UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

NOV 16 1994

MEMORANDUM

SUBJECT: Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas

FROM: Sally L. Shaver, Director
Air Quality Strategies & Standards Division (MD-15)

TO: Director, Air, Pesticides and Toxics Management Division, Regions I and IV
Director, Air and Waste Management Division, Region II
Director, Air, Radiation and Toxics Division, Region III
Director, Air and Radiation Division, Region V
Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

I. Purpose

This memorandum sets forth new guidance on maintenance plan requirements for certain nonclassifiable ozone nonattainment areas seeking redesignation to attainment. In particular, nonclassifiable ozone areas whose design values are at or below 0.106 ppm (85 percent of exceedance levels of the ozone NAAQS) at the time of redesignation may choose to submit a less rigorous maintenance plan than was formerly required. This new option is being termed a limited maintenance plan. Nonclassifiable ozone areas with design values greater than 0.106 ppm will continue to be subject to full maintenance plan requirements described in the September 4, 1992 memorandum, "Procedures for Processing Requests to Redesignate Areas to Attainment," from John Calcagni, former Director of the OAQPS Air Quality Management Division to the Regional Air Division Directors.

There are three types of nonclassifiable ozone areas: submarginal, transitional, and incomplete/no data. A description of these areas is included as Attachment A.

II. Background

Section 107(d)(3)(E) of the Act provides that a nonattainment area can be redesignated to attainment if the following criteria are met:

1. The EPA has determined that the NAAQS for the applicable pollutant has been attained.

2. The applicable implementation plan has been fully adopted under section 110(k).

3. The EPA has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.

4. The State has met all applicable requirements for the area under section 110 and part D.

5. The EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A.

Section 175A of the Act provides the general framework for maintenance plans. The maintenance plan must provide for maintenance of the NAAQS for at least 10 years after redesignation,[1] including any additional control measures as may be necessary to ensure such maintenance. In addition, maintenance plans are to contain such contingency provisions as EPA deems necessary to assure the prompt correction of a violation of the NAAQS that occurs after redesignation. The contingency measures must include, at a minimum, a requirement that the State will implement all control measures contained in the nonattainment SIP prior to redesignation.

Beyond these requirements, however, section 175A does not define the content of a maintenance plan. Thus, EPA has the authority to exercise reasonable discretion to determine those requirements. The EPA has previously issued guidance on meeting all five criteria for redesignation including maintenance plans (see Attachment B). The EPA now believes that it is justifiable and appropriate to apply a different set of maintenance plan requirements (described herein) to a limited category of ozone nonattainment areas--nonclassifiable areas whose monitored air quality is equal to or less than 85 percent of exceedance levels of the ozone NAAQS. The EPA does not believe that the full maintenance plan requirements need be applied to these areas because they have achieved air quality levels well below the

---

[1]Section 175A also requires that 8 years after redesignation, the State must submit an additional plan to provide for maintenance for a second follow-on 10-year period.

standard without the application of control measures required by the Act for classified ozone nonattainment areas. Also, these areas do not have either a recent history of monitored violation of the ozone NAAQS or a long prior history of monitored air quality problems. The EPA believes that the continued applicability of prevention of significant deterioration (PSD) requirements, any control measures already in the SIP, and Federal measures (such as the Federal motor vehicle control program) should provide adequate assurance of maintenance for these areas.

III. Qualifying for the Limited Maintenance Plan Option

To qualify for the limited maintenance plan option, the ozone design value for the area, based on the 3 years of data used to demonstrate attainment, must be at or below 0.106 ppm (85 percent of exceedance levels of the ozone NAAQS). Additionally, the design value for the area must continue to be at or below 0.106 ppm until the time of final EPA action on the redesignation. The method for calculating design values is presented in the June 18, 1990 memorandum, "Ozone and Carbon Monoxide Design Value Calculations," from William G. Laxton, former Director of the OAQPS Technical Support Division to Regional Air Directors. The memorandum focuses primarily on determining design values for nonattainment areas in order to classify the areas as marginal, moderate, serious, severe, or extreme. Therefore, the document discusses determining the design value for an area based on the monitors which are exceeding the standard. In the case of a nonattainment area seeking redesignation to attainment, all monitors must be meeting the standard. To assess whether a nonclassifiable area meets the applicability cutoff for the limited maintenance plan, a separate design value must be developed for every monitoring site. The highest of these design values is the design value for the whole area. If the area design value is at or below 0.106 ppm, the State may select the limited maintenance plan option for the first 10-year maintenance period. If the design value for the area exceeds 0.106 prior to final EPA action on the redesignation, the area no longer qualifies for the limited maintenance plan and must instead submit a full maintenance plan. The EPA will issue guidance in the future on the applicability of the limited maintenance plan option to the second follow-on 10-year maintenance period.

IV. Limited Maintenance Plan Elements

Following is a list of core provisions which should be included in a limited maintenance plan. Any final EPA determination regarding the adequacy of a limited maintenance plan will be made following review of the plan submittal in light of the particular circumstances facing the area proposed for redesignation and based on all relevant available information.

a. Attainment Inventory

The state should develop an attainment emissions inventory to identify a level of emissions in the area which is sufficient to attain the NAAQS. This inventory should be consistent with EPA's most recent guidance[2] on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory should be based on actual "typical summer day" emissions of VOC and NOx (ozone precursors). Emissions of CO are not necessary in the attainment inventory because they will not be tracked for maintenance purposes.

b. Maintenance Demonstration

The maintenance demonstration requirement is considered to be satisfied for nonclassifiable areas if the monitoring data show the area is meeting the air quality criteria discussed above. There is no requirement to project emissions over the maintenance period. The EPA believes if the area begins the maintenance period at or below 85 percent of exceedance levels, the air quality along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the initial 10-year maintenance period.

When EPA approves a limited maintenance plan, EPA is concluding that an emissions budget may be treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the ozone NAAQS would result.

c. Monitoring Network/Verification of Continued Attainment

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved air quality monitoring network, in accordance with 40 CFR part 58. This is particularly important for areas using a limited maintenance plan because there will be no cap on emissions.

Note

---

[2]The EPA's current guidance on the preparation of emissions inventories for ozone areas is contained in the following documents: "Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone: Volume I" (EPA-450/4-91-016), "Emission Inventory Requirements for Ozone State Implementation Plans" (EPA-450/4-91-010), and "Procedures for Emission Inventory Preparation: Volume IV, Mobile Sources" (EPA-450/4-81-026d).

d. Contingency Plan

Section 175A of the Act requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. These contingency measures do not have to be fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. The contingency plan should identify the measures to be promptly adopted and provide a schedule and procedure for adoption and implementation of the measures. The State should also identify specific indicators, or triggers, which will be used to determine when the contingency measures need to be implemented. While a violation of the NAAQS is an acceptable trigger, States may wish to choose a pre-violation action level as a trigger, such as an exceedance of the NAAQS. By taking early action, a State may be able to prevent any actual violation of the NAAQS and, therefore, eliminate any need on the part of EPA to redesignate an area back to nonattainment.

V. Conformity Determinations Under Limited Maintenance Plans

The transportation conformity rule (58 FR 62188; November 24, 1993) and the general conformity rule (58 FR 63214; November 30, 1993) apply to nonattainment areas and maintenance areas operating under maintenance plans. Under either rule, one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. As discussed above in section IV(b), emissions budgets in limited maintenance plan areas may be treated as essentially not constraining for the length of the initial maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the ozone NAAQS would result. In other words, EPA would be concluding that emissions need not be capped for the maintenance period. Therefore, in areas with approved limited maintenance plans, Federal actions requiring conformity determinations under the transportation conformity rule could be considered to satisfy the "budget test" required in sections 93.118, 93.119, and 93.120 of the rule. Similarly, in these areas, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in section 93.158(a)(5)(i)(A) of the rule.

For further information regarding the limited maintenance plan option for nonclassifiable ozone areas, please contact Carla Oldham at (919) 541-3347. For information regarding transportation conformity requirements, please contact Kathryn Sargeant of the Office of Mobile Sources at (313) 668-4441. For

information regarding general conformity requirements, please contact Doug Grano at (919) 541-3292.

Attachments.

ATTACHMENT A

The EPA used 1987-89 as the primary data years in determining designations and classifications for ozone areas set forth in the November 6, 1991 final rule on Air Quality Designations and Classifications (56 FR 56694). Certain ozone nonattainment areas could not be classified as marginal or above under Table 1 of section 181(a)(1) of the Clean Air Act either because of incomplete monitoring data or because they were nonattainment pre-enactment but did not violate the standard during 1987-89. These areas are collectively called nonclassifiable areas. Nonclassifiable ozone areas consist of transitional, submarginal, and incomplete/no data areas.

Transitional areas

An area is considered transitional under section 185A if it was designated nonattainment both prior to enactment and at the time of enactment, and did not violate the primary NAAQS for ozone over the 3-year period from 1987-1989.

Section 185A of the Act required EPA to make a determination, by June 30, 1992, whether the designated transitional areas had continued to meet the ozone NAAQS through December 31, 1991. All 12 transitional areas were attaining the NAAQS through December 31, 1991 and none are known to have violated the standard since. In May and June of 1992, Regional Administrators sent letters to Governors of States with transitional areas notifying them of EPA's determination.

Submarginal areas

Compliance with the ozone NAAQS is determined on the basis of expected exceedances which include an adjustment for missing data.[1] The submarginal category includes areas that violated the ozone NAAQS during 1987-89 but had a design value for the period of less than .121 ppm (the lower limit for marginal areas) due to the adjustment for missing data when calculating expected exceedances. Presently, there are no submarginal areas.

Incomplete/no data areas

Certain ozone areas designated nonattainment prior to enactment and at enactment did not have sufficient air quality monitoring data to determine whether they were or were not violating the NAAQS. These areas are termed incomplete/no data areas. These include areas which do not have monitors. Currently, there are 47 incomplete/no data areas.

---

[1]This adjustment procedure is described in 40 CFR part 50.9, appendix H.

ATTACHMENT B

The EPA policies for implementing sections 107 and 175A of the Act for redesignations are contained in the following memorandums.

1. "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992.

2. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

3. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992.

4. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

5. "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498; April 16, 1992).