

# **Appendix A**

## **Correspondence and Guidance Documents**



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## **MEMORANDUM**

**SUBJECT:** Guidance on the Reasonably Available Control Measures (RACM)  
Requirement and Attainment Demonstration Submissions for  
Ozone Nonattainment Areas

**FROM:** John S. Seitz, Director  
Office of Air Quality Planning and Standards

**TO:** Regional Air Division Directors  
Regions I-X

Attached is guidance that clarifies EPA's policy on what constitutes "as expeditiously as practicable" for the purposes of attaining the national ambient air quality standards (NAAQS) for ozone nonattainment areas. The guidance contains information on EPA's determination of whether a State's submission provides for all RACM needed for attainment and whether implementation of those measures occurs as expeditiously as practicable. This guidance should be used by ozone nonattainment areas that are subject to the Clean Air Act requirement to submit an attainment demonstration and to submit RACM.

If you have any questions on this guidance, please contact Sharon Reinders at 919/541-5284.

Attachment

cc: Bill Becker, STAPPA/ALAPCO

# **Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas**

## Preface

The purpose of this guidance is to set forth EPA's current interpretation of the relationship of the "as expeditiously as practicable" requirement and the attainment demonstration requirement for ozone nonattainment areas. While EPA intends to proceed under the guidance that it is setting out today, the EPA will finalize this interpretation only when it applies in the appropriate context of individual rulemakings addressing specific attainment demonstrations for ozone nonattainment areas. At that time and in that context, judicial review of the EPA's interpretation would be available.

## Background

Sections 172(a)(2)(A) and 181(a) of the Act require ozone nonattainment areas for to attain the ozone NAAQS as expeditiously as practicable and provide outer-limit dates for attainment based on an area's classification. Furthermore, section 172(c)(1), provides for "the implementation of all reasonably available control measures as expeditiously as practicable." This policy addresses how EPA interprets these requirements with respect to the adoption of control measures within the intrastate portion of the modeling domain for ozone nonattainment areas.

To ensure compliance with the Act, EPA will review each attainment demonstration submission for the ozone NAAQS to determine whether it provides for all RACM necessary to attain the standard as expeditiously as practicable and provides for implementation of those measures as expeditiously as practicable. The State's submission needs to contain sufficient information for EPA to make such determinations.

In order for the EPA to determine whether a State has adopted all RACM necessary for attainment as expeditiously as practicable, the State will need to provide a justification as to why measures within the arena of potentially reasonable measures have not been adopted. The justification would need to support that a measure was not "reasonably available" for that area and could be based on technological or economic grounds. Sources of potentially reasonable measures include measures adopted in other nonattainment areas and measures that the EPA has identified in guidelines or other documents.

In order for the EPA to determine whether an area has provided for implementation as expeditiously as practicable, the State must explain why the selected implementation schedule is the earliest schedule based on the specific circumstances of that area. Such claims cannot be general claims that more time is needed but rather should be specifically grounded in evidence of economic or technologic infeasibility. While it may be appropriate for some control measures to be implemented shortly after adoption, the EPA recognizes that other measures may need a longer period.

The EPA will review the State's submission to ensure that sufficient information is provided for the EPA to determine whether the State has adopted all RACM necessary for attainment as expeditiously as practicable and provided for implementation of those measures as expeditiously as practicable. The EPA will make those determinations based on the information provided by the State and any other information available to the EPA at the time the Agency approves or disapproves the attainment demonstration.

March 28, 2000

MEMORANDUM

SUBJECT: Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards (NAAQS or Standard)

FROM: John S. Seitz, Director  
Office of Air Quality Planning and Standards (MD-10)

TO: Air Directors, Regions I-X

The purpose of this memorandum is to provide guidance to State and local air pollution control agencies and Tribes (States and Tribes) on designating areas as attainment/unclassifiable<sup>1</sup> or nonattainment and the Environmental Protection Agency's (EPA's) views on the boundaries for nonattainment areas for the 8-hour ground-level ozone NAAQS.

Area designations to attainment/unclassifiable or nonattainment are required after promulgation of a new or revised NAAQS. The EPA promulgated a new 8-hour ozone NAAQS in July 1997 and is, therefore, obligated to designate all areas by July 2000 as established by the Clean Air Act (CAA or Act) and the Transportation Equity Act for the 21 Century (TEA-21).<sup>2</sup> On May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision remanding, but not vacating, the 8-hour ozone standard. The court noted that EPA is required to designate areas for any new or revised NAAQS in accordance with §107(d)(1) of the Act. American Trucking Assoc. v. EPA, 175 F.3d 1027, 1047-48, on rehearing 195 F.3d 4 (D.C. Cir. 1999).

The process for designations following promulgation of a NAAQS is contained in §107(d)(1) of the Act. This section provides each State Governor an opportunity to recommend attainment/unclassifiable or nonattainment designations including appropriate boundaries to EPA and for EPA to make modifications to these designations and boundaries as it deems necessary. In June 1999, EPA requested that each State forward (or complete entering into the Aerometric Information Retrieval System data base) air quality data through 1998 and identify which

monitors were exceeding the 8-hour standard during the 1996-1998 time frame. The EPA is now requesting that each State Governor submit their designation recommendations and supporting

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<sup>1</sup>A designation to attainment/unclassifiable means that the area has sufficient data to determine that the area is meeting the 8-hour ozone NAAQS or that due to no data or insufficient data, EPA cannot make a determination.

<sup>2</sup>CAA §107(d)(1); TEA-21 §6103(a).



documentation to the appropriate EPA Regional Office, to the attention of the Regional Administrator, by June 30, 2000. These recommendations should generally be based on States' 1997-1999 quality-assured, Federal reference or equivalent air quality monitoring data.

In accordance with the CAA, EPA will review the recommended designations and may make modifications as deemed necessary to a State's recommendation. If EPA determines that a modification to the recommendation is necessary, EPA will notify the State no later than 120 days prior to promulgating a designation, which will provide an opportunity for the State to demonstrate why EPA's modification is not appropriate. In the case where a State does not submit recommendations, EPA will promulgate the designation it deems appropriate. As described in the attachment, Tribal designation activities are covered under a different legal authority.

This memorandum provides EPA's current views on how boundaries should be determined for designations. This guidance is not binding on States, Tribes, the public, or EPA. Issues concerning nonattainment area boundaries will be addressed in actions to designate nonattainment and attainment/unclassifiable areas under §107 of the CAA. When EPA promulgates designations, those determinations will be binding on States, Tribes, the public, and EPA as a matter of law.

The attachment contains the guidance on determining boundaries. Questions on this guidance may be directed to Sharon Reinders at 919-541-5284. The Regional Offices should make this guidance available to their States and Tribes and, where appropriate, work closely with them to ensure they submit their area recommendations by June 30, 2000.

#### Attachment

cc: Deputy Regional Administrators, Regions I-X  
Margo Oge, OTAQ

## 8-HOUR OZONE NAAQS GUIDANCE ON NONATTAINMENT DESIGNATIONS

### 1. Why is EPA issuing this guidance on 8-hour ozone NAAQS nonattainment designations?

States have requested that EPA provide guidance on the appropriate boundaries for areas that will be designated nonattainment for the 8-hour standard. The EPA provided initial guidance on designations in a June 1999 memorandum.<sup>1</sup> That memorandum noted that EPA would provide additional information on designations at a future date. This guidance on how to determine the appropriate boundaries for areas that will be designated nonattainment for the current 8-hour ozone NAAQS is intended to meet that commitment. In addition, in light of the court decision remanding the 8-hour standard to EPA, States have asked what the implications are if EPA issues a revised ozone standard in response to the court's remand.

On July 18, 1997, EPA issued the revised NAAQS for ozone (62 FR 38856). The new standard is 0.08 parts per million (ppm) averaged over 8-hours; this compares to the pre-existing NAAQS of 0.12 ppm averaged over 1 hour. This action triggered the requirement under §107 of the Act and §6103 of TEA-21 for EPA to designate areas as attainment/unclassifiable or nonattainment for the revised NAAQS. Under these statutory provisions, EPA is required to designate areas for the revised standard by July 2000.

On May 14, 1999, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision remanding, but not vacating, the 8-hour ozone standard. The court noted that EPA is required to designate areas for any new or revised NAAQS in accordance with §107(d)(1) of the Act. American Trucking Assoc. v. EPA, 175 F.3d 1027, 1047-48, on rehearing 195 F.3d 4 (D.C. Cir. 1999).

As provided in this guidance, EPA is planning to designate areas for the 8-hour ozone NAAQS promulgated in July 1997. If EPA promulgates a revised ozone NAAQS in response to a final unappealable court decision regarding the validity of the 8-hour standard, EPA would then be required to begin the designation process under §107 of the CAA for that revised ozone NAAQS. In such a case, EPA would issue guidance regarding designations for that revised NAAQS. At the time of promulgation of that revised NAAQS, EPA would establish, after an opportunity for public review, an appropriate transition scheme from the current 8-hour NAAQS to any revised NAAQS promulgated in response to the court's decision. Although this memorandum is not establishing the transition scheme, EPA does not anticipate requiring States or Tribes to comply with the statutory redesignation requirements to modify the designations for the replaced NAAQS.

### 2. What are the underlying requirements for designating areas for the 8-hour ozone NAAQS?

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<sup>1</sup>Memorandum of June 25, 1999, from John S. Seitz, "Designations for the 8-Hour Ozone National Ambient Air Quality Standard."

There are two relevant statutory provisions governing designations for the 8-hour ozone NAAQS. Section 107(d)(1) of the Act establishes the requirements for making designations for areas when a NAAQS is promulgated or revised. These are designations of nonattainment or attainment/unclassifiable. The provision provides an opportunity for each State to make a recommendation to EPA concerning the designation of areas in the State within 1 year after promulgation of a new or revised NAAQS. The EPA is required to designate areas across the country no later than 2 years following the promulgation of the NAAQS. The TEA-21 §6103 essentially extends by 1 year the 2-year designation process. Thus, States were provided 2 years to make their recommendations and EPA is required to designate areas 1 year after the State designation recommendations are due.

As authorized by the Tribal Authority Rule (TAR), Tribes may request an opportunity to submit designation recommendations to EPA. In cases where Tribes do not make their own recommendations, then EPA, in consultation with the Tribes, will promulgate the designation it deems appropriate on their behalf.<sup>2</sup>

In issuing the final designations, EPA is authorized to make such modifications it deems necessary to the recommended designations of the areas or portions thereof including the

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<sup>2</sup>The CAA, §301(d), authorizes EPA to treat eligible Indian Tribes in the same manner as States. Pursuant to §301(d)(2), EPA promulgated regulations known as the “Tribal Authority Rule” on February 12, 1999 that specifies those provisions of the Act for which it is appropriate to treat Tribes as States. 63 FR 7254, codified at 40 Code of Federal Regulations (CFR) §49 (1999). Under the TAR, Tribes may choose to develop and implement their own CAA programs, but are not required to do so. The TAR also establishes procedures and criteria by which Tribes may request from EPA a determination of eligibility for such treatment. The designations process contained in §107(d)(1) of the Act is included among those provisions determined appropriate by EPA for treatment of Tribes in the same manner as States. Therefore, EPA Regional Offices will work with the Tribes in their Regions that request an opportunity to submit designation recommendations. Eligible Tribes may choose to submit their own recommendations and supporting documentation. Since, currently, there is a lack of air quality monitoring data nationally throughout Indian country, the factors identified in this guidance should be considered in recommending designations for the 8-hour ozone standard. The EPA will review the recommendations made by Tribes and may, in consultation with the Tribes, make modifications as deemed necessary. Under the TAR, Tribes generally are not subject to the same submission schedules imposed by the CAA on States. Therefore, EPA Regional Offices will work with their Tribes in scheduling interim activities and final designation actions, insofar as practicable, within the time frames outlined in this memorandum.

Finally, certain aspects of this guidance may not be particularly suited for application to Tribes due to circumstances that presently exist throughout Indian country. Consequently, EPA intends to issue additional guidance in the near future to further address designation issues pertaining to Tribes.

boundaries of the areas or portions thereof. If EPA modifies a designation or boundary, it must notify the State or Tribe at least 120 days in advance of such action in order to give the State or Tribe an opportunity to demonstrate why the proposed modification is inappropriate. The EPA's designation of areas for the 8-hour ozone NAAQS will be based on the most recent 3 consecutive years of air quality data from Federal reference or equivalent method monitors.<sup>3</sup>

Tribes are not required to recommend designations; however, they may choose to make recommended designations for land under their jurisdiction. The EPA will review the Tribe's recommendation, and may, in consultation with the Tribe, make modifications to the Tribe's recommendation. In cases where Tribes do not make their own recommendations, then EPA, upon consultation with the respective Tribe(s), will make designations for them.

### 3. How should boundaries of nonattainment areas be drawn and what process must be followed?

Section 107(d)(1) of the CAA addresses the determination of whether an area is to be designated nonattainment. With respect to a specific NAAQS, such as the 8-hour ozone NAAQS, this provision requires all areas to be designated nonattainment if they do not meet the standard or contribute to ambient air quality in a nearby area that does not meet the standard.

The EPA believes that any county with an ozone monitor showing a violation of the NAAQS and any nearby contributing area needs to be designated as nonattainment. In reducing ozone concentrations above the NAAQS, EPA believes it is best to consider controls on sources over a larger area due to the pervasive nature of ground level ozone and transport of ozone and its precursors. Thus, EPA recommends that the Metropolitan Statistical Area or the Consolidated Metropolitan Statistical Area (C/MSA) serve as the presumptive boundary for 8-hour NAAQS nonattainment areas.<sup>4</sup> We believe this approach will best ensure public health protection from the adverse effects of ozone pollution caused by population density, traffic and commuting patterns, commercial development, and area growth. In the past, areas within C/MSAs have generally experienced higher levels of ozone concentrations and ozone precursor emissions than areas not in C/MSAs. In addition, the 1990 Amendments to the CAA established the C/MSA as the presumptive boundary for ozone nonattainment areas classified as serious, severe and extreme.

### 4. How should designation recommendations, including boundaries, be addressed when more than one State and/or Tribe might be affected?

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<sup>3</sup>For the 8-hour ozone NAAQS, it is 3 consecutive years of data in accordance with 40 CFR part 50, Appendix I; data used will be quality-assured and meet 40 CFR part 58 requirements (e.g., for monitor siting). Designations should generally be made based on 1997-1999 air quality, considering data availability.

<sup>4</sup>C/MSAs are identified by the U.S. Bureau of the Census and can be found at the following website: <http://www.census.gov/population/www/estimates/aboutmetro.html>.

Where more than one State is involved with respect to an area, close coordination is needed among the affected States and Tribes prior to the time the recommendation is made. In addition, the EPA Regional Office should coordinate where an area may be located in States or tribal lands located in two or more regions. There is a strong presumption that interstate areas making up one C/MSA will be designated as one nonattainment area. The EPA believes that it is important that consistent and coordinated boundary recommendations be made for the area from each State and Tribe.

5. What factors should a State or Tribe consider in determining whether to recommend area boundaries that are larger or smaller than a C/MSA or tribal land?

In some cases, the most appropriate nonattainment area boundary may be larger than the C/MSA. For example, if sources located in a county or on Indian lands outside the C/MSA contribute to violations within the C/MSA, States or Tribes should consider whether it would be appropriate to expand the nonattainment area to include the area in which those sources are located. In other cases, a smaller nonattainment area may be more appropriate. For example, one C/MSA may cover multiple air basins, or include counties or portions of counties which are rural in nature.

A State or Tribe wishing to propose larger or smaller nonattainment area boundaries (including partial counties or portions of areas on tribal lands) than those matching the C/MSA or boundary of the tribal land should address how each of the following factors affect the drawing of nonattainment area boundaries and how the resulting recommendation is consistent with the definition of nonattainment in §107(d)(1) of the Act. Additional information is provided below under question number 12 on documentation.

- Emissions and air quality in adjacent areas (including adjacent C/MSAs)
- Population density and degree of urbanization including commercial development (significant difference from surrounding areas)
- Monitoring data representing ozone concentrations in local areas and larger areas (urban or regional scale)
- Location of emission sources (emission sources and nearby receptors should generally be included in the same nonattainment area)
- Traffic and commuting patterns
- Expected growth (including extent, pattern and rate of growth)
- Meteorology (weather/transport patterns)
- Geography/topography (mountain ranges or other air basin boundaries)
- Jurisdictional boundaries (e.g., counties, air districts, existing 1-hour nonattainment areas, Reservations, etc.)
- Level of control of emission sources
- Regional emission reductions (e.g., NOx SIP call or other enforceable regional strategies)

A State or Tribe choosing to propose area boundaries smaller than a C/MSA or tribal land should consult with its EPA Regional Office. The EPA will consider alternative boundary recommendations on a case-by-case basis to assess whether the recommendation is consistent with §107(d)(1) of the Act.

The EPA will issue guidance on factors for Tribes to consider when submitting designation recommendations. Some of the factors, particularly for areas throughout Indian country that may not have adequate or any air quality ozone monitors, are geographic location of the land, proximity to the nearest C/MSA, prevailing meteorology, location of nearby ozone monitors, available ozone air quality data, and location of nearby emission sources both inside and outside of such areas.

6. What are the key timing activities for and implications of designation as nonattainment under the 8-hour ozone standard particularly for States?

The designation process has several steps. On June 25, 1999, EPA issued a guidance memorandum requesting that States submit the most recent, complete, quality-assured ozone monitoring data identifying the monitors where exceedances of the 8-hour standard have occurred. The EPA, with this memorandum, is providing guidance describing the criteria for drawing boundaries for nonattainment areas and setting deadlines for the steps in the designation process. States will then have several months to work with local governments and other stakeholders and submit their recommendations and supporting documentation to EPA for area designations and boundaries by June 30, 2000. The EPA will then review and respond to the State designations including boundaries by late summer. The EPA will not make final designations prior to late December because it cannot make them until at least 4 months (120 days) after responding to the States, pursuant to a CAA requirement. Given this process, designations could not become effective prior to early 2001 at the earliest, nor would conformity or other requirements. Conformity and other planning requirements would be triggered on the effective date of designations. The EPA Regional Offices should immediately begin to work with their States and Tribes on boundary recommendations to ensure that they have maximum input prior to the June 30, 2000 recommendation date and encourage States to coordinate with appropriate transportation planning agencies.

After EPA makes the final designations, it will publish them in the Federal Register and set a date on which they become effective. Historically, the effective date of a rule is usually 30 to 60 days after publication, but can be later. In the process of determining when to finalize the proposed designations and make them effective, EPA will carefully consider the time needed to prepare for any applicable requirements, as well as the status of ongoing litigation and administrative proceedings. The EPA is committed to ensuring that all State and local officials have ample time to comply with requirements that are applicable when designations become effective.

The EPA believes that the Court decision affirms the serious health risk posed by ozone. Thus, notwithstanding the schedule described above, EPA believes that it is important to issue a final action on designations to provide the public with information regarding the air quality in areas in which they live and work. In addition, areas can continue to take certain actions with respect to the 8-hour standard, such as operating monitoring sites, analyzing monitoring data, implementing public education and communications efforts regarding health impacts and potential solutions, collecting emissions inventory data, examining potential control measures such as major source Reasonably Available Control Technology and other Reasonably Available Control Measures, considering voluntary emission reduction measures and considering the integration of strategies for the attainment and maintenance of all NAAQS.

7. How should long-range transport be addressed in the boundary recommendation?

In addition to nearby areas with sources contributing to nonattainment, ozone concentrations are affected by long-range transport of ozone and its precursors (notably NO<sub>x</sub>). Thus, in certain parts of the country, such as the eastern U.S., ozone is a widespread problem. Where this is the case, the Act does not require that all contributing areas be designated nonattainment, only the nearby areas. Regional strategies, such as those employed in the Ozone Transport Region in the Northeast U.S., and in the EPA NO<sub>x</sub> SIP call, are needed to address the long-range transport component of ozone nonattainment, while the local component must be addressed through more local planning in and around the designated nonattainment area. Tribal areas may also be affected by transport.<sup>5</sup>

8. How should designation recommendations be handled for 8-hour ozone nonattainment areas that cover some of the same area as 1-hour ozone nonattainment areas?

In areas where the 1-hour NAAQS still applies, EPA's presumption is that the designated 8-hour nonattainment area boundary will be the C/MSA or the 1-hour nonattainment area boundary, whichever is larger.

9. What will happen if EPA does not receive a designation recommendation from a State or Tribe?

In the absence of a Governor's recommendation by June 30, 2000, EPA will determine the designation. The EPA plans to follow this guidance in designating areas. In cases where Tribes do not make their own recommendations, then EPA, upon consultation with the respective Tribe(s), will promulgate the designation it deems appropriate.

10. Must States recommend a classification for, or will EPA classify, nonattainment areas under the 8-hour ozone NAAQS?

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<sup>5</sup>The prohibitions and authority contained in sections 110(a)(2)(D)(i) and 126 of the Act apply to Tribes in the same manner as States.

The EPA will not classify nonattainment areas at this time; thus, States and Tribes should not submit recommendations for classifications. If EPA determines to classify areas in the future, it will provide an opportunity for State and Tribal involvement.

11. What technical information should a State consider in its designation recommendations?

To assist States and Tribes with their recommendations, the EPA is providing technical reports and maps showing locations where air quality was violating the 8-hour NAAQS based on 1997-1999 monitored data that States and Tribes may find useful in defining the boundaries of nonattainment areas. The information will be posted on EPA's web site in the immediate future.

12. What documentation should a State or Tribal government submit concerning the nonattainment area recommendations?

In addition to technical information documenting the recommendation for area boundaries noted in question number 5 above, the EPA is requesting that each State or Tribe in its submission provide certain air quality data and geographic information to support its nonattainment area recommendation. The EPA is asking for the following information:

For nonattainment areas:

- a. Design value<sup>6</sup> for the area.
- b. Period of time represented by the design value, e.g., 1997-1999.
- c. Design value monitoring site location and identification number.

For attainment/unclassifiable and nonattainment areas:

- d. Names of counties and tribal lands included, and
- e. If partial counties or portions of tribal lands are included, the boundary definition/description as outlined below.

If the recommended nonattainment area boundary is less than a C/MSA, the State or Tribe should document its rationale for selecting the nonattainment area boundary. The documentation should address how the items in question number 5 affect the drawing of boundaries for each county or Reservation not included in the recommended nonattainment area such as population, traffic and commuting patterns, commercial development, projected growth, prevailing meteorology, nearby sources and air quality, and any other relevant or technical justification factors. In particular, where the recommended area boundary consists of parts of counties, C/MSAs, or Reservations, the State or Tribe must provide a technical analysis for its recommendation, explaining how the boundary is consistent with §107 (d)(1) of the Act.

If there is less than a full county or Reservation, the EPA is requesting a legal definition of the area, a detailed hard copy map, and, because EPA plans to map the definition, a digitized

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<sup>6</sup>The ozone air quality design value for a site is defined as the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration.



latitude and longitude description for mapping purposes if available. Regional Offices and States should include the names of contacts from their respective offices for this information. The EPA requests that each State and Tribe submit its attainment/unclassifiable and nonattainment area designation recommendation and boundary information to EPA in both a detailed written form and in electronic form in a format consistent with how designations are identified in Part 81 of the CFR. In addition to the formal letter making the recommendation, EPA requests the States provide an electronic record in a usable file which will be merged with all other States' and Tribes' recommendations for a final complete product. An example is shown below.

## Format of Recommendations for Designations

State Name

Nonattainment Areas:

Area Name

County or Tribal Land Names

Area Name

County or Tribal Land Names

Attainment/Unclassifiable Areas:

Rest of State or County or Tribal Land Names

This is how it would appear in the Code of Federal Regulations:

**81.xxx [STATE NAME].**

\* \* \* \* \*

[STATE NAME]-OZONE (8-HOUR STANDARD)

Designated Area	Designation	Classification
	Type	Type
[NAME] Area: [NAME] County.....	Nonattainment	LEAVE BLANK
[NAME] Area: [NAME] County.....	Nonattainment	
[NAME] County.....		
[NAME] County.....		
[NAME] County.....		
[NAME] County.....		
[Name] Tribal Land [Name] County.....		
Rest of State.....	Attainment/ Unclassifiable	
Rest of Tribal Land.....	Attainment/ Unclassifiable	

\* \* \* \* \*

### 13. When should the recommendations be submitted?

The Governor should submit all recommendations and supporting documentation for designations for nonattainment and attainment/unclassifiable areas, boundaries, and boundary descriptions described above to the EPA Regional Office by June 30, 2000. The eligible Tribal governing body, with the assistance of the appropriate EPA Regional Office, should submit all recommendations and supporting documentation consistent with the statements in question

number 2 of this memorandum. The EPA will notify the State or Tribe no later than 120 days prior to the designation action where EPA plans to modify a recommendation.

14. Is there any special process for attainment/unclassifiable areas?

The EPA will not distinguish between attainment and unclassifiable areas. The State or Tribe should indicate if its preference is that EPA list each attainment/unclassifiable area individually (e.g., by county); otherwise, EPA will indicate that the “rest of State” or “rest of tribal land” is attainment/unclassifiable.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

NOV 18 2002

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

SUBJECT: 2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, PM<sub>2.5</sub> and  
Regional Haze Programs

FROM: *Lydia N. Wegman*  
Lydia N. Wegman, Director  
Air Quality Strategies and Standards Division

*Peter Tsirigotis*  
Peter Tsirigotis, Director  
Emissions, Monitoring, and Analysis Division

TO: Regional Air Division Directors

The EPA anticipates that nonattainment designations for the 8-hour ozone national ambient air quality standards (NAAQS) will occur in 2004, and the designations for the fine particles (PM<sub>2.5</sub>) NAAQS will occur in the 2004-2005 time frame. Within 3-4 years after designations are promulgated, States will need to submit new attainment demonstration State implementation plans (SIPs) for the new NAAQS. A key element in the overall SIP planning process is the need for updated statewide emission inventories. This memorandum identifies 2002 as the anticipated emission inventory (EI) base year for the SIP planning process to address these pollutants. Identifying the base year at this time gives certainty to States, and the selection of 2002 harmonizes dates for other reporting requirements, e.g., EPA's Consolidated Emissions Reporting Rule (CERR) that requires submission of EI every three years; 2002 is one of the required years for such updates.

The Agency encourages States to take early action to reduce emissions of pollutants that cause violations of the NAAQS for ozone (the 8-hour standard) and PM<sub>2.5</sub>, and that cause regional haze. States will be able to take credit for emission reductions that occur after the 2002 base year, including reductions that occur before the deadlines for submission of these SIPs. As a matter of policy, EPA seeks to avoid penalizing States for moving forward early to address these problems. Attached is additional information.

The EPA is aware that some areas have already begun on a voluntary basis to model for purposes of the 8-hour ozone standard. These areas may continue to use modeling from previous base years for each set of meteorological episode conditions for use in their SIP submittals if these studies are still applicable for an attainment demonstration. The 2002 EI, however, needs

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to be factored into this analysis. For example, the 2002 inventory would be a good choice for use in modeling “current” emissions. As described in the modeling guidance, predictions for the current emissions and predictions for the future year emissions are used in the modeled attainment test<sup>1</sup>. Furthermore, for reasonable further progress (RFP) purposes, the 2002 EI needs to be used as the base year.

Please make this guidance available to the appropriate contacts in your State and local air agencies. Questions on this should be directed to (for ozone) Annie Nikbakht at 919-541-5246 or (for PM<sub>2.5</sub>) Rich Damberg at 919-541-5592.

cc: Lydia Wegman  
Peter Tsirigotis  
Rich Ossias  
Kevin McLean

---

<sup>1</sup>U.S. EPA, (1999), “*Guidance on the use of models and other analyses in attainment demonstrations for the 8-hour ozone NAAQS*,” DRAFT, May 1999, Web site: <http://www.epa.gov/ttn/scram>, under Guidance/Support, file name: O3TEST.



## Attachment

### Background

The EPA anticipates that designations for the 8-hour ozone NAAQS will occur in 2004, and the designations for the PM<sub>2.5</sub> NAAQS will occur in the 2004-2005 time frame. The Clean Air Act (CAA) requires States to submit attainment demonstration SIPs for the 8-hour ozone standard within 3 to 4 years (depending on classification), and within 3 years for the PM<sub>2.5</sub> standard. Therefore, EPA anticipates that SIPs will be due in 2007 or 2008<sup>2</sup> for both NAAQS programs. For regional haze, most States (i.e., those participating in regional planning organizations) will have SIPs due at the same time as PM<sub>2.5</sub> SIPs. We anticipate that technical analyses in support of these SIPs, such as regional scale air quality modeling, will need to begin no later than the 2004 time frame. Updated statewide emissions inventories will be an important component used in these analyses. In addition, for many of the required SIPs, emissions in upwind States will also be an important input to necessary technical analyses.

For the 8-hour ozone, PM<sub>2.5</sub>, and regional haze program areas, there are statutory and regulatory provisions related to prospective and/or retrospective demonstrations of progress in reducing emissions and/or improving air quality, although the exact provisions differ somewhat across programs. We have considered the statutory and regulatory provisions applicable to each of these program areas, and have concluded that in each case 2002 is an appropriate base year for program requirements related to progress. In addition, there are practical reasons for choosing 2002, as explained below.

Therefore, even though EPA has not developed final rules or guidance for implementation of either the 8-hour ozone NAAQS or the PM<sub>2.5</sub> NAAQS, EPA believes that 2002 should be the base year inventory for these SIP planning efforts, including for regional haze SIPs. Using the 2002 inventory as the base year will also ensure that the inventory reflects one of the years used for calculating the air quality design values on which designation decisions are based, as well as one of the years in the 2000-2004 period used to establish baseline visibility levels for the regional haze program. Our reasoning is explained in more detail below for each program area.

The year 2002 is also suitable as the principle or one of the principle years used for air quality model validation.

The practical reasons for choosing 2002 have to do with the requirements of the CERR (67 Federal Register 39602), which was finalized on June 10, 2002, and with the schedule of EPA's own work on the National Emissions Inventory. The CERR requires States to submit

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<sup>2</sup>The EPA is still working on the implementation guidance that will address the extent to which subparts 1 and 2 of the CAA apply for purposes of the 8-hour ozone NAAQS. Subpart 1 provides up to three years after nonattainment designation for States to submit attainment and reasonable further progress (RFP) SIPs, while subpart 2 provides 3 to 4 years, depending on an area's classification, for States to submit those plans.



emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emission inventory is established in the CERR as June 2004. Therefore, each State should have information available some time before this date to develop the in-state emissions inventory needed for technical analyses during 2004. In addition, EPA plans to make its initial version of the 2002 National Emission Inventory (NEI) available to the states by December 2003, based on 2002 data on emissions from electric generating units, preliminary 2002 vehicle miles traveled information from the Federal Highway Administration, and growth and control projections starting with the 1999 NEI for other source types. This preliminary 2002 NEI can be used in 2004 by each State needing emission estimates for upwind States. The EPA's final 2002 NEI, which will merge and augment the state-by-state inventories received in 2004, will be ready by the summer of 2005. Depending on where they are in their work, States may wish to switch to the newer estimates of upwind-states' emissions, and certainly should at least consider how the emission estimates for upwind States have changed.

Alternatively, some regional groupings of States may exchange and merge their 2002 inventories directly, prior to completion of EPA's final 2002 NEI. We will be consulting with multi-state organizations about the 2002 inventory process so that work is not duplicated unnecessarily.

#### 8-hour Ozone NAAQS

Under the 8-hour ozone standard, EPA anticipates that many areas designated nonattainment for the 8-hour ozone NAAQS will need to comply with the rate of progress (ROP) requirement in Subpart 2 of the CAA, which applies to areas classified moderate or above. Any area not subject to the subpart 2 ROP requirement would be subject to the more general requirement under subpart 1 to make RFP. Both ROP and RFP consider progress made from a baseline inventory. As enacted in 1990, Subpart 2 provided that the base-year inventory would be 1990. See, CAA section 182(b)(1)(B). Thus, for 1-hour ozone nonattainment areas classified moderate or higher, ROP reductions for the target of 1996 were considered to be a 15 percent reduction of volatile organic compound (VOC) emissions from the 1990 baseline year. Similarly, for each three-year period following 1996 up to its attainment date, a serious or above nonattainment area was required to achieve an additional 9 percent reduction in VOC emissions.<sup>3</sup> Under the 8-hour ozone standard, EPA anticipates that, consistent with the above discussion, a 2002 base year emission inventory would be used as the baseline from which future target levels of emissions would be calculated. Therefore, any emission reductions that the State initiates after 2002 would be creditable toward the ROP or RFP requirements.

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<sup>3</sup> The CAA provides that nitrogen oxides (NO<sub>x</sub>) emission reductions may be substituted for VOC emission reductions for these subsequent three-year periods under prescribed circumstances. See CAA section 182(c)(2)(C).



For areas subject to the subpart 2 ROP requirement, section 182(b)(1)(D) places constraints on the use of emission reduction credits from certain pre-1990 programs even though those programs might achieve additional reductions in the years following 1990, i.e., the federal motor vehicle emission control program, Reid Vapor Pressure programs, corrections required to pre-existing reasonably available control technology (RACT) rules, and inspection and maintenance (I/M) program corrections. While these limitations would still apply for purposes of credit for SIPs designed to meet the 8-hour ozone NAAQS, EPA does not believe it is legally required and does not plan to expand the list of programs for which credit is precluded. Subpart 1 does not establish any limits on the creditability of measures for purposes of RFP and EPA does not anticipate establishing any regulatory limits on the creditability of emission reductions. Thus, EPA does not anticipate establishing any additional constraints on crediting emission reductions achieved in years following the 2002 base year. Therefore, apart from those programs listed in the CAA, we believe that States can take credit for other emission reductions that occur after the 2002 base year.

#### PM<sub>2.5</sub> NAAQS

The EPA anticipates that States will be required to implement the PM<sub>2.5</sub> NAAQS under Subpart 1 since the more specific provisions in Subpart 4 that address particulate matter expressly apply only to PM<sub>10</sub>. As provided above, Subpart 1 does not place limits on the types of controls that are creditable for purposes of the RFP requirement. As with the 8-hour ozone NAAQS, EPA does not anticipate establishing any regulatory constraints limiting creditability of emission controls. Subpart 1 generally calls for States to submit plans including emission reduction measures designed to attain the NAAQS within 3 years after a nonattainment designation. It also includes a reasonable further progress (RFP) requirement, but does not have a specific percent reduction requirement as there is in the ROP requirement of Subpart 2. The exact form of the RFP requirement for PM<sub>2.5</sub> has yet to be established, but it is expected that any emission reductions that occur after the base year of 2002 would be credited toward the emission reductions needed by the State under its attainment demonstration and toward the reductions needed to meet the RFP requirement.

#### Regional Haze Program

The regional haze program calls for States participating in regional planning organizations to submit SIPs in 2007-8 that contain progress goals for every class I area and emission reductions strategies needed to meet these goals. Progress in improving visibility is tracked from baseline conditions (established using air quality monitoring for the 2000-2004 period). If 2002 is used as the base year for planning purposes, then States can take credit for emission reductions that are achieved before the 2007-2008 SIP due date.



### Credits in General

It should be noted that EPA cannot provide “double credit” for an emission reduction for purposes of RFP or ROP. For instance, if a program or rule results in emission reductions prior to or in the base year, those reductions would be considered in calculating the base year emissions inventory and thus could not be counted as emission reductions from the base-year level. Such reductions would likely lower ambient pollutant concentrations, however, and would be important in terms of determining an area’s designation and, if designated nonattainment, could affect the area’s classification and thus its planning obligations. For example, emission reductions in NO<sub>x</sub> or VOC achieved prior to or during 2002 could have already resulted in the area having a lower ozone design value, which is the measure of whether the area is violating the 8-hour ozone standard and, if so, by how much. Reductions from such measures in years beyond the base year would be creditable towards ROP SIPs. These concepts of credit were discussed in the January 29, 2001, memorandum from John Seitz entitled “Near-Term Discretionary Emission Reductions for Ozone NAAQS–Clarification,” which addressed the 1-hour ozone standard, but which are also conceptually applicable to implementation of the 8-hour ozone standard.

However, post-2002 emission reductions that benefit ozone, PM<sub>2.5</sub> and regional haze can be credited toward the RFP requirements for each of these programs.



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

July 15, 2003

J.I. Palmer, Jr., Esq.  
Regional Administrator  
USEPA Region 4  
Sam Nunn Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

Dear Mr. Palmer:

Pursuant to the requirements of the federal Clean Air Act and on behalf of Governor Michael F. Easley, I am submitting to you and your colleagues at the U.S. Environmental Protection Agency (EPA) the State of North Carolina's recommendations concerning the boundaries within our State of areas that either attain or do not attain the 8-hour standard for ozone. We are recommending the boundaries which are described in the attached package because we believe that they are the most effective way to achieve the goals of cleaner air, healthier lives, a stronger economy, and more effective conservation of our land and water. We look forward to discussing these recommendations with you after EPA has had the opportunity to review and comment on them.

The federal Clean Air Act requires EPA to designate areas as attainment or nonattainment following promulgation of a new national ambient air quality standard, such as the 8-hour standard. EPA has asked the states for their recommendations for nonattainment boundaries by July 15, 2003.

We understand that EPA will review the recommendations and comment back to each state by October, 2003. Receipt of EPA's comments will trigger a 120-day period during which each state and EPA will have an opportunity to work out any unresolved issues about the boundaries for that state.

We also understand that, during this process, EPA will allow each state to respond to newly available information. For North Carolina, such information will likely include data from the 2003 ozone season, the modifications that have just been made to Metropolitan Statistical Area boundaries, the EPA rule on what states are required to include in their implementation plans, and a report on the steps South Carolina is taking in the SC counties which lie just south of Charlotte and Mecklenburg County, NC, and which are contributing to ambient air quality in the nearby Charlotte/Mecklenburg area. North Carolina intends to evaluate such new information, and we reserve the right to make changes to the boundary recommendations based upon that evaluation. The final decision on boundaries belongs to EPA, and we understand that EPA will make it April 15, 2004.

In developing these recommendations, staff in the Division of Air Quality, NC Department of Environment and Natural Resources (DENR) conducted public meetings in May of this year and sought comments from local officials, metropolitan planning organizations, environmental organizations, and business and industry. DENR also consulted with our Departments of Agriculture and Consumer Services (Agriculture), Commerce (Commerce) and Transportation (DOT) to gather input from these agencies whose programs will be impacted by the nonattainment designations.

Based on our extensive public discussions and research, we are recommending that 11 entire counties and parts of 24 counties be designated as nonattainment for the 8-hour ozone standard. All remaining areas should be

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designated as attainment. Our proposal reflects a regional approach that, we believe, will target areas that need our best efforts in order to achieve the goals listed above.

Ozone pollution is a serious problem in North Carolina and one that we are working hard to solve. When litigation stalled the federal eight-hour ozone standard, our State fought to maintain and defend our own state eight-hour standard because, among other things, we believed that a tighter ozone standard was needed to protect public health. While the federal courts reviewed the national 8-hour standard, DOT, Commerce, DENR and others worked together to implement the N.C. Clean Air Act Amendments of 1999, including on-board diagnostic (OBD) testing of vehicle emissions. As a result of the legislation, the program that tests emissions from vehicles is expanding from 9 to 48 counties over the next three years. North Carolina adopted rules to implement the NOx SIP Call, and is implementing those rules now. Last year, our State enacted the landmark Clean Smokestacks Act. Under the new law, NOx emissions from North Carolina's coal-fired power plants will be cut by approximately 189,000 tons, or 77 percent, by 2009, and SO<sub>2</sub> emissions, by approximately 359,000 tons, or 73 percent, by 2013. We also anticipate important reductions in mercury emissions. All these reductions will play a key role in helping our State meet the tighter ozone standard, reduce pollution from tiny particles, improve visibility and scenic vistas, and otherwise protect public health and the environment.

Our municipal and county governments are working with us and EPA to reduce air pollution. As you know, we have four Early Action Compact areas in the State: Fayetteville, Mountain, Triad, and Unifour. The communities involved in these EACs are currently evaluating the measures they want to consider to ensure that they take appropriate action, reduce emissions and attain the eight-hour ozone standard early. Another important regional initiative is the Charlotte regional air quality project known as Sustainable Environment for Quality of Life, or SEQL. SEQL encompasses 15 counties and includes a like number of major municipalities in North Carolina and South Carolina. Although the currently designated Charlotte maintenance area is not eligible for an Early Action Compact because of monitored exceedances of the 1-hour ozone standard in 2002, SEQL will involve implementation of a comprehensive regional environmental action plan. Both the SC Department of Health and Environmental Control and the NC Department of Environment and Natural Resources have participated, and have agreed to continue to participate, fully and actively, in SEQL. Also, Charlotte and Mecklenburg County are making major investments in transit, and the Triangle and Triad are planning regional transit systems.

Although they lie outside our State and therefore outside the geographic area with respect to which the Clean Air Act calls on our State to make recommendations, the South Carolina counties of York, Lancaster, and Chester, which are located just south of Charlotte and Gastonia, North Carolina, contribute to ambient air quality in the nearby Charlotte region. While York County's ozone monitor has registered just under the threshold that would trigger a nonattainment designation if the county were considered alone, air quality modeling and other evidence demonstrate that York County and its residents "contribute to ambient air quality in a nearby area that does not meet the standard," in this case, the Charlotte/Mecklenburg nonattainment area.

What happens in those South Carolina counties will have an important impact on the ambient air quality in Charlotte and the region around it. South Carolina's view is that cleaner air sooner can best be achieved in the region if York and three other SC counties are allowed to remain in an EAC and if South Carolina carries out its commitments to implement appropriate controls needed for attainment in the Charlotte region. The City of Charlotte and other governmental organizations in the vicinity have urged me to comment to you that Charlotte's ability to meet the more stringent air quality standards will be dependent on ensuring that at least a portion of



J. I. Palmer, Jr., Esq.  
July 15, 2003  
Page 3

York County is held to the same mandatory requirements for action and coordination that nonattainment designation will bring on the rest of the Charlotte region. Furthermore, they are concerned that excluding York County from nonattainment designation will negatively impact Charlotte's ability to competitively attract and retain new economic development.

North Carolina does not wish to undercut the ability of South Carolina and counties like York to participate in a process with the potential to yield regional air quality improvements ahead of EPA's deadlines. We support cooperative and voluntary efforts to resolve interstate transport problems if those efforts are effective. We urge EPA to perform a careful evaluation of the effectiveness of the steps that South Carolina and the SC counties that affect the Charlotte region's air quality are taking to achieve more rapid progress in emissions reductions than would result under the requirements that follow from nonattainment designation. We will be happy to support that process in any way we can. At the same time, because of the significant and direct impact of York County pollution on the Charlotte region's air, it is vital that EPA's designation process require appropriate pollution reductions in the event that South Carolina's and York County's other efforts and commitments do not meet their intended goals.

North Carolina is committed to protecting the health of our citizens, our environment, and our economy. Solving our ozone and other air quality problems is critical to achieving those goals. We believe that improving air quality is critical to the health of our citizens and that our future growth, prosperity and quality of life will be threatened if we do not remain diligent. We look forward to continuing to work with EPA and others to attain the eight-hour ozone standard and to establish appropriate boundaries for nonattainment areas.

I have attached more detailed information and supporting data. Also included are background documents relevant to the Charlotte/York County issue. Thank you for consideration of these recommendations.

Sincerely,



William G. Ross, Jr.

WGR:np

attachments

cc: The Honorable Michael F. Easley  
The Honorable Lewis Shaw  
The Honorable W. Britt Cobb, Jr.  
The Honorable James Fain, III  
The Honorable Lyndo Tippet



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

DEC - 3 2003

4APT-APB

William G. Ross, Jr., Secretary  
North Carolina Department of  
Environment & Natural Resources  
1601 Mail Service Center  
Raleigh, North Carolina 27699-1601

Dear Secretary Ross:

Thank you for making recommendations on 8-hour ozone air quality designations. Your letter is an important step in providing citizens of North Carolina with information on air pollution levels where they live and work. Levels of ground-level ozone have improved significantly since the Clean Air Act (CAA) was amended in 1990 at which time 135 areas were designated as not attaining the 1-hour ozone standard. Since that time nearly half those areas (67) have cleaned up their air to meet the 1-hour ozone standard and have been redesignated as attaining that standard. However, many areas have still not met the less stringent 1-hour ozone standard, and in 1997 the U.S. Environmental Protection Agency (EPA) promulgated a more stringent 8-hour ozone national ambient air quality standard. Thus, much work remains to be done. Under the CAA, EPA is required to promulgate designations for new or revised standards, such as the 8-hour ozone standard. Earlier this year, after several public interest groups filed a lawsuit claiming EPA had not met the statutory deadline for designating areas for the 8-hour ozone standard, we entered into a consent decree that requires us to promulgate designations by April 15, 2004.

The CAA defines a nonattainment area as any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. EPA guidance indicates that North Carolina should use the larger of the Consolidated Metropolitan Statistical Area (CMSA), Metropolitan Statistical Area (MSA), or the 1-hour ozone nonattainment area as the presumptive boundary for 8-hour ozone nonattainment areas. The guidance provides 11 factors that North Carolina should consider in determining whether to modify the presumptive boundaries. We have reviewed your July 15, 2003, letter submitting North Carolina's recommendations on air quality designations for the 8-hour ozone standard. We have also reviewed the extensive justification information you have submitted to support your recommendations for areas that differed from the presumptive boundaries. We appreciate the effort the State has made to develop this supporting information. Consistent with section 107(d)(1) of the CAA, this letter is to inform you that, based upon the information contained in your submittal, EPA intends to make modifications to North Carolina's recommended designations and boundaries.

We recognize that you have considered the eleven factors identified in EPA's National designation guidance as you developed your recommendations. However, based on a review of

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your submittal, the EPA Headquarters' Office of Air and Radiation believes the information you provided is not sufficient to justify the conclusion that the partial counties identified below should be excluded from the applicable nonattainment area. Equally important, the way in which these factors were evaluated is not consistent with the manner in which other states and EPA regions have applied these same factors. A nationally consistent view of the eleven factors is essential to ensuring the fair and equitable National implementation of the 8-hour ozone standard and achievement of public health protection for all citizens.

Additionally, the EPA Headquarters' Office of Air and Radiation believes that all MSA counties that are part of an Early Action Compact (EAC) area that contains a violating ozone monitor should be included as part of one area that would be designated as nonattainment. EPA is issuing a proposed rule to defer the effective date for these areas for so long as they continue to meet the milestones required for EAC areas. In North Carolina, we intend to modify the State's recommendation to include Stokes and Yadkin Counties in the Greensboro-Winston Salem-High Point area. EPA will work with the State over the next few months to determine whether any information the State submits by February 6, 2004, justifies drawing different boundaries for the nonattainment area.

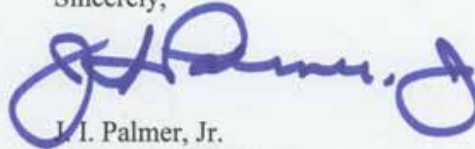
EPA has been tracking preliminary 2003 ozone monitoring data and its impact on areas' preliminary 2001-2003 design values. Based on preliminary data from the 2003 ozone season, it appears that the Asheville area as well as the Blue Ridge, Black, Great Craggy, and Great Balsam Mountains may be in attainment. It is critical for North Carolina to expedite submittal of 2003 monitoring data to EPA so that air quality designations and classifications for the 8-hour standard will accurately reflect the State's air quality. To advance this process, please submit your final 2003 monitoring data into the Air Quality System as quickly as possible, if that has not already been done. In addition, please submit the 8-hour and 1-hour ozone design values and the average expected 1-hour exceedance rate to Beverly Banister, Director, Air Pesticides and Toxics Management Division, by December 17, 2003.

The enclosures to this letter provide tables in which EPA identifies the counties that should be included in each nonattainment area. Enclosure 1 contains a description of areas where EPA intends to modify North Carolina's recommendations, and the basis for such modification. Enclosure 2 provides information on those areas/counties which do not require modification, but which differ from EPA's presumptive boundaries.

We look forward to a continued dialogue with North Carolina as we work to finalize the designations for the 8-hour ozone standard. We appreciate your efforts and will review any future supporting information the State wishes to submit on these recommendations. If you have

any questions, please do not hesitate to contact Beverly Banister at (404) 562-9326 or Kay Prince, Chief, Air Planning Branch, at (404) 562-9026.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. I. Palmer, Jr.", with a stylized flourish at the end.

J. I. Palmer, Jr.  
Regional Administrator

Enclosure

cc: Keith Overcash, NCDENR

## Enclosure 1

The following table identifies the individual areas and counties comprising those areas within North Carolina that EPA intends to designate as nonattainment. Following the table is a description of areas where EPA intends to modify the North Carolina recommendation and the basis for such modification. EPA intends to designate as attainment/unclassifiable all counties not identified in the table below.

Nonattainment Areas		
Area	North Carolina Recommended Nonattainment Counties	EPA Recommended Nonattainment Counties
Plott Balsam Mountains, NC	Area above 4000 feet in Haywood	Area above 4000 feet in Haywood.
Great Smoky Mountains National Park, NC*	Park area in Haywood, Swain	Park area in Haywood, Swain
Charlotte-Gastonia-Rock Hill, NC-SC*	Gaston, Mecklenburg, Cabarrus except for the northeastern corner (Rimertown, Gold Hill and Mount Pleasant Townships), Portion of Lincoln east of the South Fork of the Catawba River, Rowan County except the northwestern corner (Cleveland, Mount Ulla, Scotch Irish, Steele, and Unity Townships), Portion of Union County covered by the MPO (western portion of county), Portion of Iredell (adjacent county) including Coddle Creek and Davidson Townships.	Gaston, Mecklenburg, Cabarrus, Lincoln, Rowan, Union, and Iredell
Fayetteville, NC	Cumberland	Cumberland



Nonattainment Areas		
Greensboro-Winston-Salem-High Point, NC	Alamance, Davidson, Forsyth, Guilford, Jerusalem Township portion of Davie, Portion of Randolph north of Highway 64 and the Asheboro municipal boundary, Stoney Creek Township portion of Caswell (adjacent), New Bethel Township portion of Rockingham (adjacent)	Alamance, Davidson, Forsyth, Guilford, Davie, Randolph, Stokes, Yadkin, Caswell and Rockingham
Hickory-Morganton-Lenoir, NC	MPO portions of Burke, Caldwell, and Catawba and the municipality of Taylorsville in Alexander	Burke, Caldwell, Catawba, and Alexander
Raleigh-Durham-Chapel Hill, NC	Durham, Orange, Wake, eastern portion of Chatham (Baldwin, Center, New Hope, and Williams Townships), southern portion of Franklin (Franklinton and Youngsville Townships), western portion of Johnston (west of I-95), Dutchville Township in Granville (adjacent), Bushy Fork Township in Person (adjacent)	Durham, Orange, Wake, Chatham, Franklin, Johnston, Granville and Person.
Rocky Mount, NC	Municipality of Leggett portion of Edgecomb	Edgecomb and Nash

*\* Interstate areas: The Tennessee portion of the Great Smoky Mountains National Park will be addressed in the Tennessee letter; The South Carolina portion of the Charlotte-Gastonia-Rock Hill area will be addressed in the SC letter.*

## **Modifications to North Carolina's Recommendations**

### ***Charlotte-Gastonia-Rock Hill, NC-SC***

#### ***Modification of MSA Counties with Violating Monitors***

The State recommended Gaston and Mecklenburg Counties, and portions of Cabarrus, Iredell, Lincoln, Rowan and Union Counties. EPA intends to modify the State's recommendation to include the whole counties of Lincoln, Rowan, and Union counties in the Charlotte-Gastonia-Rock Hill, NC-SC nonattainment area. This was done because these counties are within the presumptive nonattainment area, contain violating monitors, and the State's justification based on

justification based on the 11 factors did not provide a compelling argument for the partial boundaries recommended for these three counties. The State proposed to exclude portions of Lincoln (portion east of the South Fork of the Catawba River), Rowan (Cleveland, Mount Ulla, Scotch Irish, Steele, and Unity Townships), and Union (MPO boundary (western portion of county)) counties.

Lincoln County:

There is a violating monitor in Lincoln County, located near the center of the county and just east of the proposed boundary. The State provided information related to the 11 factors, including that Lincoln County does not have any large sources of NO<sub>x</sub> or VOC, 1.4 percent of the daily vehicle miles traveled (VMT) is from people living in Lincoln County and commuting to Mecklenburg County to work, and 4.7 percent of the CMSA population live in Lincoln County. However, there was not a compelling argument that the proposed partial boundary for Lincoln County is the appropriate one for the nonattainment area, particularly considering the projected growth.

Rowan County:

Rowan County contains two violating monitors. There are two large sources of NO<sub>x</sub>, the Buck Steam Station and the Transcontinental Gas Pipeline pumping station which are included in the area recommended by the State as part of the nonattainment area. The State provided information related to the 11 factors, including that 1.0 percent of the people that commute to Mecklenburg County to work live in Rowan County and 7.5 percent of the county population live in the area being excluding from the nonattainment area. However, there was not a compelling argument that the proposed partial boundary for Rowan County is the appropriate one for the nonattainment area, particularly considering the projected growth.

Union County:

Union County contains a violating monitor located near the center of the county. The State provided information related to the 11 factors with respect to Lincoln, including that the county has no large sources and the excluded portion has low population density. However, there was not compelling evidence that the boundary should be drawn equivalent to the MPO boundary, particularly considering the projected growth.

*Modification of MSA Counties without Violating Monitors*

The State recommended a portion of Cabarrus County. The EPA intends to modify the State's recommendation to include the whole county of Cabarrus County in the Charlotte-Gastonia-Rock Hill nonattainment area. This county is within the presumptive area and State's justification based on the 11 factors did not provide a compelling argument for the partial boundaries recommended for this county. The State proposed to designate Cabarrus County as nonattainment with the exception of Rimertown, Gold Hill and Mount Pleasant Townships.

#### *Cabarrus County:*

Although Cabarrus County does not contain a violating monitor, this county is in the presumptive nonattainment area and is surrounded by counties with violating monitors. The State provided information related to the 11 factors, including that the county does not have any large sources of NO<sub>x</sub>, 4.8 percent of the people living in Cabarrus County commute to Mecklenburg County to work, 6.5 percent of the county population live in the area being excluding from the nonattainment area. However, there was not a compelling argument that the proposed partial boundary for Cabarrus County is the appropriate one for the nonattainment area, particularly considering the projected growth.

#### *Modification of Adjacent Counties without Violating Monitors*

The State recommended that the Coddle Creek and Davidson Townships in southern Iredell County (adjacent to the CMSA) be included in the Charlotte-Gastonia-Rock Hill nonattainment area. The EPA intends to modify the State's recommendation to include the whole county of Iredell County in the Charlotte-Gastonia-Rock Hill nonattainment area. This county is adjacent to the presumptive area and the State's information based on the 11 factors did not a compelling argument to exclude a portion of this County.

#### *Iredell County:*

Iredell County does not contain an ozone monitor, however, the bordering counties to the east, west and south have violating monitors. The State provided information related to the 11 factors, including that the portion of Iredell County that the State recommended as attainment has a low population density, the county population is approximately eight percent of the population of the MSA plus Iredell County, and Iredell contributes two percent of the commuters into Mecklenburg County, 9,604 people. However, there was not a compelling argument that the proposed partial boundary for Iredell County is the appropriate one for the nonattainment area, particularly considering the projected growth.

#### *Greensboro-Winston-Salem-High Point, NC*

##### *Excluding Counties within the CMSA*

The State recommended that Alamance, Davidson, Forsyth, and Guilford Counties, and portions of Caswell, Davie, Randolph and Rockingham Counties be included in the Greensboro-Winston-Salem-High Point nonattainment area. The State recommended omitting the counties of Stokes and Yadkin based on an analysis using the 11 factors.



### *Modification of MSA Counties with Violating Monitors*

The State recommended portions of Davie and Randolph Counties, which are within the CMSA. EPA intends to modify the State's recommendation to include the whole counties of Davie and Randolph Counties in the Greensboro-Winston-Salem-Highpoint nonattainment area. This was done because these counties are within the presumptive nonattainment area and these counties contain violating monitors and the State's justification based on the 11 factors did not provide a compelling argument for the partial boundaries recommended for these two counties. The State proposed to omit all of Davie County except Jerusalem Township and the portion of Randolph County south of Highway 64 and the Asheboro municipal boundary.

#### *Davie County:*

Davie County contains a violating monitor and is within the CMSA. The State provided information related to the 11 factors, including that there are no large sources of NOx or VOC, and that the county contributes 3.1 percent of the workforce in Forsyth County and 0.2 percent of the workforce in Guilford, that this county has the smallest population of any of the counties in the CMSA, and the recommended area is the same as the 1-hour ozone boundary. However, there was not a compelling argument that the proposed partial boundary for Davie County is the appropriate one for the nonattainment area, particularly considering the projected growth.

#### *Randolph County:*

Randolph County contains a violating monitor and is within the CMSA. The State provided information related to the 11 factors, including that the county does not have any large sources of NOx or VOC, approximately 7.5 percent of the people living in Randolph County commute to Guilford County to work, 70 percent of the county population lives in the area included in the nonattainment area, and the population density in the southern portion of the county is less than 100 people per square mile. However, there was not a compelling argument that the proposed partial boundary for Randolph County is the appropriate one for the nonattainment area, particularly considering the projected growth.

### *Modification of Adjacent Counties with Violating Monitors*

The State recommended portions of the adjacent counties of Caswell and Rockingham. EPA intends to modify the State's recommendation to add the Stoney Creek Township in Caswell County (adjacent) and New Bethel Township in Rockingham County (adjacent) to the Greensboro-Winston-Salem-Highpoint nonattainment area. While these counties are outside of the presumptive boundary, both contain a violating monitor. Although, the State submitted a justification based on the 11 factors to include only the referenced townships in these two adjacent counties, there was not a compelling argument for the area recommended. Therefore, EPA will modify the State's recommendation to include both counties in their entirety.

Caswell County:

Caswell County contains a violating monitor. The State provided information related to the 11 factors, including that there are no large point sources, low population, and low population density. However, there was not a compelling argument that the proposed partial boundary for Caswell County is the appropriate one for the nonattainment area.

Rockingham County:

Rockingham County contains a violating monitor and has two large point sources of NO<sub>x</sub>, the Dan River Power Plant that emits about 14 tons per day and the Transcontinental Gas Pipeline pumping station, emitting approximately 15 tons per day. The State provided information related to the 11 factors, including that both of these sources are installing NO<sub>x</sub> controls to meet the NO<sub>x</sub> SIP Call, the county has low population, and has low population density. However, there was not a compelling argument that the proposed partial boundary for Rockingham County is the appropriate one for the nonattainment area.

*Modification of Early Action Compact Counties in a Violating CMSA*

Stokes and Yadkin Counties:

EPA is modifying the State's recommendation to include Stokes and Yadkin Counties in the Stokes and Yadkin, NC nonattainment area because they are within the Greensboro-Winston-Salem-Highpoint CMSA, which has a violating monitor and these counties are participants in the Greensboro-Winston-Salem-Highpoint Early Action Compact (EAC). Stokes and Yadkin Counties, as well as other Greensboro-Winston-Salem-Highpoint CMSA counties in the EAC, will be designated nonattainment with a deferred effective date so long as the Greensboro-Winston-Salem-Highpoint EAC meets all of the required milestones.

*Hickory-Morganton-Lenoir, NC*

The State recommended portions of Alexander, Burke, Caldwell and Catawba Counties which includes the Metropolitan Planning Organization boundary. EPA intends to modify the State's recommendation to include the whole counties of Alexander, Burke, Caldwell, and Catawba Counties in the Hickory-Newton-Conover nonattainment area. These counties are within the presumptive area and two of them contain violating monitors.

The State's submittal indicated that the proposed boundary encompasses 75 percent of the population and the areas left out of the recommended boundary have a population density less than 250 people per square mile with much of the outlying areas at less than 50 people per square mile. However, the municipal boundary of Taylorsville is noncontiguous with the rest of the nonattainment area and the State did not provide adequate justification to support a noncontiguous area. Additionally, the recommended area does not include the Marshall Steam



Station located in southwestern Catawba County. Although the source will install controls to meet the NOx SIP Call and the Clean Smokestacks Legislation, the emission reduction is only 50 percent of the current NOx Levels. The State provided information related to the 11 factors, however, there was not a compelling argument to exclude the recommended portion of these counties. We do acknowledge that the Caldwell County monitor appears to be in attainment based on preliminary 2001-2003 data; however the Alexander County monitor in Taylorsville continues to violate.

### ***Raleigh-Durham-Chapel Hill, NC***

#### ***Modification of MSA Counties with Violating Monitors***

For the counties within the CMSA, the State recommended Durham, Orange and Wake Counties, and recommended portions of Chatham, Franklin and Johnston Counties. EPA intends to modify the State's recommendation to include the whole counties of Franklin and Johnston in the Raleigh-Durham-Chapel Hill nonattainment area. This was done because these counties are within the presumptive nonattainment area, each has a violating monitor, and the State's justification based on the 11 factors did not provide a compelling argument for the partial boundaries recommended for these two counties. The State proposed to include only the southern portion of Franklin (Franklinton and Youngsville Townships) County and the portion of Johnston County west of I-95.

#### **Franklin County:**

There is a violating monitor is located in Franklinton Township and Franklin County is in the CMSA. The State provided information related to the 11 factors, including that Franklin County does not have any large point sources, has very low NOx and VOC emissions, and the excluded area has low population density. However, there was not a compelling argument to exclude the recommended portion of Franklin County, particularly considering the projected growth.

#### **Johnston County:**

Johnston County contains a violating monitor and is in the CMSA. The State provided information related to the 11 factors, including that Johnston County does not have any large point sources and most (76 percent) of the total NOx emissions in the County come from mobile sources. However, there was not a compelling argument that the proposed partial boundary for Johnston County is the appropriate one for the nonattainment area, particularly considering the projected growth.

#### ***Modification of MSA Counties without Violating Monitors***

The State recommended a portion of Chatham County. EPA also intends to modify the State's recommendation to include the whole County of Chatham in the Raleigh-Durham-Chapel

Hill nonattainment area. This County is within the presumptive area and the State's justification based on the 11 factors did not provide a compelling argument to exclude the proposed portion of this county.

Chatham County:

Chatham County has one large point source of NO<sub>x</sub>, the Cape Fear Steam Station which emits 19.67 tons per day. This source is not included in the portion of the County recommended by the State to be included in the nonattainment area. The source is installing controls to meet the NO<sub>x</sub> SIP Call, but not SCR. Although the County is monitoring attainment, the State did not provide a compelling argument that the portion of the County excluded from the nonattainment area is not contributing to violations within the CMSA, particularly considering the projected growth.

*Modification of Counties Adjacent to MSA with Violating Monitors*

The State recommended portions of Granville and Person Counties which are adjacent to the CMSA to be included in the nonattainment area. EPA intends to modify the States recommendation to include the whole counties of Granville and Person in the Raleigh-Durham-Chapel Hill nonattainment area. The State recommended adding Dutchville Township in Granville (adjacent) and Bushy Fork Township in Person (adjacent) to the Raleigh-Durham-Chapel Hill nonattainment area. While these counties are outside of the presumptive boundary, they both contain a violating monitor the State's justification based on the 11 factors did not provide a compelling argument for the partial boundaries recommended for these two counties.

Granville County:

Granville County contains a violating monitor. The State provided information related to the 11 factors, including that the county has no large point sources, has low NO<sub>x</sub> and VOC emissions, and the northern portion of Granville County is largely rural. Additionally, the proposed area is the same as the 1-hour ozone boundary. However, there was not a compelling argument that the proposed partial boundary for Granville County is the appropriate one for the nonattainment area, particularly considering the projected growth.

Person County:

Person County contains a violating monitor and has two large point sources of NO<sub>x</sub>, the Roxboro and Mayo Power Plants that together emit about 217.72 tons per day. The State provided information related to the 11 factors, including that the large sources are installing SCR controls on all units to meet the NO<sub>x</sub> SIP Call and the Clean Smokestacks Legislation which will reduce their combined emissions to 29 tons per day, the county has low population and population density. However, there was not a compelling argument that the proposed partial boundary for Person County is the appropriate one for the nonattainment area.

### *Rocky Mount, NC*

The State recommended portions of Nash and Edgecombe Counties as nonattainment. EPA intends to modify the State's recommendation to include both of these entire counties.

#### Nash County:

We intend to modify the State's recommendation to include Nash County in the Rocky Mount nonattainment area. This was done because this county is within the presumptive nonattainment area and the State did not submit information based on the 11 factors to exclude this County.

#### Edgecombe County:

The State recommended the municipality boundary of Leggett in Edgecombe County as the Rocky Mount nonattainment area. We intend to modify the State's recommendation to include all of Edgecombe County in the Rocky Mount nonattainment area. This county is within the presumptive area and contains a monitor violating the 8-hour ozone NAAQS and there was not a compelling argument to exclude this county. The State submitted information based on the 11 factors that this county is largely rural in nature, had declining population, and low VOC and NOx emissions, they did not make a compelling argument as to why the nonattainment area should encompass only the municipality containing the violating monitor.



The following table identifies the individual areas and counties comprising those areas within North Carolina that EPA intends to designate as nonattainment because the State's recommendation was made to designate the area as nonattainment based on 2000-2002 monitoring data where current preliminary 2001-2003 data show that the area may not be violating the 8-hour standard.

<b>Recommended Nonattainment Areas</b>		
<b>Area</b>	<b>North Carolina Recommended Nonattainment Counties</b>	<b>EPA Recommended Nonattainment Counties</b>
Asheville, NC	Buncombe	Buncombe
Blue Ridge, Black and Great Craggy Mountains, NC	Area above 4000 feet in Buncombe, McDowell, and Yancey	Area above 4000 feet in Buncombe, McDowell, and Yancey
Great Balsam Mountains, NC	Area above 4000 feet in Haywood, Jackson, and Transylvania	Area above 4000 feet in Haywood, Jackson, and Transylvania

#### *Asheville, NC*

While the recommendation was made to designate Buncombe County as the Asheville, NC, nonattainment area based on 2000-2002 monitoring data, more current preliminary 2001-2003 data show that the area is not currently violating the 8-hour standard. While EPA will consider modifying the recommendation to designate this area to attainment, we will retain North Carolina's recommendation of nonattainment while we continue to evaluate the monitoring data to conclude whether it supports such a modification. It is critical for North Carolina to expedite submittal of 2003 monitoring data so that air quality designations and classifications for the 8-hour standard will accurately reflect the State's air quality.

#### *Blue Ridge, Black and Great Craggy Mountains, NC*

While the recommendation was made to designate these mountain tops as a nonattainment area based on 2000-2002 monitoring data, more current preliminary 2001-2003 data show that the area is not currently violating the 8-hour standard. While EPA will consider modifying the recommendation to designate this area to attainment, we will retain North Carolina's recommendation of nonattainment while we continue to evaluate the monitoring data to conclude whether it supports such a modification. It is critical for North Carolina to expedite submittal of 2003 monitoring data so that air quality designations and classifications for the 8-hour standard will accurately reflect the State's air quality.

### ***Great Balsam Mountains, NC***

While the recommendation was made to designate these mountain tops as a nonattainment area based on 2000-2002 monitoring data, more current preliminary 2001-2003 data show that the area is not currently violating the 8-hour standard. While EPA will consider modifying the recommendation to designate this area to attainment, we will retain North Carolina's recommendation of nonattainment while we continue to evaluate the monitoring data to conclude whether it supports such a modification. It is critical for North Carolina to expedite submittal of 2003 monitoring data so that air quality designations and classifications for the 8-hour standard will accurately reflect the State's air quality.

## **Enclosure 2**

**Justification for areas where EPA is not modifying the State's recommendation.**

### ***Fayetteville, NC***

The State recommended the presumptive boundary, i.e., the entire CMSA. Therefore, the Agency agrees with the State's recommendation.

### ***Plott Balsam Mountains, NC***

The State recommended the area above 4000 feet as the nonattainment area. The State submitted information indicating that the violations of the 8-hour ozone standard at the monitors located at the high elevations were due to long range transport and the area was not generating emissions that caused the violations. Therefore, the Agency agrees with the State's recommendation.

### ***Great Smoky Mountains National Park, NC***

The State recommended that the entire Great Smoky Mountains National Park be designated as nonattainment. The State consulted with the National Park Service. Therefore, the Agency agrees with the State's recommendation.



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

December 19, 2003

Mr. J. I. Palmer, Jr.  
Regional Administrator  
US Environmental Protection Agency  
Region 4  
Atlanta Federal Center  
61 Forsyth Street  
Atlanta, Georgia 30303-8960

Re: 8-Hour Ozone Air Quality Designations and Boundaries

Dear Mr. Palmer

In your Dec. 3, 2003 letter, you provided North Carolina with EPA's response to our state's 8-hour ozone non-attainment boundary recommendations. In the letter, EPA proposes to dismiss North Carolina's partial county designations in favor of presumptive boundaries that are asserted to be more consistent with EPA's national approach. We found EPA's response to North Carolina's recommendations very disappointing. I am writing to request a dialogue between EPA and North Carolina on the details of North Carolina's proposal. I hope that, working together, we can craft boundaries that are more suitable to our state's unique circumstances and that satisfy EPA's interests at the same time.

We believe that North Carolina's recommendations are consistent with EPA's Boundary Guidance. The Guidance states "a smaller non-attainment area (than the presumptive C/MSA) may be more appropriate. For example, one C/MSA may cover multiple air basins or include counties or portions of counties which are rural in nature." (See Boundary Guidance, p. 4.) Under these circumstances, EPA's policy is to allow states to consider alternate boundaries which meet 11 criteria. North Carolina did so. For EPA now to claim that a standard evaluation technique should be used seems arbitrary and unreasonable.

For example, North Carolina has recommended a partial county boundary for Davie County. Davie County contains a monitor that indicated violation and that is located in the southeastern corner of the county. Davie County has no large sources of NOx or VOC and has the smallest population of all the MSA counties in the Triad area. Davie County contributes 3.1 percent of the workforce in Forsyth County and 0.2 percent of the workforce in Guilford County. North Carolina concluded that the partial designation (i.e., the township in which the monitor is located) met the intent of Section 107(d)(1) of the Clean Air Act, on grounds of the lack of emissions in Davie County and their limited impact on the Triad's air quality. North Carolina reached this conclusion using the EPA Boundary Guidance. We provided a technical analysis of our recommendations and an explanation of how the boundary is consistent with Section 107(d)(1). EPA dismissed the Davie County recommendations and our other partial county designations as well.

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EPA defends this position by arguing that a "nationally consistent view of the eleven factors is essential to ensuring the fair and equitable National implementation of the 8-hour ozone standard and achievement of public health protection for all citizens." We believe that this drive for consistency ignores the fact that all states are not at the same stage of implementation of the new standards. North Carolina is unique in many ways that were pointed out in our documentation. Here are some of the key steps that North Carolina has taken to assure expeditious attainment of not only the 8-hour ozone standard, but also the fine particulate and regional haze standards.

First, North Carolina adopted the 8-hour ozone standard on April 1, 1999, and has fully supported the standard.

Second, North Carolina has the most extensive 8-hour ozone-forecasting program in the country, covering six areas in our state. Our citizens are alerted on a daily basis as to the predicted quality of the air so that they can take action to protect their health. North Carolina is expending significant resources to provide this service to our citizens. This daily forecast is a much better indication to the public of when they need to act to avoid exposure to high ozone levels than a non-attainment designation.

Third, the North Carolina General Assembly adopted the Clean Air Bill of 1999 that changes our vehicle inspection and maintenance (I/M) program to an on-board diagnostic program, and expands the program to 48 counties. This I/M program is one of the most expansive and progressive in the country.

Fourth, in addition to adopting the NO<sub>x</sub> SIP call, the North Carolina legislature enacted into state law an aggressive multi-pollutant bill that will result in significant reductions in sulfur dioxide, as well as year round reductions in nitrogen oxides from our utilities.

Fifth, North Carolina has invested significant resources to conduct an 8-hour ozone modeling analysis over the last several years. That work culminated in a 2007 analysis that shows all but five monitors will attain the 8-hour ozone standard by 2007. It should be noted that four of the five monitors are in the Charlotte region and are not required to attain until at least 2010. Modeling runs are underway to understand how close to attainment the Charlotte region will be in 2010. Those results will be shared with you as soon as they are available, as the 2007 results were.

Finally, North Carolina has the statutory authority to adopt controls on any source in the state if that source is contributing to non-attainment. We do not need a broad non-attainment designation in order to regulate our sources. Further, our recent legislative actions show a state that is not only able to, but has demonstrated it will, do what is necessary to protect the public's health. Following EPA's guidance, we have designated reasonable, rational and necessary boundary designations, with due deliberations.

North Carolina cares about the health of its citizens. We have dedicated the resources necessary to understand our air quality problems, and then worked to adopt the necessary legislation and rules to fix those problems. We believe strongly that EPA's proposed full-county designations unnecessarily penalize predominantly rural parts of our state that do not – and will not – contribute substantially to air quality problems.

Mr. J. I. Palmer, Jr.  
Page 3 of 3  
December 19, 2003

We look forward to discussing ways to resolve these differing views. Thank you for your attention to this important matter.

Sincerely,



William G. Ross, Jr.

WGR:up

cc: Mr. Steve Page  
Mr. Keith Overcash





North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

February 6, 2004

J. I. Palmer, Jr., Esq.  
Regional Administrator  
US EPA Region 4  
Sam Nunn Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

Subject: 8-Hour Ozone Non-Attainment Boundaries

Dear Mr. Palmer:

We have reviewed EPA's letter of December 3, 2003 commenting on North Carolina's recommendations for 8-hour ozone non-attainment boundaries. The purpose of this letter is to respond to EPA's comments and to address changes in our recommendations based on consideration of the 2003 ozone data.

After careful consideration of EPA's views and comments, we continue to believe that our original recommendations for the non-attainment areas of Charlotte-Gastonia-Rock Hill, Fayetteville, Greensboro-Winston-Salem- High Point, Hickory-Newton-Conover, Raleigh-Durham-Chapel Hill and Rocky Mount are appropriate, effective and consistent with applicable law, regulation and guidance.

It is our view that, by presuming that the boundaries of Metropolitan Statistical Areas should be the boundaries of non-attainment areas and by further ignoring its own guidance, EPA has given an arbitrary and unreasonable amount of deference to the Metropolitan Statistical Areas boundaries. EPA has proceeded despite Office of Management and Budget's (OMB) caution not to do so when implementing nonstatistical programs. OMB makes this point clearly in the December 27, 2000 Federal Register notice, in which the OMB states:

"The general concept of a Metropolitan Statistical Area or a Micropolitan Statistical Area is that of an area containing a recognized population nucleus and adjacent communities that have a high degree of integration with that nucleus. The purpose of the Standards for Defining Metropolitan and Micropolitan Statistical Areas is to provide nationally consistent definitions for collecting, tabulating and publishing Federal statistics for a set of geographic areas. To this end, the Metropolitan Area concept has been successful as a statistical representation of the social and economic linkages between urban cores and outlying, integrated areas. This success is evident in the continued use and application of metropolitan area definitions across broad

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areas of data collection, presentation and analysis. This success is also evident in the use of statistics for metropolitan areas to inform the debate and development of public policies and in the use of metropolitan area definitions to implement and administer a variety of nonstatistical Federal programs. These last uses, however, raise concerns about the distinction between appropriate uses – collecting, tabulating and publishing statistics as well as informing policy – and inappropriate uses – implementing nonstatistical programs and determining program eligibility. OMB establishes and maintains these areas solely for statistical purposes.

In order to preserve the integrity of its decision making with respect to reviewing and revising the standards for designating areas, OMB believes that it should not attempt to take into account or anticipate any public or private sector nonstatistical uses that may be made of the definitions. It cautions that Metropolitan Statistical Area and Micropolitan Statistical Area definitions should not be used to develop and implement Federal, state and local nonstatistical programs and policies without full consideration of the effects of using these definitions for such purposes.” (Emphasis added.)

The implementation of the 8-hour ozone standard is clearly a nonstatistical program for a number of reasons, including the influences of the weather and predominant wind flows. North Carolina believes that we adequately addressed this issue in the recommendations by evaluating wind flows on high ozone days at the rural monitors located downwind from the major urban areas. North Carolina also continues to believe that the evaluation of such data is critical to identifying appropriate boundaries. Indeed, it is one of the eleven criteria outlined in the EPA guidance on setting boundaries larger or smaller than the MSA.

We have conscientiously used EPA’s eleven-point guidance to define reasonable, rational and necessary boundary designations. We clearly addressed how those factors affected the drawing of our lines; e.g., population densities, traffic and commuting patterns, meteorology, and level of control of emission sources. Please also consider these additional or expanded points along with the information we have previously submitted:

1. North Carolina has vigorously supported the 8-hour ozone standard, including the adoption of the new standard on April 1, 1999, and has implemented an extensive 8-hour ozone-forecasting program, covering six areas in our state. Our citizens are alerted on a daily basis as to the predicted quality of the air so that they can take action to protect their health. North Carolina has expended and continues to expend significant resources to provide this service to our citizens. This daily forecast



- provides an efficient and effective indication to the public of when they need to act to avoid exposure to high ozone levels.
2. North Carolina has taken a proactive approach to addressing the new 8-hour ozone standard. For example, we enacted the Clean Air Bill of 1999, which changes our vehicle inspection and maintenance (I/M) program to an on-board diagnostic program and expands the program from 9 to 48 counties. This I/M program is one of the most expansive and progressive in the country. The North Carolina General Assembly passed this legislation during the time that the new standard was in the middle of litigation.
  3. Another example of our State's proactive approach is North Carolina's passage of an aggressive multi-pollutant bill that will result in significant reductions in sulfur dioxide and year-round reductions in nitrogen oxides from our utilities.
  4. North Carolina has invested significant resources to conduct an 8-hour ozone modeling analysis over the last several years. That work culminated in a 2007 analysis that shows all but five monitors in the state will attain the 8-hour ozone standard by 2007. It should be noted that four of the five monitors that will not attain the standard by 2007 are in the Charlotte region and are not required to attain until at least 2010. Modeling runs are now complete that show the Charlotte region in attainment by 2010. Thanks to our early modeling work, we were able to understand more clearly what controls were needed and how legislative initiatives might help to attain this new standard.
  5. A key statutory authority in North Carolina is the state's ability to adopt controls on any source in the state if that source is contributing to violations of the ozone standard. Thus, we can take necessary steps to regulate our sources without a broad non-attainment designation. Further, our recent legislative actions show that our state is not only able to, but will, do what is necessary to protect the public's health.
  6. North Carolina has successfully implemented, with EPA's approval, partial designations under the 1-hour ozone standard in both Granville and Davie Counties.

We have amended a few recommendations based on consideration of 2003 data. The Mount Mitchell monitor in Yancey County, the Bent Creek monitor in Buncombe County and the Frying Pan monitor in Haywood County are now measuring attainment. Therefore, the following areas are now recommended to be attainment based on the latest air quality data. Blue Ridge, Black and Great Craggy Mountains above 4000 feet in Buncombe, McDowell and Yancey Counties (Mt. Mitchell monitor); Buncombe County (Bent Creek monitor); Great Balsam Mountains above 4000 feet in Haywood and

Mr. J. I. Palmer, Jr., Esq.  
Page 4 of 4  
February 6, 2004

Jackson Counties (Frying Pan monitor). Otherwise, North Carolina's recommendations remain as presented in my July 15, 2003 letter to you.

In closing, we will appreciate your careful consideration of these comments, as well as the additional technical evidence that will be provided to you next week regarding North Carolina's application of the eleven criteria. Please call me if you have questions. Thank you.

Sincerely, ,



William G. Ross, Jr.

WGB:np

cc: The Honorable Mike Easley, Governor, State of North Carolina  
The Honorable Jim Fain, Secretary, NC Department of Commerce  
The Honorable Lyndo Tippet, Secretary, NC Department of Transportation  
The Honorable Britt Cobb, Commissioner, NC Department of Agriculture and  
Consumer Services  
Mr. Steve Page, Director, Office of Air Quality Planning and Standards, US EPA  
Mr. Keith Overcash, Director, Division of Air Quality, NC DENR



North Carolina Department of Environment and Natural Resources  
Division of Air Quality

Michael F. Easley, Governor

William G. Ross, Jr., Secretary  
B. Keith Overcash, P.E., Director

February 12, 2004

J.I. Palmer, Jr., Esq.  
Regional Administrator  
US EPA, Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-8960

RE: Recommendations for 8-hour Ozone Nonattainment Designations

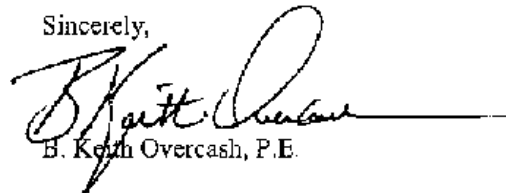
Dear Mr. Palmer:

On February 6, 2004, Secretary Ross submitted a letter on behalf of North Carolina in response to EPA's comments on our 8-hour ozone nonattainment boundaries recommendations. As indicated in our letter, we are recommending areas that are less than the MSA boundary. In addition to the reasons stated in the letter, we are submitting with this letter additional technical background information that was used to determine the recommendations.

Each area is described separately in the attached document and satisfies the criteria as set in EPA's March 28, 2000 memorandum entitled "Boundary Guidance on Air Quality Designations for the 8-hour Ozone National Ambient Air Quality Standard (NAAQS)". In setting the boundaries, we are confident that we have captured the main sources of influence to the surrounding areas that will result in successfully protecting the health of all citizens within North Carolina. By recommending the full and partial counties indicated, we are certain that once the federal and state regulations cited in the February 6, 2004 letter are fully implemented, there will continue to be a downward trend of emissions. We anticipate attainment in all areas except the Charlotte area by 2007 as indicated by our air quality modeling. Attainment is anticipated in the Charlotte MSA by 2010.

It is our duty to protect the air quality of North Carolina to the full extent granted to us. We believe that the attached information presents a compelling argument against full county designations in our State.

Sincerely,



B. Keith Overcash, P.E.

BKO/jg/at

attachment

cc: Secretary Bill Ross



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

April 15, 2004

THE ADMINISTRATOR

Honorable Michael Easley  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, North Carolina 27699-0301

Dear Governor Easley:

Today, we enter a new chapter in our country's clean air commitment. President Bush outlined this chapter when he directed the Environmental Protection Agency (EPA) to implement a national Clean Air strategy committing us to make the years ahead one of the most productive periods of air quality improvement in our nation's history.

The last 35 years have seen a growing commitment to clean air and a progression of science and technology that has informed our decision-making and guided our actions. I often think of our clean air history as a relay where a baton is passed from generation to generation and from Administration to Administration. It is a relay in which we must all be involved and a relay where our participation is never done. This Administration has made a commitment to accelerate our clean air progress so that all Americans live healthier, longer, more productive and prosperous lives. It is a commitment to no turning around or backsliding in air quality improvement.

Part of our nation's commitment to clean, healthy air deals with reducing levels of ozone. That effort began in the 1970s with a 1-hour standard for ozone — now, in 2004, the more protective, health-based 8-hour ozone standard is ready for implementation.

Today, I fulfill my legal obligation under the Clean Air Act to issue final designations for all areas of the country for the 8-hour ozone standard. The enclosed table identifies the areas in your state that are designated as nonattainment, meaning that some areas of your state do not meet the more protective, health-based 8-hour ozone standard. I am also today deferring the designation date for the areas in your state participating in Early Action Compacts. I am confident that your commitment and the actions you are taking in these areas will result in achieving clean air faster.

Having been through this process as a governor myself, I recognize that having parts of your state designated as being in nonattainment will require more actions on your part to achieve cleaner, healthier air. This ozone standard is strong medicine, and we need to work together to

make certain your state can, as others have in the past, clean the air while sustaining economic growth. That is why the President has asked EPA to develop tools that reduce the transport of pollution across state boundaries.

During 2004, we are issuing a suite of national Clean Air Rules as part of the President's strategy that will specifically address the transport of pollution. These national rules and other clean air actions will bring the vast majority of areas of the country into attainment with this standard over the next 15 years. The Clean Air Rules, when fully implemented, will cut power plant emissions of sulfur dioxides, nitrogen oxides and mercury by nearly 70 percent, and will also reduce emissions from off-road diesel fuels, vehicles and engines by over 90 percent — those black puffs of smoke are going to be a thing of the past. Together, these Clean Air Rules will build on the tremendous progress made over the last 30 years, and do it in record time.

We have a national strategy and tools to provide people with cleaner, healthier air now and in the future. The result is more protection, faster and ensures that clean air and a prosperous economy will be this generation's contribution to our children and grandchildren.

Sincerely,

/s/

Michael O. Leavitt

Enclosure

cc (w/enclosure):

Ms. Robin Smith, Assistant Secretary for Environmental Protection  
North Carolina Environment and Natural Resources Department



## Enclosure

### Boundary Designations for 8-hour Ozone Standards for North Carolina

(P) - Partial Counties

(EAC) - Early Action Compacts

<b>Nonattainment Area Name</b>	<b>Counties</b>	<b>Classification</b>	<b>Maximum Attainment Date (from June 15, 2004)</b>
<u>Charlotte-Gastonia-Rock Hill, NC-SC</u>	Gaston Mecklenburg Cabarrus Iredell (P) Lincoln Rowan Union	Moderate	June 2010
<u>Greensboro-Winston-Salem-High Point, NC</u> (EAC)	Davidson Davie Forsyth Guilford Alamance Caswell Randolph Rockingham	Moderate	Dec 2007
<u>Raleigh-Durham-Chapel Hill, NC</u>	Durham Granville Wake Chatham (P) Franklin Johnston Orange Person	Basic	June 2009
<u>Hickory-Morganton-Lenoir, NC</u> (EAC)	Alexander Burke (P) Caldwell (P) Catawba	Basic	Dec 2007
<u>Haywood and Swain Cos (Great Smoky Mountains National Park), NC</u>	Haywood (P) Swain (P)	Basic	June 2009
<u>Fayetteville, NC</u> (EAC)	Cumberland	Basic	Dec 2007
<u>Rocky Mount, NC</u>	Edgecomb Nash	Basic	June 2009

Note: Remainder of state is attainment



North Carolina Department of Environment and Natural Resources  
Division of Air Quality

Michael F. Easley, Governor

William G. Ross, Jr., Secretary  
B. Keith Overcash, P.E., Director

June 14, 2006

James Palmer  
Regional Administrator  
USEPA Region 4  
Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960

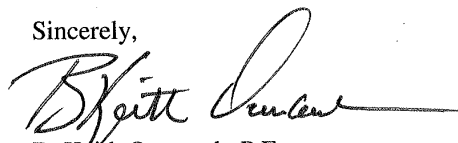
Dear Mr. Palmer:

I am writing on behalf of the North Carolina Division of Air Quality (NCDAQ) regarding the emission inventory submittal requirement as outlined in Section 182 (a)(1) of the Clean Air Act Amendments. This requirement is only for the Charlotte-Gastonia-Rock Hill 8-hour ozone nonattainment area. NCDAQ believes that the 2002 emission inventories submitted to meet the Consolidated Emission Reporting Rule (CERR) fulfills this requirement for the North Carolina Counties in this nonattainment area.

NCDAQ submitted statewide emissions for area, nonroad mobile and highway mobiles sources. For stationary point sources, we submitted inventories for those counties without a local program. The Mecklenburg County Land Use and Environmental Services Agency - Air Quality submitted an emission inventory for stationary point sources located within Mecklenburg County.

As the attainment demonstration is completed and submitted to the U. S. Environmental Protection Agency, the final 2002 emission inventories used in the demonstration will go through the public hearing process, which will include any updates or revisions that are necessary. If you should have any questions please contact Laura Boothe of my staff at (919) 733-1488 or [laura.boothe@ncmail.net](mailto:laura.boothe@ncmail.net).

Sincerely,



B. Keith Overcash, P.E.

BKO:lab

cc: Kay Prince, USEPA  
Dick Schutt, USEPA  
Sheila Holman, NCDAQ  
Laura Boothe, NCDAQ  
Don Willard, MCAQ  
Joan Lui, MCAQ

Planning Section  
1641 Mail Service Center, Raleigh, North Carolina 27699-1641  
2728 Capital Blvd., Raleigh, North Carolina 27604  
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7/10/2006

**8-HOUR OZONE NAAQS IMPLEMENTATION RULE**  
**DEADLINES FOR AREAS DESIGNATED NONATTAINMENT EFFECTIVE 6/15/04**  
 (This table is a staff work product and is intended for illustrative purposes only; consult rule itself and preambles for comprehensive information)

ROW	KIND OF DATE	SIP ELEMENT	AREA TYPE							
			Subpart 1 with attainment date <= 5yr	Subpart 1 with attainment date > 5yr	Marginal	Moderate	Serious	Severe-15 [1]	Severe-17	Extreme[1]
A	SUBMISSION DATES	Emission Inventory	6/15/2007	6/15/2007	6/15/2006	6/15/2006	6/15/2006	6/15/2006	6/15/2006	6/15/2006
B		Attainment demonstration submission date	6/15/2007	6/15/2007	Not required	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007
C		RFP SIP submission date	6/15/2007 -- RFP is met by submitting an attainment demonstration that demonstrates attainment as expeditiously as practicable, but no later than 5 years following designation	6/15/2007	Not required	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007
D		RACT SIP submission date	6/15/2007 -- RACT is met by submitting an attainment demonstration that demonstrates attainment as expeditiously as practicable, but no later than 5 years following designation	with attainment date extension request (e.g., 6/15/2007)	Not required	9/15/2006	9/15/2006	9/15/2006	9/15/2006	9/15/2006
E		NSR SIP revision submission date	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007	6/15/2007

ROW	KIND OF DATE	SIP ELEMENT	AREA TYPE							
			Subpart 1 with attainment date <= 5yr	Subpart 1 with attainment date > 5yr	Marginal	Moderate	Serious	Severe-15 [1]	Severe-17	Extreme[1]
F	COMPLIANCE DATES	All emissions needed for attainment (final compliance)  * * ASSUMES ACTUAL ATTAINMENT DATE AT END OF OZONE SEASON PRIOR TO MAX. STATUTORY ATTAIN. DATE [2]	by the start of the 2008 full ozone season	by the start of the 2013 full ozone season	Not required (no attainment demo req'd)	by the start of the 2009 full ozone season	by the start of the 2012 full ozone season	by the start of the 2018 full ozone season	by the start of the 2020 full ozone season	by the start of the 2023 full ozone season
G	COMPLIANCE DATES	RFP compliance date-- 1hr area DID meet 15% VOC requirement previously  * * ASSUMES ACTUAL ATTAINMENT DATE AT END OF OZONE SEASON PRIOR TO MAX. STATUTORY ATTAIN. DATE [2] ** ASSUMES RFP BASELINE YEAR OF 2002 [3]	All reductions needed for attainment by the beginning of 2008 full ozone season	--15% VOC/NOx reductions by 12/31/2008; --roughly proportional reductions for each 3 year period after 2008 out to attainment date (e.g., 12/31/2011)	Not required	Same as subpart 1 RFP compliance date (depends on whether area has attainment date beyond 5 years);	(a) 3%/year for 6 years ending 12/31/2008 (b) 3%/year for every 3 years after 2008 out to attainment date	(a) 3%/year for 6 years ending 12/31/2008 (b) 3%/year for every 3 years after 2008 out to attainment date	(a) 3%/year for 6 years ending 12/31/2008 (b) 3%/year for every 3 years after 2008 out to attainment date	(a) 3%/year for 6 years ending 12/31/2008 (b) 3%/year for every 3 years after 2008 out to attainment date



ROW	KIND OF DATE	SIP ELEMENT	AREA TYPE							
			Subpart 1 with attainment date <= 5yr	Subpart 1 with attainment date > 5yr	Marginal	Moderate	Serious	Severe-15 [1]	Severe-17	Extreme[1]
H		RFP compliance date-- 1hr area did NOT meet 15% VOC requirement previously  * * ASSUMES ACTUAL ATTAINMENT DATE AT END OF OZONE SEASON PRIOR TO MAX. STATUTORY ATTAIN. DATE [2] ** ASSUMES RFP BASELINE YEAR OF 2002 [3]	All reductions needed for attainment by the beginning of 2008 full ozone season)	(a) 15% VOC/NOx reductions by 12/31/2008; (b) time- roughly proportional reductions every 3 years after 2008 out to attainment date	Not required	Must obtain 15% VOC reductions by 12/31/2008; additional reductions needed out to beginning of ozone season prior to attainment date	(a) 15% VOC reductions for 6 years ending 12/31/2008 (b) 3%/year NOx and or VOC reductions for every 3 years after 2008 out to attainment date	(a) 15% VOC reductions for 6 years ending 12/31/2008 (b) 3%/year NOx and or VOC reductions for every 3 years after 2008 out to attainment date	(a) 15% VOC reductions for 6 years ending 12/31/2008 (b) 3%/year NOx and or VOC reductions for every 3 years after 2008 out to attainment date	
I		RACT compliance date  * * ASSUMES ACTUAL ATTAINMENT DATE AT END OF OZONE SEASON PRIOR TO MAX. STATUTORY ATTAIN. DATE [2]	All reductions needed for attainment by the beginning of 2008 full ozone season)	beginning of first ozone season after 3/15/09	RACT "fix-up" requirement for pre-1990 obligations (we believe this may have been met under 1-hr std.)	beginning of first ozone season after 3/15/09 [4]	beginning of first ozone season after 3/15/09	beginning of first ozone season after 3/15/09	beginning of first ozone season after 3/15/09	
J	ATTAINMENT DATE	Attainment Date -- maximum statutory  Actual attainment date must be as expeditious as practicable but no later than the maximum statutory date.	6/15/2009	6/15/2014	6/15/2007	6/15/2010	6/15/2013	6/15/2019	6/15/2021	6/15/2024
K		Attainment Date -- expected actual (areas without full year ozone season)	Fall/winter 2008	Fall/winter 2013	Fall/winter 2006	Fall/winter 2009	Fall/winter 2012	Fall/winter 2018	Fall/winter 2020	Fall/winter 2023

ROW	KIND OF DATE	SIP ELEMENT	AREA TYPE							
			Subpart 1 with attainment date <= 5yr	Subpart 1 with attainment date > 5yr	Marginal	Moderate	Serious	Severe-15 [1]	Severe-17	Extreme[1]
L		Attainment Date -- expected actual (areas with full year ozone season (e.g., Houston, South Coast (CA))	around 1/1/2009	around 1/1/2014	around 1/1/2007	around 1/1/2010	around 1/1/2013	around 1/1/2019	around 1/1/2021	around 1/1/2024

FOOTNOTES: 1 -- Currently, no areas with this classification

2 -- Actual attainment date must be as expeditious as practicable but no later than the maximum statutory attainment date; if actual date is different from that assumed, other dates in table would change accordingly.

3 -- Rule allows alternative baseline (other than 2002); if alternative used, dates in table would differ.

4 -- Areas with 2009 ozone seasons that begin earlier than March 15, 2009 would need to ensure sources are complying with RACT by the earlier date if the RACT reductions are needed for attainment (since all reductions needed for attainment must occur prior to the attainment year ozone season). See preamble for additional discussion (November 29, 2005, (70 FR 71658, 71659)).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

RESEARCH TRIANGLE PARK, NC 27711

AUG 15 2006

**MEMORANDUM**

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

SUBJECT: Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards

FROM: William T. Harnett, Director *William T. Harnett*  
Air Quality Policy Division, OAQPS (C539-01)

TO: Regional Air Division Director, Regions I-X

The purpose of this memorandum is to provide guidance concerning the State implementation plan (SIP) submissions States should make to meet their currently outstanding obligations under section 110(a)(2)(D)(i).

The Environmental Protection Agency (EPA) has previously indicated through rulemaking what States affected by the Clean Air Interstate Rule (CAIR) must do concerning emissions that significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or fine particulates (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) in another State. This guidance, therefore, addresses what States that are not affected by the CAIR should consider in meeting the "significant contribution" and "interfere with maintenance" requirements of section 110(a)(2)(D)(i), and what all States (inside or outside the CAIR region) should consider with respect to making submissions to meet the "prevention of significant deterioration" and "protect visibility" requirements of section 110(a)(2)(D)(i). Because the CAIR region differs for purposes of 8-hour ozone and PM<sub>2.5</sub>, some States may be within the CAIR region for purposes of one NAAQS, but not the other, and should make section 110(a)(2)(D)(i) SIP submissions that account for this distinction.

On July 18, 1997, EPA promulgated NAAQS for ozone and for fine particulate matter. Section 110(a)(1) of the Clean Air Act requires States to submit new SIPs to provide for the implementation, maintenance, and enforcement of new or revised NAAQS. Section 110(a)(2) lists the elements that the new SIP submissions must contain. Among other things, SIPs for new or revised NAAQS must contain adequate provisions to address interstate transport of air pollution, pursuant to section 110(a)(2)(D)(i).

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Section 110(a)(1) explicitly provides that States must adopt and submit to the EPA Administrator new SIP submissions within 3 years after the promulgation of a new or revised NAAQS, meeting the provisions of 110(a)(2), as applicable. Therefore, States should have submitted SIPs to EPA for the 8-hour ozone NAAQS and the PM<sub>2.5</sub> NAAQS by no later than July 2000. However, at this time no State has submitted a new SIP. We recognize that litigation over both the 8-hour ozone NAAQS and the PM<sub>2.5</sub> NAAQS created substantial uncertainty as to how to proceed. Moreover, in the case of PM<sub>2.5</sub>, additional time was needed for creation of a monitoring network, collection of at least three years of data, and analysis of those data.

On April 25, 2005, EPA published an action in the Federal Register making a finding that States had failed to make statutorily required SIP submissions for the 8-hour ozone and PM<sub>2.5</sub> NAAQS. The EPA explicitly limited this finding of failure to submit to the requirements of section 110(a)(2)(D)(i) pertaining to interstate transport. The finding of failure to submit action started a 24-month clock for EPA to issue a final Federal Implementation Plan (FIP) to meet the requirements of section 110(a)(2)(D)(i), for both the 8-hour ozone and PM<sub>2.5</sub> standards, unless EPA instead approves a State SIP submission to meet those requirements in advance of that date.

The finding of failure to submit SIPs addressing section 110(a)(2)(D)(i) is the first action required under a Consent Decree between EPA and plaintiffs who sued the Agency for failure to take action to require the submission of new SIPs for the 8-hour ozone and PM<sub>2.5</sub> NAAQS, or to issue FIPs in lieu thereof. The EPA has also committed in the Consent Decree to take later actions to determine whether States have submitted the remaining SIP elements required by section 110(a)(1) and (2) for the 8-hour ozone and PM<sub>2.5</sub> NAAQS by no later than December 15, 2007, for ozone, and by no later than October 5, 2008, for PM<sub>2.5</sub>. The Agency intends to provide States with additional information concerning the remaining section 110(a)(1) and (2) SIP elements, in separate regulations or guidance documents.

We emphasize that this document is merely guidance and that States or EPA may elect to follow or deviate from this guidance, as appropriate. The ultimate determination of whether a given SIP submission by a State meets the statutory requirements of section 110(a)(2)(D)(i) will be accomplished through case by case notice and comment rulemaking in which the facts and circumstances of each State submission will be evaluated by EPA. We ask that the EPA Regional Offices work with their respective States in the development of their SIP submissions.

If you have questions concerning this guidance, please contact Mr. Larry D. Wallace (919) 541-0906. Please ensure that the appropriate air agency officials for the States in your Region are made aware of this guidance.



**Attachment**

cc: Margo Oge, OTAQ  
Steve Page, OAQPS  
Brian McLean, OAP  
Scott Mathias, AQPD  
Kevin McLean, OGC  
Barbara Driscoll, AQPD  
Larry Wallace, AQPD  
Kimber Scavo, AQPD  
Geoffrey Wilcox, OGC  
Norm Possiel, AQAD

**Guidance for State Implementation Plan Submissions to Meet Current Outstanding  
Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM<sub>2.5</sub>  
National Ambient Air Quality Standards**

**1. Introduction:**

This document provides guidance to States concerning State Implementation Plan (SIP) submissions that States must make pursuant to section 110(a)(2)(D)(i). The Environmental Protection Agency (EPA) emphasizes that this guidance document merely provides suggestions and that States or EPA may elect to follow or deviate from this guidance, as appropriate. The ultimate determination of whether a given SIP submission by a State meets the requirements of section 110(a)(2)(D)(i) will be accomplished by area specific notice and comment rulemaking in which the facts and circumstances of each State submission will be evaluated by EPA. Sections 110(a)(1) and (2) of the Clean Air Act (CAA), require States to submit SIPs that implement, maintain, and enforce a new or revised national ambient air quality standard (NAAQS) within 3 years following the promulgation of the standard.

In July 1997, EPA issued the 8-hour ozone and PM<sub>2.5</sub> NAAQS. States were thus required to submit SIPs that satisfy the applicable CAA requirements under section 110(a)(1) and (2) for these NAAQS by July 2000. Among the SIP elements identified in section 110(a)(2) is the requirement to address interstate transport of pollutants pursuant to section 110(a)(2)(D)(i). The EPA has determined that section 110(a)(2)(D)(i) is among the SIP requirements with which States must comply in accordance with the schedule of section 110(a)(1).<sup>1</sup>

On April 25, 2005, EPA notified States of their failure to make the required SIP submission addressing interstate transport of pollutants related to ozone and PM<sub>2.5</sub> in downwind States.<sup>2</sup>

Pursuant to section 110(c), EPA's April 25, 2005 finding of failure to submit started a 24-month clock for EPA to issue a final Federal Implementation Plan (FIP) to address the requirements of section 110(a)(2)(D)(i), unless a State makes the required submission and EPA approves such submission within that 24-month period. The 24-month FIP clock began on

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<sup>1</sup>See, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO<sub>x</sub> SIP Call; Final Rule," 70 FR 25,162 at 25,263-69 (May 12, 2005).

<sup>2</sup>See, "Finding of Failure to Submit Section 110 State Implementation Plans for Interstate Transport for the National Ambient Air Quality Standards for 8-Hour Ozone and PM 2.5," 70 FR 21,147 (April 25, 2005).

May 25, 2005, the effective date of the finding of failure to submit, and will end on May 25, 2007.

The EPA's finding of failure to submit SIPs that address section 110(a)(2)(D)(i) is the first action required under a Consent Decree.<sup>3</sup> Under the Consent Decree, EPA is also obligated to make later determinations as to whether States have made the required SIP submissions to meet the remaining applicable requirements of section 110(a)(1) and (2). The EPA is obligated to make these later determinations by December 15, 2007, for SIP submissions for the 8-hour ozone NAAQS, and by October 5, 2008, for SIP submissions pertaining to the PM<sub>2.5</sub> NAAQS.

The EPA believes that Section 110(a)(2)(D)(i) provides an important tool for attainment and maintenance of the NAAQS by addressing the problem of interstate transport of air pollutants. This provision applies to each pollutant covered by a NAAQS and to all areas of each State regardless of the attainment or nonattainment designation of such areas. Section 110(a)(2)(D)(i) specifically provides that each State's SIP must contain adequate provisions to prohibit air pollutant emissions from within the State that significantly contribute to nonattainment of the NAAQS, or that interfere with maintenance of the NAAQS, in any other State. In addition, this section requires that each State's SIP must contain adequate provisions to prohibit emissions of air pollutants within the State that interfere with measures required to prevent significant deterioration of air quality or to protect visibility in any other State.

The EPA intends to provide additional information to States concerning the remaining section 110(a)(1) and (2) SIP elements, either in regulations implementing the 8-hour ozone or PM<sub>2.5</sub> NAAQS, or in later guidance documents.

## **2. What is required under section 110(a)(2)(D)(i):**

Section 110(a)(1) requires States to make a SIP submission for a new or revised NAAQS within 3 years of promulgation of such new or revised NAAQS.

Section 110(a)(2) lists the elements those SIPs must contain. For example, this section lists certain SIP infrastructure elements related to the new or revised standards such as requirements for provisions pertaining to modeling, monitoring, and emissions inventories that are designed to assure attainment and maintenance of the standards. An important SIP element

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<sup>3</sup>The Consent Decree is between Environmental Defense and American Lung Association, as plaintiffs, and EPA, as defendant, signed March 10, 2005. The Consent Decree resolved the case entitled "Environmental Defense, et al. v. Johnson," No. 1:05CV00493(D.D.C.). EPA gave notice of, and took comment on, the proposed consent decree in accordance with CAA section 113(g). See, 70 FR 15,623 (March 28, 2005).

listed in section 110(a)(2) is the requirement that States address emissions that impact other States through interstate transport.

The “good neighbor” provisions in section 110(a)(2)(D)(i) require each State to submit a SIP that prohibits emissions that adversely affect another State in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. Each State must submit a SIP which contains adequate provisions:

prohibiting ... any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will -

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any ... national primary or secondary air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State .... to prevent significant deterioration of air quality or to protect visibility.

The EPA’s April 25, 2005 finding of failure to submit reflected EPA’s determination that States had not yet made SIP submissions for the 8-hour ozone and PM<sub>2.5</sub> NAAQS necessary to meet the requirements of section 110(a)(2)(D)(i).

The precise nature and contents of such a submission is not stipulated in the statute. EPA believes that the contents of the SIP submission required by section 110(a)(2)(D)(i) may vary depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the content of the required submission. In some instances, this submission may be more detailed and substantive, as when existing data and analyses already provide the requisite information. In other instances, the submission may be more preliminary and simplified, as when there is currently insufficient information to support a determination that there are interstate transport impacts, or when other later regulatory actions are prerequisites to making such a determination.

The sections below provide guidance concerning the types of SIP submissions that EPA believes would be appropriate in response to the April 25, 2005, finding of failure to submit.

### **3. States subject to the Clean Air Interstate Rule:**

In March of 2005, EPA promulgated the Clean Air Interstate Rule (CAIR).<sup>4</sup> Based upon the requirements of section 110(a)(2)(D)(i), EPA determined in the CAIR that NO<sub>x</sub> emissions from sources in 25 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the 8-hour ozone standard in other downwind States. The EPA also determined that SO<sub>2</sub> and NO<sub>x</sub> emissions from sources in 23 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the PM<sub>2.5</sub> standards in other downwind States. Subsequently, EPA determined that two additional States contribute to nonattainment and interfere with maintenance of the PM<sub>2.5</sub> NAAQS.<sup>5</sup> (See Attachment A listing the States subject to the CAIR).

In the CAIR, EPA concluded that the States will meet their section 110(a)(2)(D)(i) obligations to address the “significant contribution” and “interference with maintenance” requirements by complying with the CAIR requirements. Consequently, States within the CAIR region need not submit a separate SIP revision to satisfy the section 110(a)(2)(D)(i) requirements provided that they submit a SIP revision to satisfy CAIR.

Pursuant to section 110(a)(1), those States not within the CAIR region must also make a submission with respect to those two requirements. Also in accordance with the statute, all States, both inside and outside the CAIR region must make a submission with respect to the “prevention of significant deterioration” and “protect visibility” requirements of section 110(a)(2)(D)(i). It should be noted that because the CAIR region differs for purposes of ozone and PM<sub>2.5</sub>, some States may be inside the CAIR region for purposes of one NAAQS, but outside the CAIR region for the other, and should make section 110(a)(2)(D)(i) SIP submissions that account for this distinction.

Accordingly, EPA has structured this guidance to address the different types of considerations that States may need to evaluate in making their respective submissions.

### **4. SIP Submissions from States pertaining to the “significant contribution” and “interfere with maintenance” requirements of section 110(a)(2)(D)(i):**

States not covered by the CAIR must make a section 110(a)(2)(D)(i) SIP submission addressing significant contribution to nonattainment and interference with maintenance of the 8-hour ozone and PM<sub>2.5</sub> NAAQS in any other States.

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<sup>4</sup>See, *supra* note 1.

<sup>5</sup>See, Inclusion of Delaware and New Jersey in Clean Air Interstate Rule, 71 FR 25288 (April 28, 2006).



The EPA anticipates, based upon existing information developed in connection with the CAIR, that emissions from sources in States not covered by the CAIR do not contribute significantly to nonattainment or interfere with maintenance of the 8-hour ozone or PM<sub>2.5</sub> NAAQS in any other State. Unless a State excluded from the CAIR has contrary information or analysis, EPA believes that such State should be able to make a relatively simple SIP submission verifying that the State does not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or PM<sub>2.5</sub> in another State. EPA believes that a negative declaration from each of the non-CAIR States, which certifies that the State in question does not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in another State, should be adequate to satisfy the requirements of section 110(a)(2)(D)(i).

States should submit a technical demonstration to support a negative declaration. EPA believes that this demonstration should contain the information which the State deems appropriate to support its claim that it does not significantly contribute to nonattainment or interfere with maintenance of the standards in another State. Suitable information might include, but is not be limited to, information concerning emissions in the State, meteorological conditions in the State, the distance to the nearest nonattainment area in another State, reliance on modeling conducted by EPA in determining that such State should not be included within the ambit of the CAIR, or such other information as the State considers probative on the issue of significant contribution and interference with maintenance. The EPA believes that it would be appropriate for States to make this assessment using considerations comparable to those used by EPA in evaluating significant contribution in the CAIR, *e.g.*, assessing the impacts of emissions on nearby nonattainment areas as of the year 2010, and evaluating mitigation strategies based upon emissions reductions achievable through highly cost effective controls.

In addition, States that are not subject to the CAIR, but are subject to the NO<sub>x</sub> SIP Call, may wish to indicate that SIPs submitted to meet the NO<sub>x</sub> SIP Call should be sufficient to satisfy the section 110(a)(2)(D)(i) obligation for the 8-hour ozone NAAQS. EPA initially addressed interstate transport for ozone in the NO<sub>x</sub> SIP Call rule published in 1998.<sup>6</sup> The NO<sub>x</sub> SIP Call is substantially reducing ozone transport, and is helping downwind areas meet the 8-hour ozone standards. The EPA believes that states outside the CAIR region that are meeting the NO<sub>x</sub> SIP Call should not significantly be contributing to nonattainment or interfering with maintenance in any down wind state.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i).

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<sup>6</sup> "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for the Purposes of Reducing Regional Transport of Ozone Rule, (63 FR 57356, October 27, 1998).

EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

**5. SIP Submissions from States pertaining to the “prevention of significant deterioration” requirement of section 110(a)(2)(D)(i):**

Section 110(a)(2)(D)(i)(II) also contains a requirement for all States to submit SIPs that contain adequate provisions prohibiting “.... any source or other type of emission activity within the State from emitting any air pollutant in amounts which will - interfere with measures required to be included in the applicable implementation plan for any other State .... to prevent significant deterioration of air quality ...”

Under EPA regulations, each SIP must include a preconstruction review program for major sources to satisfy the requirements of section 110(a)(2)(D)(i) of the Act. 40 C.F.R. § 51.165(b)(1). In nonattainment areas, the preconstruction review program is known as Nonattainment New Source Review (NNSR) and in attainment areas, preconstruction review is part of the Prevention of Significant Deterioration (PSD) program. These programs require preconstruction permits to protect the air quality within each state and also serve to prohibit construction of new major sources and major modifications at existing major sources from contributing to nonattainment in adjacent states. The PSD permitting program is also the primary measure that each SIP must include to prevent significant deterioration of air quality in accordance with Title I, Part C and section 110(a)(2)(D)(i)(II) of the Act. See, 40 CFR § 51.166. Section 110(a)(2)(D)(i)(II) requires that SIPs contain adequate provisions prohibiting sources or emissions activity within each state “from emitting any air pollutant in amounts which will -- ... interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality ... .” 42 U.S.C. § 7410(a)(2)(D)(i)(II).

Because all areas are currently subject to some form of preconstruction permitting program for ozone and PM<sub>2.5</sub>, it is not necessary, at this time, for States to make a SIP submission containing rule changes or modeling demonstrations in order to address section 110(a)(2)(D)(i)(II) for the 8-hour ozone and PM<sub>2.5</sub> NAAQS. EPA has established or will establish schedules for SIP submissions that incorporate revisions to EPA’s preconstruction permitting regulations that are specific to the 8-hour ozone and PM<sub>2.5</sub> NAAQS. Areas will need to revise their SIPs consistent with such schedules.

Each area of the country is currently subject to an equivalent PSD or NNSR permitting program for the 8-hour ozone standard and an interim PSD or NNSR permitting program for PM<sub>2.5</sub>. If a particular state SIP lacks an approved PSD program, the PSD permitting requirements must be implemented in that state or local area through a federal PSD program that can be administered by the state or local permitting authority under a delegation agreement with EPA. Where a state lacks an approved NNSR program, the state may issue NNSR permits

pursuant to an EPA regulation at 40 CFR Part 51, Appendix S. If such a state lacks authority to issue permits consistent with appendix S, EPA is the permitting authority.

In April 2004 and November 2005, EPA promulgated regulations in two phases that addressed (among other topics) the implementation of the PSD and NNSR programs under the 8-hour ozone NAAQS. See 69 FR 23951 (Apr. 30, 2004); 70 Fed. Reg. 71612 (Nov. 29, 2005). The first phase of these rules requires implementation of NNSR in accordance with an area's 8-hour ozone classification after revocation of the 1-hour ozone NAAQS. See 69 FR at 23985. The EPA revoked the 1-hour ozone NAAQS on June 15, 2005. Thus, new and modified major sources of volatile organic compound and NO<sub>x</sub> are currently subject to NNSR based on the designation and classification of the area in which they are located under the 8-hour ozone NAAQS. In an 8-hour ozone nonattainment area that currently has no approved nonattainment plan or otherwise lacks authority to implement nonattainment NSR for the 8-hour ozone NAAQS through a SIP-approved permitting program, permits for new and modified major stationary sources in such areas must be consistent with the requirements in appendix S of 40 CFR. Part 51. IEPA determined that states did not need to submit any revisions of their existing PSD programs to implement of the 8-hour ozone NAAQS, but the Agency simultaneously promulgated new rules to establish NO<sub>x</sub> as a precursor for ozone under the PSD program. See 68 FR. 32802, 32843-44 (Jun. 2, 2003); 70 FR at 71679. The EPA established June 15, 2007 as the deadline for states to provide SIP submissions that incorporate the requirements of the phase II ozone implementation rule into their PSD and NNSR programs. See 70 FR at 71683.

For PM<sub>2.5</sub>, EPA has recommended that states employ an interim PM<sub>2.5</sub> program that involves implementing existing PSD and NNSR programs for PM<sub>10</sub> as a surrogate for the PM<sub>2.5</sub> requirements until the necessary tools are in place for states to adopt PSD and NNSR programs for PM<sub>2.5</sub>. See, Memorandum from John Seitz, EPA OAQPS, "Interim Implementation for the New Source Review Requirements for PM<sub>2.5</sub>," (October 23, 1997); Memorandum from Steve Page, EPA OAQPS, "Implementation of New Source Review Requirements in PM<sub>2.5</sub> Nonattainment Areas." (April 5, 2005). In November 2005, EPA has proposed regulations that establish the minimum requirements for PSD and NNSR programs for PM<sub>2.5</sub>, 70 FR 65984, 66033 (Nov. 1, 2005), but the Agency has not promulgated final regulations on this subject. States are not required to submit PSD and NNSR program SIPs for PM<sub>2.5</sub> until EPA completes these regulations and finalizes the submission schedule, which we have proposed to be April 5, 2008. Until the submission date is established in EPA's final PM<sub>2.5</sub> implementation rule for NSR, states may continue to implement interim programs based on PM<sub>10</sub> and need not provide PSD or NNSR program submissions containing rule changes for PM<sub>2.5</sub>.

The air quality demonstrations required for issuance of a PSD and NNSR permit must be made for all areas that are potentially impacted by the emissions from a proposed source or modification requiring a permit. As a result, the implementation of a PSD and NNSR permitting program in each state serves to prevent significant deterioration in neighboring states and thus largely satisfies the requirements of section 110(a)(2)(D)(i)(II) of the CAA. A PSD permit may not be issued unless the new or modified source demonstrates that emissions from the

construction or operation of the facility will not cause or contribute to air pollution in any area that exceeds of any NAAQS or any maximum allowable increase (known as the PSD increment). 42 U.S.C. § 7475(a)(3); 40 CFR § 51.166(k). A NNSR permit may not be issued unless the new or modified source shows it has obtained sufficient emissions reductions to offset increases in emissions of the pollutants for which an area is in nonattainment, consistent with reasonable further program toward attainment. These offsetting reductions could also help serve to prevent significant deterioration in any instance where the emissions of a nonattainment pollutant from a source in a nonattainment area would impact a nearby attainment area for that pollutant.

In addition to PSD permitting program, a SIP may include additional measures as necessary to prevent air pollution in excess of the PSD increment that defines significant deterioration for each area. 40 CFR § 51.166(a). The EPA has not established PSD increments for ozone or PM<sub>2.5</sub>. Without these components of a PSD program, it is difficult for states to determine if additional measures are needed to prevent significant deterioration within the state. Likewise, a neighboring state cannot determine whether its SIP would interfere with such additional measures in another state's SIP. However, notwithstanding the absence of PSD increments for ozone and PM<sub>2.5</sub>, states may continue to rely on their existing PSD and NNSR permitting programs to prevent significant deterioration of air quality within their own boundaries and in adjacent states.

Because the PSD and NNSR permitting programs currently applicable in each area require a demonstration that new or modified sources will not cause or contribute to air pollution in excess of the NAAQS in neighboring states or that sources in nonattainment areas procure offsets, EPA believes that states need not make an additional SIP submission containing rule changes or modeling demonstrations to address the "prevent significant deterioration" requirement of section 110(a)(2)(D)(i)(II) for the 8-hour ozone and PM<sub>2.5</sub> NAAQS. For 8-hour ozone, each state only needs to make a SIP submission confirming that major sources in the state are currently subject to PSD and NNSR permitting programs that implement the 8-hour ozone standard and that SIP-approved states are on track to meet the June 15, 2007 deadline for SIP submissions adopting the requirements of the Phase II ozone implementation rule. For PM<sub>2.5</sub>, states need only provide a SIP submission confirming that major sources in the state are subject to PSD and NNSR permitting programs implemented in accordance with EPA's interim guidance calling for use of PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> in the PSD and NNSR programs. Additional SIP submissions will be due after the final NSR implementation rules for PM<sub>2.5</sub> are promulgated.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i). The EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

**6. SIP Submissions from States pertaining to the “protect visibility” requirement of section 110(a)(2)(D)(i):**

Section 110(a)(2)(D)(i)(II) also contains a requirement for all States to submit SIPs that contain adequate provisions prohibiting “... any source or other type of emission activity within the State from emitting any air pollutant in amounts which will - interfere with measures required to be included in the applicable implementation plan for any other State....to protect visibility.”

The EPA adopted a phased approach to visibility protection, issuing regulations in 1980 to address reasonably attributable visibility impairment, i.e., visibility impairment that is caused by the emissions of air pollutants from one, or a small number of sources, and issuing regulations in 1999 to address regional haze, i.e., “visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area.”<sup>7</sup> Under the 1980 regulations, 33 States and the Virgin Islands were required to submit SIPs to address reasonably attributable visibility impairment. At this point in time, EPA has made no determination that emissions from any State interfere with measures required to be included in a plan to address reasonably attributable visibility impairment. Further, EPA is not aware of any certification of existing reasonably attributable impairment of visibility by a Federal Land Manager that has not already been resolved. The EPA accordingly believes that States should be able to make a relatively simple SIP submission verifying that no source within the State emits pollutants that interfere with measures included in the visibility SIPs under the 1980 regulations.

In 1999, EPA found that all States contain sources whose emissions are reasonably anticipated to contribute to regional haze in one or more Class I areas.<sup>8</sup> Pursuant to this finding, States are currently under an obligation to submit SIPs that contain measures to address regional haze, including a long-term strategy to address visibility impairment for each Class I area which may be affected by emissions from a State.<sup>9</sup> The States and Regional Planning Organizations are currently engaged in the task of identifying those Class I areas impacted by each State’s emissions and developing strategies for addressing regional haze to be included in the States’ regional haze SIPs. These SIP submissions are due no later than December 17, 2007.

As a result, EPA believes that it is currently premature to determine whether or not State SIPs for 8-hour ozone or PM<sub>2.5</sub> contain adequate provisions to prohibit emissions that interfere with measures in other States’ SIPs designed to address regional haze. Accordingly, EPA believes that States may make a simple SIP submission confirming that it is not possible at this time to assess whether there is any interference with measures in the applicable SIP for another

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<sup>7</sup> See, 40 CFR section 51.300-308.

<sup>8</sup>See, “Regional Haze Regulations,” 64 FR 35,714, 35,721 (July 1, 1999).

<sup>9</sup>40 CFR 51.308(d)(3).



State designed to “protect visibility” for the 8-hour ozone and PM<sub>2.5</sub> NAAQS until regional haze SIPs are submitted and approved.

The EPA will assist each State to evaluate the available information and to develop a sufficient SIP submission and demonstration to meet this element of section 110(a)(2)(D)(i). EPA will take action on the SIP submissions made by States through notice and comment rulemaking, thereby assuring that the requirements are met.

#### **7. When should States make section 110(a)(2)(D)(i) SIP submissions?**

The EPA made the finding of failure to submit in April of 2005, with an effective date of May 25, 2005. As a result of the finding of failure to submit, the CAA imposes a 24-month clock for EPA to issue a FIP, unless a State has made the required submission to cure the failure to submit and EPA has acted to approve such submission fully in advance of the end of the 24-month period.

In conjunction with the CAIR, EPA has promulgated a FIP for all jurisdictions in the CAIR region to provide a federal backstop to insure timely and effective reductions of emissions from those States in accordance with section 110(a)(2)(D)(i)(I). The EPA has not, however, promulgated a FIP addressing section 110(a)(2)(D)(i) for any States outside of the CAIR region. States outside the CAIR region must therefore make submissions to meet the significant contribution and interference with maintenance requirements of section 110(a)(2)(D)(i)(I) to avoid a FIP addressing those requirements. In addition, all States have an outstanding statutory obligation to make a SIP submission to meet the requirements of section 110(a)(2)(D)(i)(II) in avoid a FIP for those requirements.

The EPA is currently under an obligation to issue a FIP by May 25, 2007, for any State that does not make a submission that cures the outstanding elements of section 110(a)(2)(D)(i) for that State. Unless the State makes the necessary SIP submission sufficiently in advance of that date for EPA to evaluate the submission and to take the necessary rulemaking action to approve or disapprove it, EPA may need to initiate the FIP rulemaking process in order to meet the May 2007 FIP deadline. For this reason, EPA believes that it would be appropriate for each State to make the SIP submission necessary to meet its outstanding obligations under section 110(a)(2)(D)(i) well in advance of the May 25, 2007 FIP deadline. The EPA therefore suggests that States should make their SIP submission by no later than November 25, 2006, in order to allow adequate time for the necessary Agency action on the submission.

The EPA recognizes that this target SIP submission date is only 18 months after the effective date of the finding of failure to submit, and that the Agency is issuing this guidance concerning the necessary SIP submissions only shortly in advance of the target date. As a result, EPA intends to be as flexible as possible with respect to the target SIP submission date and will work with States to insure that they can make appropriate SIP submissions as close to

November 25, 2006, as possible. However, in the event of submissions significantly later than this date, EPA may need to initiate the FIP process to meet its own statutory obligations to implement FIPs where States fail to submit SIPs that the Agency can approve in advance of the May 25, 2007 FIP deadline.

**Attachment A: States subject to the CAIR**

Alabama	Mississippi
Arkansas (ozone only)	Missouri
Connecticut (ozone only)	New York
Florida	New Jersey
Delaware	North Carolina
Georgia (PM 2.5 only)	Ohio
Illinois	Pennsylvania
Indiana	South Carolina
Iowa	Tennessee
Kentucky	Texas (PM 2.5 only)
Louisiana	Virginia
Maryland	West Virginia
Massachusetts (ozone only)	Wisconsin
Michigan	District of Columbia
Minnesota (PM 2.5 only)	

August 11, 2006

## **SIP Guidance on Section 110(a)(2)(D)(i) Findings of Failure to Submit**

*This material is intended to provide a summary of EPA's guidance to the States on their section 110(a)(2)(D)(i) SIP obligation to address interstate pollution transport for the 1997 ozone and PM<sub>2.5</sub> NAAQS.*

### **I. Background:**

- ! The Clean Air Act requires States to submit section 110 SIPs no later than 3 years after promulgation of a new or revised NAAQS. States were required to submit section 110 SIPs for the ozone and PM-2.5 NAAQS, promulgated in July of 1997, no later than July of 2000.
- ! States did not submit their section 110 SIPs by the July 2000 date, and EPA did not issue findings of failure to submit actions.
- ! Earth Justice submitted a notice of intent to sue on March 16, 2004, due to EPA's failure to issue a finding of failure to submit on the section 110 SIP requirements.
- ! On March 10, 2005, EPA entered into a Consent Decree with Earth Justice to issue findings of failure to submit section 110(a)(2)(D)(i) transport SIP requirements. The Consent Decree also calls for the submittal of the remaining requirements under section 110(a)(2) by December 2007 for Ozone and by October 2008 for PM-2.5.
- ! EPA published the finding of failure to submit in the FR on April 25, 2005 (See 70 FR 21147) with an effective date of May 25, 2005. The FR notice started a two year clock, which ends on May 25, 2007, for EPA to issue a FIP to address the transport requirements called for under section 110(a)(2)(D)(i) if States fail to submit their SIPs.

### **II. What the guidance will address:**

- ! **There are four prongs that a State must address to satisfy the section 110(a)(2)(D)(i) SIP requirement:**

The State must submit a SIP that contains adequate provisions:

- prohibiting ..... any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will:

1. Contribute significantly to nonattainment of the NAAQS for areas in another State.
2. Interfere with maintenance of the NAAQS by any other State.
3. Interfere with measures required to meet implementation plan for any other State ... related to Prevention of Significant Deterioration (PSD).

4. Interfere with measures required to meet the implementation plan for any other State ... related to Regional Haze and Visibility.

**! Guidance for Prongs 1 & 2:**

**The CAIR States (28 states & DC):**

- " The draft guidance indicates the CAIR States can satisfy the section these requirements by submitting the CAIR SIP, or relying on the CAIR FIP.

**The Non-CAIR States:**

- " For non-CAIR States we are suggesting that the State submit a negative declaration, accompanied by sufficient supporting information, to certify that emissions from their State do not contribute to nonattainment in another State or interfere with maintenance of the NAAQS in another State.
- " Appropriate supporting information may include, but is not limited to, a statement that the State has no nonattainment areas for PM-2.5 and 8-hour ozone, and that none of the adjacent States have nonattainment areas for ozone or PM-2.5. Appropriate supporting information may include, but is not limited to, the following types of information:
  - Emissions inventories for sources that impact the ozone and PM-2.5 standards
  - Meteorological data
  - Information concerning the distance between the State and the nearest nonattainment area for 8-hour ozone or PM-2.5.
  - Air quality modeling

**! Guidance for the 3<sup>rd</sup> Prong : The PSD requirement**

- o For the 8-hour ozone standard, each State only needs to make a SIP submission that confirms that major sources in the State are currently subject to PSD and NNSR permitting programs that apply to the 8-hour ozone standard and that SIP-approved States are on track to meet the June 15, 2007 deadline for SIP submissions adopting the requirements of the Phase II ozone implementation rule.
- o For the PM-2.5 standard, States need only provide a SIP submission that confirms that major sources in the State are subject to PSD and NNSR permitting programs implemented in accordance with EPA's interim guidance calling for use of PM-10 as a surrogate for PM-2.5 in the PSD and NNSR programs.

**! Guidance for Prong 4: The visibility requirement**

- o States will not be required to address this requirement until the Regional Haze SIPs are submitted (by December 17, 2007).





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
RESEARCH TRIANGLE PARK, NC 27711

AUG 15 2006

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

**MEMORANDUM**

SUBJECT: 8-Hour Ozone National Ambient Air Quality Standards (NAAQS)  
Implementation--Reasonable Further Progress (RFP)

FROM: *for* William T. Harnett *David Sanders*  
Director, Air Quality Policy Division (C504-01)

TO: Regional Air Division Directors

The attached RFP document provides additional clarification that will be helpful for the RFP State implementation plans (SIPs) which are due June 15, 2007. The document includes a table summarizing situations covered by the Phase 2 8-hour ozone NAAQS implementation rule (November 29, 2005; 69 FR 71612). In addition, it summarizes questions raised by the Regional Offices and States and provides answers to those questions. Please distribute this document to your States, local control agencies, and tribal governments.

Regional Office staff may contact David Sanders at (919) 541-3356, or by email at [sanders.david@epa.gov](mailto:sanders.david@epa.gov) or John Silvasi (919) 541-5666, or by email at [silvasi.john@epa.gov](mailto:silvasi.john@epa.gov) with any questions.

Attachment

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## 8-Hour Ozone Implementation Q's and A's Concerning RFP

1. Appendix A of the Phase 2 8-hour ozone implementation rule provides guidance on calculating the RFP targets for several kinds of areas. However, it does not provide guidance for moderate areas that have an approved 15% VOC ROP plan under the 1-hour standard and that have an attainment date beyond 5 years after designation (Situation B in the table). How should the 8-hr ozone RFP target be calculated for these areas?

**Response:** These areas are treated like subpart 1 areas, which must obtain a 15% emission reductions (can be for NO<sub>x</sub> or VOC or a combination of either) for the first 6 years after the baseline year. OTAQ is developing guidance for this situation. In the meantime, the State should use Appendix A/Method 2 (which applies to serious and higher classified areas) except that instead of demonstrating RFP for a total of 18% emission reductions for the first 6 years, the total would be 15% due to the moderate classification. See 40 CFR 51.910(a)(1)(ii)(A), which refers to section 51.910(b)(2).

2. A state is planning to request a reclassification ("bump up") for an area from marginal to moderate for ozone. They want to develop an RFP plan by the end of the year for the primary purpose of establishing motor vehicle emissions budgets (MVEBs) for transportation conformity purposes and they would like to do so relying on current emissions reductions programs (i.e., without developing new regulations). If the area has achieved the 15% RFP requirement for the 1-hour standard in the portion of the area that was designated nonattainment for the 1-hour standard, would they only need to address 8-hour RFP for the counties that were not a part of the 1-hour nonattainment area?

**Response:** This example sounds like it fits under situation D in the attached chart. The State can choose to treat the two portions of the 8-hour area together or separately. If treated together, then the State would need to develop a new 15% RFP plan for the entire area. If treated separately, the portion of the area with an approved 15% plan for the 1-hour standard would be considered to have met the section 182(b)(1) RFP requirements and would instead be subject to the subpart 1 (section 172(c)(2)) RFP requirement. If the attainment date for the 8-hour area is greater than 5 years after designation, then these counties need a 15% reduction, but may use both VOC and NO<sub>x</sub>. If the attainment date is 5 or fewer years following designation, then the state could meet the RFP requirement for the former 1-hour nonattainment counties by adopting a SIP that demonstrates attainment as expeditiously as practicable. The counties that were not subject to the 15% RFP requirement for the 1-hour standard would be subject to the section 182(b)(1) RFP requirements and would need to achieve a 15% reduction in VOC emissions for the 6-year period following the baseline. Depending on the circumstances, the area that was not previously subject to the 15% requirement for the 1-hour standard could possibly fall under either situation F or G.

3. To meet the 8-hour 15% RFP requirement in the counties that were not previously subject to the 1-hour 15% RFP requirement, can the state rely on emission reductions that are being achieved by control programs (i.e., I/M) in the former 1-hour counties to account for RFP in the additional counties?

**Response:** Control programs that are being implemented in the counties not previously subject to the 1-hour 15% requirement can be relied on for purposes of meeting the 8-hour 15% RFP requirement in those counties. However, reductions can be relied on only to the extent that (a) they are achieved after the baseline year and meet the other criteria for creditability under CAA section 182(b)(1); (b) have not been relied on for purposes of meeting the RFP requirement for the 8-hour standard in the area previously subject to the 1-hour ozone 15% VOC ROP requirement; and (c) cover the period required for RFP. States should consult the appropriate EPA Regional Office for situations not explicitly described in the rule, preamble or in this guidance.

4. Can the state use reductions from 100 km for VOC and 200 km for NOx outside of the nonattainment area to account for RFP?

**Response:** Yes, permanent, enforceable and quantifiable reductions outside the designated nonattainment area can be used to meet RFP, but there needs to be a showing that these reductions are beneficial to the nonattainment area. We have existing guidance that discusses how the RFP calculation should be performed when relying on reductions outside the nonattainment area.<sup>1</sup>

5. Must 2002 be used as the baseline for RFP and, if so, does that mean that a state cannot take credit in its RFP plan for programs that were implemented prior to 2002?

**Response:** The Phase 2 Rule indicates a strong preference for using 2002 as the baseline but does provide limited leeway for choosing a different year. Reductions achieved up to the end of the baseline year cannot be relied on for purposes of RFP. Any reductions occurring prior to the end of the baseline year are accounted for in the baseline emissions inventory. RFP reductions are reductions from the level reflected in the baseline inventory and so reductions already accounted for in the baseline inventory cannot be relied upon for RFP credit. However, certain programs, particularly programs achieving reductions from the mobile sector, achieve additional emission reductions for many years after they are first implemented. Thus reductions that are not actually achieved until after the baseline year could be relied on for purposes of the 15% RFP requirement. We note that section 182(b)(1)(D) provides a short list of measures that are not creditable for purposes of the 15% RFP requirement.

6. Does a moderate area need to achieve an additional 3 percent RFP reduction beyond 2008 (i.e., should they have to achieve the 3 percent reductions through 2011)?

**Response:** Moderate areas are not subject to the “3% RFP” requirement in subpart 2, which applies only to serious and higher classified areas. The RFP SIP is only required to provide for RFP to the attainment date, not beyond the attainment date.

7. How should the state account for shutdowns and other emission reduction credits? How should they include these in RFP calculations?

**Response:** Any shutdowns prior to December 31, 2002 are reflected in the base year inventory emissions levels. A shutdown is creditable for RFP if it is permanent, enforceable, occurs after the baseline emissions inventory year, and is not being counted elsewhere. No growth should be assumed in emissions from the time of the shutdown to the time of the use of the emission

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<sup>1</sup> Memorandum of 12/29/1997 from Richard D. Wilson “Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS”

reduction credit in the RFP calculation. Consistent with our longstanding policy, for purposes of equity, EPA encourages States to allow sources to use banked emissions reductions credits for offsetting purposes. (57 FR 13553).

8. How does the State derive average summer weekday emission estimates? (Including those for shutdowns and other emission reduction credits?)

**Response:** To the extent that we can credit such shutdowns in the rate-of-progress plans, the State would need some procedure for calculating the emission reduction credits in units consistent with the needs of the rate-of-progress plans. The State can use techniques recommended in EPA guidance to calculate summer weekday emissions. See also response to question 3 above.

9. For RFP in situations where one part of the nonattainment area has met the 15% VOC ROP requirement under the 1-hour standard (the "1-hour area"), and another part of the area has not (the "new area"), the state may rely on emission reductions from the "1-hour area" to meet its VOC RFP requirement for the new area under the 8-hour standard. Are there other restrictions that apply?

**Response:** Yes. The attached chart indicates several different situations that might fit the example provided (see specifically, situations D – G, which provide details on how the RFP requirements would apply).

Reasonable Further Progress (RFP) Guidance for 8-hr O<sub>3</sub> NAAQS Implementation—A Quick Reference Tool (not to be a substitute for the Phase 2 rule itself)

SUBPART 2 AREAS

Situation <sup>1</sup>	IF				AND IF	THEN	Reference 40 CFR 51.910 (unless otherwise noted)
	Area type <sup>2</sup>	Subpart 2 Moderate	Subpart 2 Above Moderate	Attain Date ≤ 5 years	Attain Date > 5 years		
A	Entire NA area has approved 15% VOC ROP plan under 1-hr O <sub>3</sub> NAAQS	X		X		Area considered to have met the 15% VOC ROP requirement in Sect. 182(b)(1). Area subject to subpart 1 RFP, satisfied with measures that demonstrate attainment as expeditiously as practicable (see situation J).	(b)(2)(i)
B	Entire NA area has approved 15% VOC ROP plan under 1-hr O <sub>3</sub> NAAQS	X			X	Area considered to have met the 15% VOC ROP requirement in Sect. 182(b)(1). Area subject to subpart 1 RFP; satisfied with RFP plan to demonstrate 15% emission reductions (VOC and/or NO <sub>x</sub> ) from 2002 <sup>3</sup> to 2008 and time-proportional emission reductions every 3 years beyond 2008 out to attainment date (see situation K).	(b)(2)(ii)
C	Entire NA area has approved 15% VOC ROP plan under 1-hr O <sub>3</sub> NAAQS		X		X	Area considered to have met the 15% VOC ROP requirement in Sect. 182(b)(1). Area subject to RFP requirements of section 182(c)(2)(B); satisfied with plan achieving an average of 3 percent per year reductions (VOC and/or NO <sub>x</sub> ) over the 6 years following the baseline year and then an average of 3 percent per year (VOC and/or NO <sub>x</sub> ) for each subsequent 3 year period out to the attainment year	(a)(1)(i)(B)

<sup>1</sup> Situations other than those identified here should be discussed with the appropriate Regional Office.

<sup>2</sup> Applies to an individual State portion if it is part of an interstate nonattainment area.

<sup>3</sup> Assuming 2002 is the base year for the inventory; 40 CFR 51.910(d) provides for using an alternative year.



Situation <sup>1</sup>	IF					AND IF	THEN	Reference 40 CFR 51.910 (unless otherwise noted)
	Area type <sup>2</sup>	Subpart 2 Moderate	Subpart 2 Above Moderate	Attain Date ≤ 5 years	Attain Date > 5 years			
D	Part of area has approved 15% VOC ROP plan under 1- hr O3 NAAQS <hr/> Part of area without approved 15% VOC ROP plan under 1- hr O3 NAAQS	X				Area does not meet criteria of situation G	The 8-hr nonattainment area has 2 options: Opt 1: Develop new baseline and new 8-hr 15 % VOC RFP emission reduction target for entire 8- hour area. OR Opt 2: Treat area as divided between portions of the area that have an approved 15% VOC ROP plan and those portions without an approved 15% VOC ROP plan under the 1-hr O3 NAAQS. For the portion with the approved 15% VOC ROP plan, subpart 1 RFP requirements apply (see situation J); for the portion without an approved 15% VOC ROP plan under the 1-hr O3 NAAQS, State must develop 8-hr 15 % VOC RFP emission reduction target for that portion of the 8- hour area; however, reductions may come from anywhere within the entire 8-hr O3 nonattainment area.	(a)(1)(iii)

Situation <sup>1</sup>	IF					AND IF	THEN	Reference 40 CFR 51.910 (unless otherwise noted)
	Area type <sup>2</sup>	Subpart 2 Moderate	Subpart 2 Above Moderate	Attain Date ≤ 5 years	Attain Date > 5 years			
E	Part of area has approved 15% VOC ROP plan under 1- hr O3 NAAQS		X			Area does not meet criteria of situation G	<ul style="list-style-type: none"> <li>This bullet is the same as under situation D. The 8-hr nonattainment area has 2 options: Opt 1: Develop new baseline and new 8-hr 15 % VOC RFP emission reduction target for entire 8-hour area for first 6 years after baseline year. OR Opt 2: Treat area as divided between portions of the area that have an approved 15% VOC ROP plan and those portions without an approved 15% VOC ROP plan under the 1-hr O3 NAAQS. For the portion with the 15% VOC ROP plan, subpart 1 RFP requirements apply (see situation K); for the portion without an approved 15% VOC ROP plan under the 1-hr O3 NAAQS, State must develop 8-hr 15 % VOC RFP emission reduction target for the first 6 years after the baseline year for that portion of the 8-hour area; however, reductions may come from anywhere within the entire 8-hr O3 nonattainment area.</li> <li>Section 182(c)(2)(B) RFP requirements apply after the first 6 years.</li> </ul>	(a)(1)(iii)
	Part of area without approved 15% VOC ROP plan under 1- hr O3 NAAQS							

Situation <sup>1</sup>	IF					AND IF	THEN	Reference 40 CFR 51.910 (unless otherwise noted)
	Area type <sup>2</sup>	Subpart 2 Moderate	Subpart 2 Above Moderate	Attain Date ≤ 5 years	Attain Date > 5 years			
F	Part of area has approved 15% VOC ROP plan under 1-hr O3 NAAQS					The part of the area without an approved 15% VOC ROP plan under the 1-hr standard-- a. had at one time been subject to the 15% VOC ROP requirement under the 1-hour ozone standard; b. actually obtained 15% VOC reductions after 1990; and c. had adopted and implemented control measures (that are approved in the SIP) that resulted in the 15% VOC reductions per section 182(b)(1) of the CAA and it is shown that the reductions are as expeditious as practicable.	EPA may treat the portion of the 8-hour nonattainment area without an approved 1-hr 15% VOC plan as under situations A, B, or C above, as appropriate).*	Not previously referenced
	Part of area without approved 15% VOC ROP plan under 1-hr O3 NAAQS—but had actually achieved 15% VOC due to adopted measures	X	X					

Situation <sup>1</sup>	IF					AND IF	THEN	Reference 40 CFR 51.910 (unless otherwise noted)
	Area type <sup>2</sup>	Subpart 2 Moderate	Subpart 2 Above Moderate	Attain Date ≤ 5 years	Attain Date > 5 years			
G	Part of area has approved 15% VOC ROP plan under 1-hr O3 NAAQS	X	X			a. At the time the area with an approved 15% VOC ROP plan adopted rules to meet the 15% ROP requirement, the area without an approved 15% VOC ROP plan had adopted and implemented control measures (and that were approved in the SIP) that were similar to those in the area with an approved 1-hr 15% VOC ROP plan; and b. The area had a similar mix of sources to that of the area with an approved 1-hr 15% VOC ROP plan.	EPA may treat the portion of the 8-hour nonattainment area without an approved 1-hr 15% VOC plan as under situations A, B, or C above, as appropriate).*	Preamble, 70 FR 71636, col 2
	Part of area without approved 15% VOC ROP plan under 1-hr O3 NAAQS							
H	Entire area without approved 15% VOC ROP plan under 1-hr O3 NAAQS	X	X			The area cannot meet conditions of situation I (below)	The area must meet the RFP requirements of section 182(b)(1) (and (c)(2)(B) depending on its classification).	(a)(1)(i)
I	Entire area without approved 15% VOC ROP plan under 1-hr O3 NAAQS; area had at one time been subject to 15% VOC ROP under 1-hour O3 standard	X	X			a. The area actually obtained 15% VOC reductions after 1990; and b. The area had adopted and implemented control measures (that have been approved in the SIP) that resulted in the 15% VOC reductions per section 182(b)(1) of the CAA and it is shown that the reductions are as expeditious as practicable.	EPA may treat the 8-hour nonattainment area without an approved 1-hr 15% VOC plan as under situations A, B, or C above, as appropriate).*	Not previously referenced

\* Rulemaking would also have to set forth EPA approval of the 15% VOC ROP plan under the 1-hour ozone standard.

# SUBPART 1 AREAS

Situation <sup>4</sup>	IF		THEN	
	Area type <sup>5</sup>	Attain Date ≤ 5 years	Attain Date > 5 years	Reference 40 CFR 51.910 (unless otherwise noted)
J	Entire area--Subpart 1	X		Area subject to subpart 1 RFP, satisfied with measures that demonstrate attainment as expeditiously as practicable
K	Entire area--Subpart 1		X	Area subject to subpart 1 RFP; satisfied with RFP plan to demonstrate 15% emission reductions (VOC and/or NOx) from 2002 <sup>6</sup> to 2008 and time-proportional emission reductions every 3 years beyond 2008 out to attainment date.

## ACRONYMS:

RFP Reasonable Further Progress (for 8-hour standard)  
 NA Nonattainment  
 ROP Rate of Progress (used with 1-hr standard)  
 VOC Volatile organic compound  
 NOx Nitrogen oxides  
 O3 Ozone  
 NAAQS National ambient air quality standard  
 CAA Clean Air Act

<sup>4</sup> Situations other than those identified here should be discussed with the appropriate Regional Office.

<sup>5</sup> Applies to an individual State portion if it is part of an interstate nonattainment area.

<sup>6</sup> Assuming 2002 is the base year for the inventory; 40 CFR 51.910(d) provides for using an alternative year.