for the purposes of meeting the pre-existing PM₁₀ NAAQS must be submitted and approved by EPA for inclusion in the SIP. In parallel with this action, the Governor, or his/her designee, should submit a letter certifying that all measures submitted reflect any and all controls that were adopted and implemented to meet the pre-existing PM₁₀ NAAQS. As described above, these areas will still need to satisfy the 40 CFR part 50, section 50.6, requirement to have a section 110 SIP to implement the revised PM NAAQS approved before EPA will revoke the pre-existing PM₁₀ NAAQS.