

The EPA's alternative proposed disapproval of the state request under section 110 and subchapter I, part D of the CAA would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the state submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, EPA certifies that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the Act does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed disapproval because it would affect only the State of New York, which is not a small government.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 29, 1999.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 99-31712 Filed 12-15-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ40-205, FRL-6502-3]

Approval and Promulgation of Implementation Plans; New Jersey; One-Hour Ozone Attainment Demonstrations State Implementation Plan and 2007 Transportation Conformity Budgets

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve New Jersey's Ozone Attainment Demonstration State Implementation Plan (SIP) for the New York-Northern New Jersey-Long Island nonattainment area (NAA) and the Philadelphia, Wilmington, Trenton NAA or in the alternative to disapprove it, depending on whether New Jersey submits the adopted NO_x SIP Call, the revised transportation conformity budgets and necessary enforceable commitments.

First, EPA is proposing to approve New Jersey's Ozone Attainment

Demonstration SIP provided New Jersey submits: the adopted NO_x SIP Call program as a SIP revision; an enforceable commitment to adopt sufficient measures to address the required level of emission reductions identified by EPA; revised transportation conformity budgets which reflect the additional emission reductions identified by EPA for attainment; revised transportation conformity budgets to include the Tier 2/Sulfur program benefits, if these benefits have not already been incorporated; an enforceable commitment to revise the Attainment Demonstration SIP, including recalculation of the transportation conformity budgets (if any of the additional emission reductions pertain to motor vehicle measures) to reflect the adopted additional measures needed for attainment; and, an enforceable commitment to revise the Attainment Demonstration, including transportation conformity budgets, when MOBILE6 (the most recent model for estimating obile source emissions) is released.

With respect to the NO_x SIP Call, the proposed approval is predicated upon the expectation that New Jersey will submit the NO_x SIP Call program prior to EPA taking final action on today's proposal.

EPA also is proposing to disapprove-in-the-alternative New Jersey's Ozone Attainment Demonstration SIP for the New York-Northern New Jersey-Long Island NAA and the Philadelphia, Wilmington, Trenton NAA if New Jersey does not provide one of more of the identified elements by the required dates.

DATES: Comments must be received on or before February 14, 2000.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866

Copies of the New Jersey submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866 and New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290

Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249

SUPPLEMENTARY INFORMATION: This section provides background information on attainment demonstration SIPs for the 1-hour ozone national ambient air quality standard (NAAQS) and an analysis of the 1-hour ozone attainment demonstration SIP submittal for the State of New Jersey.

Table of Contents

- I. Background Information
 - A. What is the Basis for the State's Attainment Demonstration SIP?
 - 1. CAA Requirements
 - 2. History and Time Frame for the State's Attainment Demonstration SIP
 - 3. Time Frame for Taking Action on Attainment Demonstration SIPs for 10 Serious and Severe Areas
 - 4. Options for Action on a State's Attainment Demonstration SIP
 - B. What are the Components of a Modeled Attainment Demonstration?
 - 1. Modeling Requirements
 - 2. Additional Analyses Where Modeling Fails to Show Attainment
 - C. What is the Frame Work for Proposing Action on the Attainment Demonstration SIPs?
 - 1. CAA measures and measures relied on in the modeled attainment demonstration SIP
 - 2. NO_x Reductions Affecting Boundary Conditions
 - 3. Motor Vehicle Emissions Budget
 - 4. Tier 2/Sulfur Program Benefits—Revisions to the Motor Vehicle Emissions Budget and the Attainment Demonstration When EPA Issues the MOBILE6 Model
 - 5. Additional Measures to Further Reduce Emissions—Guidance on Additional Control Measures
 - 6. Mid-Course Review
 - D. In Summary, What Does EPA Expect to Happen with Respect to Attainment Demonstrations for the New York-Northern New Jersey-Long Island Area, and the Philadelphia, Wilmington, Trenton Area 1-Hour Ozone Nonattainment Areas?
 - E. What are the Relevant Policy and Guidance Documents?
- II. EPA's Review and Technical Information
 - A. What was included in New Jersey's submittals?
 - B. What Modeling Did the States Do to Show Attainment of the 1-hour Ozone Standard?
 - C. How Did the States Do Photochemical Grid Modeling?
 - 1. Northern New Jersey Nonattainment Area
 - 2. Trenton Nonattainment Area
 - D. What Were the Results of Photochemical Grid Modeling?
 - 1. Northern New Jersey Nonattainment Area
 - 2. Trenton Nonattainment Area
 - E. What Were the Results of the State's Design Value Rollback Analysis?
 - 1. Northern New Jersey Nonattainment Area

- 2. Trenton Nonattainment Area
- F. What were the results of air quality trends analyses?
 - 1. Northern New Jersey Nonattainment Area
 - 2. Trenton Nonattainment Area
- G. What Are the Uncertainties in These Analyses?
- H. What are the results of EPA's Evaluation?
 - 1. Northern New Jersey Nonattainment Area
 - 2. Trenton Nonattainment Area
- I. What Is Needed To Demonstrate Attainment?
- J. How is the Tier 2/Sulfur Program needed?
 - K. What Is the Status of New Jersey's Transportation Conformity Budgets?
 - L. What Future Actions Are Needed from New Jersey for an Approvable Ozone Attainment Demonstration SIP?
 - 1. NO_x SIP Call Submittal
 - 2. CAA Measures and Measures Relied on in the Attainment Demonstration SIP
 - 3. Additional Measures to Further Reduce Emissions
 - 4. Attainment Demonstration—Conformity Budget—Tier 2/Sulfur Program Benefit
- M. What Are the Consequences of State Failure?
 - 1. What are the CAA's Provisions for Sanctions?
 - 2. What are the CAA's FIP Provisions If a State Fails to Submit a Plan?
- N. What are EPA's Conclusions?
- III. Administrative Requirements
 - A. Executive Order (E.O.) 12866
 - B. Regulatory Flexibility Act
 - C. Unfunded Mandates
 - D. Executive Order 13132
 - E. Regulatory Flexibility Act
 - F. Unfunded Mandates
 - G. National Technology Transfer and Advancement Act

I. Background Information

A. What Is the Basis for the State's Attainment Demonstration SIP?

1. CAA Requirements

The Clean Air Act (CAA) requires EPA to establish national ambient air quality standards (NAAQS or standards) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. CAA sections 108 and 109. In 1979, EPA promulgated the 1-hour 0.12 parts per million (ppm) ground-level ozone standard. 44 FR 8202 (Feb. 8, 1979). Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_x and VOC are referred to as precursors of ozone.

An area exceeds the 1-hour ozone standard each time an ambient air quality monitor records a 1-hour average ozone concentration above 0.124 ppm.

An area is violating the standard if, over a consecutive three-year period, more than three exceedances are expected to occur at any one monitor. The CAA, as amended in 1990, required EPA to designate as nonattainment any area that was violating the 1-hour ozone standard, generally based on air quality monitoring data from the three-year period from 1987–1989. CAA section 107(d)(4); 56 FR 56694 (Nov. 6, 1991). The CAA further classified these areas, based on the area's design value, as marginal, moderate, serious, severe or extreme. CAA section 181(a). Marginal areas were suffering the least significant air pollution problems while the areas classified as severe and extreme had the most significant air pollution problems.

The control requirements and dates by which attainment needs to be achieved vary with the area's classification. Marginal areas are subject to the fewest mandated control requirements and have the earliest attainment date. Severe and extreme areas are subject to more stringent planning requirements but are provided more time to attain the standard. Serious areas are required to attain the 1-hour standard by November 15, 1999 and severe areas are required to attain by November 15, 2005 or November 15, 2007. The Philadelphia, Wilmington, Trenton nonattainment area is classified as severe 15 so its attainment date is November 15, 2005. The New York-Northern New Jersey-Long Island nonattainment area is classified as severe 17 so its attainment date is November 15, 2007.

Under section 182(c)(2) and (d) of the CAA, serious and severe areas were required to submit by November 15, 1994 demonstrations of how they would attain the 1-hour standard and how they would achieve reductions in VOC emissions of 9 percent for each three-year period until the attainment year (rate-of-progress or ROP). (In some cases, NO_x emission reductions can be substituted for the required VOC emission reductions.) Today, in this proposed rule, EPA is proposing action on the attainment demonstration SIP submitted by State of New Jersey for the Philadelphia, Wilmington, Trenton and the New York-Northern New Jersey-Long Island nonattainment areas. EPA is also proposing action on the State's commitment to submit ROP target calculations and the adopted measures to achieve ROP by December 2000. In addition, elsewhere in this **Federal Register**, EPA is today proposing to take action on eight other serious or severe 1-hour ozone attainment demonstration and, in some cases, ROP Plan SIPs. The additional nine areas are Greater

Connecticut (CT), Springfield (Western Massachusetts) (MA), Baltimore (MD), Metropolitan Washington, D.C. (DC—MD—VA), Atlanta (GA), Milwaukee-Racine (WI), Chicago-Gary-Lake County (IL—IN), and Houston-Galveston-Brazoria (TX).

In general, an attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the standard by its attainment date and the control measures necessary to achieve those reductions. Another component of the attainment demonstration SIP is a motor vehicle emissions budget for transportation conformity purposes. Transportation conformity is a process for ensuring that states consider the effects of emissions associated with new or improved federally-funded roadways on attainment of the standard. As described in section 176(c)(2)(A), attainment demonstrations necessarily include the estimates of motor vehicle emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether transportation plans and projects conform to the attainment SIP.

2. History and Time Frame for the State's Attainment

Demonstration SIP. Notwithstanding significant efforts by the states, in 1995 EPA recognized that many states in the eastern half of the United States could not meet the November 1994 time frame for submitting an attainment demonstration SIP because emissions of NO_x and VOCs in upwind states (and the ozone formed by these emissions) affected these nonattainment areas and the full impact of this effect had not yet been determined. This phenomenon is called ozone transport.

On March 2, 1995, Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, issued a memorandum to EPA's Regional Administrators acknowledging the efforts made by states but noting the remaining difficulties in making attainment demonstration SIP submittals.¹ Recognizing the problems created by ozone transport, the March 2, 1995 memorandum called for a collaborative process among the states in the eastern half of the country to evaluate and address transport of ozone and its precursors. This memorandum led to the formation of the Ozone

Transport Assessment Group (OTAG)² and provided for the states to submit the attainment demonstration SIPs based on the expected time frames for OTAG to complete its evaluation of ozone transport.

In June 1997, OTAG concluded and provided EPA with recommendations regarding ozone transport. The OTAG generally concluded that transport of ozone and the precursor NO_x is significant and should be reduced regionally to enable states in the eastern half of the country to attain the ozone NAAQS.

In recognition of the length of the OTAG process, in a December 29, 1997 memorandum, Richard Wilson, EPA's then Acting Assistant Administrator for Air and Radiation, provided until April 1998 for states to submit the following elements of their attainment demonstration SIPs for serious and severe nonattainment areas: (1) Evidence that the applicable control measures in subpart 2 of part D of title I of the CAA were adopted and implemented or were on an expeditious course to being adopted and implemented; (2) a list of measures needed to meet the remaining ROP Plan emissions reduction requirement and to reach attainment; (3) for severe areas only, a commitment to adopt and submit target calculations for post-1999 ROP Plan and the control measures necessary for attainment and ROP through the attainment year by the end of 2000; (4) a commitment to implement the SIP control programs in a timely manner and to meet ROP emissions reductions and attainment; and (5) evidence of a public hearing on the state submittal.³ This submission is sometimes referred to as the Phase 2 submission. Motor vehicle emissions budgets can be established based on a commitment to adopt the measures needed for attainment and identification of the measures needed. Thus, state submissions due in April 1998 under the Wilson policy should have included a motor vehicle emissions budget.

Building upon the OTAG recommendations and technical analyses, in November 1997, EPA proposed action addressing the ozone transport problem. In its proposal, the EPA found that current SIPs in 22 states and the District of Columbia (23

jurisdictions) were insufficient to provide for attainment and maintenance of the 1-hour standard because they did not regulate NO_x emissions that significantly contribute to ozone transport. 62 FR 60318 (Nov. 7, 1997). The EPA finalized that rule in September 1998, calling on the 23 jurisdictions to revise their SIPs to require NO_x emissions reductions within the state to a level consistent with a NO_x emissions budget identified in the final rule. 63 FR 57356 (Oct. 27, 1998). This final rule is commonly referred to as the NO_x SIP Call.

3. Time Frame for Taking Action on Attainment Demonstration SIPs for 10 Serious and Severe Areas

The states generally submitted the SIPs between April and October of 1998; some states are still submitting additional revisions as described below. Under the CAA, EPA is required to approve or disapprove a state's submission no later than 18 months following submission. (The statute provides up to 6 months for a completeness determination and an additional 12 months for approval or disapproval.) The EPA believes that it is important to keep the process moving forward in evaluating these plans and, as appropriate, approving them. Thus, in today's **Federal Register**, EPA is proposing to take action on the 10 serious and severe 1-hour ozone attainment demonstration SIPs (located in 13 states and the District of Columbia) and intends to take final action on these submissions over the next 6–12 months. The reader is referred to individual dates in this document for specific information on actions leading to EPA's final rulemaking on these plans.

4. Options for Action on a State's Attainment Demonstration SIP

Depending on the circumstances unique to each of the 10 area SIP submissions on which EPA is proposing action today, EPA is proposing one or more of these types of approval or disapproval in the alternative. In addition, these proposals may identify additional action that will be necessary from the state.

The CAA provides for EPA to approve, disapprove, partially approve or conditionally approve a state's plan submission. CAA section 110(k). The EPA must fully approve the submission if it meets the attainment demonstration requirement of the CAA. If the submission is deficient in some way, EPA may disapprove the submission. In the alternative, if portions of the submission are approvable, EPA may

¹ Memorandum, "Ozone Attainment Demonstrations," issued March 2, 1995. A copy of the memorandum may be found on EPA's web site at <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

² Letter from Mary A. Gade, Director, State of Illinois Environmental Protection Agency to Environmental Council of States (ECOS) Members, dated April 13, 1995.

³ Memorandum, "Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM 10 NAAQS," issues December 29, 1997. A copy of this memorandum may be found on EPA's web site at <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

partially approve and partially disapprove, or may conditionally approve based on a commitment to correct the deficiency by a date certain, which can be no later than one year from the date of EPA's final conditional approval.

The EPA may partially approve a submission if separable parts of the submission, standing alone, are consistent with the CAA. For example, if a state submits a modeled attainment demonstration, including control measures, but the modeling does not demonstrate attainment, EPA could approve the control measures and disapprove the modeling for failing to demonstrate attainment.

The EPA may issue a conditional approval based on a state's commitment to expeditiously correct a deficiency by a date certain that can be no later than one year following EPA's conditional approval. Such commitments do not need to be independently enforceable because, if the state does not fulfill its commitment, the conditional approval is converted to a disapproval. For example, if a state commits to submit additional control measures and fails to submit them or EPA determines the state's submission of the control measures is incomplete, the EPA will notify the state by letter that the conditional approval has been converted to a disapproval. If the state submits control measures that EPA determines are complete or that are deemed complete, EPA will determine through rulemaking whether the state's attainment demonstration is fully approvable or whether the conditional approval of the attainment demonstration should be converted to a disapproval.

Finally, EPA has recognized that in some limited circumstances, it may be appropriate to issue a full approval for a submission that consists, in part, of an enforceable commitment. Unlike the commitment for conditional approval, such an enforceable commitment can be enforced in court by EPA or citizens. In addition, this type of commitment may extend beyond one year following EPA's approval action. Thus, EPA may accept such an enforceable commitment where it is infeasible for the state to accomplish the necessary action in the short term.

B. What Are the Components of a Modeled Attainment Demonstration?

The EPA provides that states may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment. In order to have a complete modeling demonstration submission, states

should have submitted the required modeling analysis and identified any additional evidence that EPA should consider in evaluating whether the area will attain the standard.

1. Modeling Requirements

For purposes of demonstrating attainment, the CAA requires serious and severe areas to use photochemical grid modeling or an analytical method EPA determines to be as effective.⁴ The photochemical grid model is set up using meteorological conditions conducive to the formation of ozone. Emissions for a base year are used to evaluate the model's ability to reproduce actual monitored air quality values and to predict air quality changes in the attainment year due to the emission changes which include growth up to and controls implemented by the attainment year. A modeling domain is chosen that encompasses the nonattainment area. Attainment is demonstrated when all predicted concentrations inside the modeling domain are at or below the NAAQS or at an acceptable upper limit above the NAAQS permitted under certain conditions by EPA's guidance. When the predicted concentrations are above the NAAQS, an optional weight of evidence determination which incorporates but is not limited to other analyses such as air quality and emissions trends may be used to address uncertainty inherent in the application of photochemical grid models.

The EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the state must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures to be used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA Regional offices, the regulated community, and public interest groups). Second, for purposes of developing the information to put into the model, the state must select air pollution days, i.e., days in the past with bad air quality,

that are representative of the ozone pollution problem for the nonattainment area. Third, the state needs to identify the appropriate dimensions of the area to be modeled, i.e., the domain size. The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment. Fourth, the state needs to determine the grid resolution. The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces. Fifth, the state needs to generate meteorological data that describe atmospheric conditions and emissions inputs. Finally, the state needs to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model predicted 1-hour daily maximum concentrations in all grid cells for the attainment year to the level of the NAAQS. A predicted concentration above 0.124 ppm ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to attain the standard. This type of test is often referred to as an exceedance test. The EPA's guidance recommends that states use either of two modeled attainment or exceedance tests for the 1-hour ozone NAAQS: a deterministic test or a statistical test.

The deterministic test requires the state to compare predicted 1-hour daily maximum ozone concentrations for each modeled day⁵ to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed.

The statistical test takes into account the fact that the form of the 1-hour ozone standard allows exceedances. If, over a three-year period, the area has an average of one or fewer exceedances per year, the area is not violating the standard. Thus, if the state models a

⁴ The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the 1-hour ozone NAAQS. See U.S. EPA (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA-450/4-91-013 (July 1991). A copy may be found on EPA's web site at <http://www.epa.gov/ttn/scram/> (file name: "UAMREG"). See also U.S. EPA (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-95-007 (June 1996). A copy may be found on EPA's web site at <http://www.epa.gov/ttn/scram/> (file name: "O3TEST").

⁵ The initial, "ramp-up" days for each episode are excluded from this determination.

very extreme day, the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the standard. (The form of the 1-hour standard allows for up to three readings above the standard over a three-year period before an area is considered to be in violation.)

The acceptable upper limit above 0.124 ppm is determined by examining the size of exceedances at monitoring sites which meet the 1-hour NAAQS. For example, a monitoring site for which the four highest 1-hour average concentrations over a three-year period are 0.136 ppm, 0.130 ppm, 0.128 ppm and 0.122 ppm is attaining the standard. To identify an acceptable upper limit, the statistical likelihood of observing ozone air quality exceedances of the standard of various concentrations is equated to the severity of the modeled day. The upper limit generally represents the maximum ozone concentration observed at a location on a single day and it would be the only reading above the standard that would be expected to occur no more than an average of once a year over a three-year period. Therefore, if the maximum ozone concentration predicted by the model is below the acceptable upper limit, in this case 0.136 ppm, then EPA might conclude that the modeled attainment test is passed. Generally, exceedances well above 0.124 ppm are very unusual at monitoring sites meeting the NAAQS. Thus, these upper limits are rarely substantially higher than the attainment level of 0.124 ppm.

2. Additional Analyses Where Modeling Fails To Show Attainment

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is called a Weight of evidence determination.

Under a Weight of evidence determination, the state can rely on and EPA will consider factors such as other modeled attainment tests, e.g., a rollback analysis; other modeled

outputs, e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emissions trends; analyses of air quality monitored data; the responsiveness of the model predictions to further controls; and, whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary from case to case. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the Weight of evidence needs to be.

The EPA's 1996 modeling guidance also recognizes a need to perform a mid-course review as a means for addressing uncertainty in the modeling results. Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on Weight of evidence needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. The mid-course review is discussed in Section C.6.

C. What is the Frame Work for Proposing Action on the Attainment Demonstration SIPs?

In addition to the modeling analysis and Weight of evidence support demonstrating attainment, the EPA has identified the following key elements which must be present in order for EPA to approve or conditionally approve the 1-hour attainment demonstration SIPs. These elements are listed below and then described in detail.

—CAA measures and measures relied on in the modeled attainment demonstration SIP. This includes adopted and submitted rules for all previously required CAA mandated measures for the specific area classification. This also includes measures that may not be required for the area classification but that the state relied on in the SIP submission for attainment and ROP plans on which EPA is proposing to take action on today.

—NO_x reductions affecting boundary conditions.

—Motor vehicle emissions budget. A motor vehicle emissions budget which

can be determined by EPA to be adequate for conformity purposes.

—Tier 2/Sulfur program benefits where needed to demonstrate attainment. Inclusion of reductions expected from EPA's Tier 2 tailpipe and low sulfur-in-fuel standards in the attainment demonstration and the motor vehicle emissions budget.

—In certain areas, additional measures to further reduce emissions to support the attainment test. Additional measures may be measures adopted regionally such as in the Ozone Transport Region (OTR), or locally (intrastate) in individual states.

—Mid-course review. An enforceable commitment to conduct a mid-course review and evaluation based on air quality and emission trends. The mid-course review would show whether the adopted control measures are sufficient to reach attainment by the area's attainment date, or that additional control measures are necessary.

1. CAA measures and measures relied on in the modeled attainment demonstration SIP

The states should have adopted the control measures already required under the CAA for the area classification. Since these 10 serious and severe areas need to achieve substantial reductions from their 1990 emissions levels in order to attain, EPA anticipates that these areas need all of the measures required under the CAA to attain the 1-hour ozone NAAQS.

In addition, the states may have included control measures in its attainment strategy that are in addition to measures required in the CAA. (For serious areas, these should have already been identified and adopted, whereas severe areas have until December 2000 to submit measures necessary to achieve ROP through the attainment year and to attain.) For purposes of fully approving the State's SIP, the State will need to adopt and submit all VOC and NO_x controls within the local modeling domain that were relied on for purposes of the modeled attainment demonstration.

The following tables present a summary of the CAA requirements that need to be met for each serious and severe nonattainment area for the 1-hour ozone NAAQS. These requirements are specified in section 182 of the CAA. Information on more measures that states may have adopted or relied on in their current SIP submissions is not shown in the tables. EPA will need to take final action approving all measures relied on for attainment, including the required ROP Plan control measures and target calculations, before EPA can issue

a final full approval of the attainment demonstration as meeting CAA section 182(c)(2) (for serious areas) or (d) (for severe areas).

CAA REQUIREMENTS FOR SERIOUS AREAS

- NSR for VOC and NO_x¹, including an offset ratio of 1.2:1 and a major VOC and NO_x source cutoff of 50 tons per year (tpy)
- Reasonable Available Control Technology (RACT) for VOC and NO_x¹
- Enhanced Inspection and Maintenance (I/M) program
- 15% volatile organic compound (VOC) plans
- Emissions inventory
- Emission statements
- Periodic inventories
- Attainment demonstration
- 9 percent ROP plan through 1999
- Clean fuels program or substitute
- Enhanced monitoring Photochemical Assessment Monitoring Stations (PAMS)
- Stage II vapor recovery
- All of the nonattainment area requirements for serious areas
- NSR, including an offset ratio of 1.3:1 and a major VOC and NO_x source cutoff of 25 tons per year (tpy)
- Reformulated gasoline
- 9 percent ROP plan through attainment year
- Requirement for fees for major sources for failure to attain

¹ Unless the area has in effect a NO_x waiver under section 182(f). The New York-Northern New Jersey-Long Island is not such an area.

2. NO_x Reductions Affecting Boundary Conditions

The EPA completed final rulemaking on the NO_x SIP Call on October 27, 1998, which required States to address transport of NO_x and ozone to other States. To address transport, the NO_x SIP Call established emissions budgets for NO_x that 23 jurisdictions were required to show they would meet through enforceable SIP measures adopted and submitted by September 30, 1999. The NO_x SIP Call is intended to reduce emissions in upwind States that significantly contribute to nonattainment problems. The EPA did not identify specific sources that the States must regulate nor did EPA limit the States' choices regarding where to achieve the emission reductions. Subsequently, a three-judge panel of the Court of Appeals for the District of Columbia Circuit issued an order staying the portion of the NO_x SIP call rule requiring States to submit rules by September 30, 1999.

The NO_x SIP Call rule establishes budgets for the states in which 9 of the nonattainment areas for which EPA is proposing action today are located. The 9 areas are: Greater Connecticut, Springfield MA, New York-North New Jersey-Long Island (NY-NJ-CT), Baltimore MD, Philadelphia-Wilmington-Trenton (PA-NJ-DE-MD), Metropolitan Washington, D.C. (DC-

MD-VA), Atlanta GA, Milwaukee-Racine WI, and Chicago-Gary-Lake County (IL-IN).

Emission reductions that will be achieved through EPA's NO_x SIP Call will reduce the levels of ozone and ozone precursors entering nonattainment areas at their boundaries. For purposes of developing attainment demonstrations, States define local modeling domains that include both the nonattainment area and nearby surrounding areas. The ozone levels at the boundary of the local modeling domain are reflected in modeled attainment demonstrations and are referred to as boundary conditions. With the exception of Houston, the 1-hour attainment demonstrations on which EPA is proposing action have relied, in part, on the NO_x SIP Call reductions for purposes of determining the boundary conditions of the modeling domain. Emission reductions assumed in the attainment demonstrations are modeled to occur both within the State and in upwind States; thus, intrastate reductions as well as reductions in other States impact the boundary conditions. Although the court has indefinitely stayed the SIP submission deadline, the NO_x SIP Call rule remains in effect. Therefore, EPA believes it is appropriate to allow States to continue to assume the reductions from the NO_x SIP call in areas outside the local 1-hour modeling domains. If States assume control levels and emission reductions other than those of the NO_x SIP call within their State but outside of the modeling domain, States must also adopt control measures to achieve those reductions in order to have an approvable plan.

Accordingly, States in which the nonattainment areas are located will not be required to adopt measures outside the modeling domain to achieve the NO_x SIP call budgets prior to the time that all States are required to comply with the NO_x SIP call. If the reductions from the NO_x SIP call do not occur as planned, States will need to revise their SIPs to add additional local measures or obtain interstate reductions, or both, in order to provide sufficient reductions needed for attainment.

As provided in section 1 above, any controls assumed by the State inside the local modeling domain⁶ for purposes of

the modeled attainment demonstration must be adopted and submitted as part of the State's 1-hour attainment demonstration SIP. It is only for reductions occurring outside the local modeling domain that States may assume implementation of NO_x SIP call measures and the resulting boundary conditions.

3. Motor Vehicle Emissions Budget

The EPA believes that attainment demonstration SIPs must necessarily estimate the motor vehicle emissions that will be produced in the attainment year and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. The estimate of motor vehicle emissions is used to determine the conformity of transportation plans and programs to the SIP, as described by CAA section 176(c)(2)(A). For transportation conformity purposes, the estimate of motor vehicle emissions is known as the motor vehicle emissions budget. The EPA believes that appropriately identified motor vehicle emissions budgets are a necessary part of an attainment demonstration SIP. A SIP cannot effectively demonstrate attainment unless it identifies the level of motor vehicle emissions that can be produced while still demonstrating attainment.

The EPA has determined that except for the Western MA (Springfield) attainment demonstration SIP, the motor vehicle emission budgets for all areas in today's proposals are inadequate or missing from the attainment demonstration. Therefore, EPA is proposing to disapprove the attainment demonstration SIPs for those nine areas if the states do not submit motor vehicle emissions budgets that EPA can find adequate by May 31, 2000. In order for EPA to complete the adequacy process by the end of May, states should submit a budget no later than December 31, 1999.⁷ If an area does not have a motor vehicle emissions budget that EPA can determine adequate for conformity purposes by May 31, 2000, EPA plans to take final action at that time disapproving in full or in part the area's attainment demonstration. The emissions budget should reflect all

⁶ For the purposes of this document, "local modeling domain" is typically an urban scale domain with horizontal dimensions less than about 300 km on a side, horizontal grid resolution less than or equal to 5x5 km or finer. The domain is large enough to ensure that emissions occurring at 8 am in the domain's center are still within the domain at 8 pm the same day. If recirculation of the nonattainment area's previous day's emissions is believed to contribute to an observed problem, the domain is large enough to characterize this.

⁷ A final budget is preferred; but, if the state public hearing process is not yet complete, then the proposed budget for public hearing may be submitted. The adequacy process generally takes at least 90 days. Therefore, in order for EPA to complete the adequacy process no later than the end of May, EPA must have by February 15, 2000, the final budget or a proposed budget that is substantially similar to what the final budget will be. The state must submit the final budget by April 15, 2000.

the motor vehicle control measures contained in the attainment demonstration, i.e., measures already adopted for the nonattainment area as well as those yet to be adopted.

4. Tier 2/Sulfur Program Benefits

On May 13, 1999, EPA published a Notice of Proposed Rulemaking (NPRM) proposing a major, comprehensive program designed to significantly reduce emissions from passenger cars and light trucks (including sport-utility vehicles, minivans, and pickup trucks) and to reduce sulfur in gasoline. Under the proposed program, automakers would produce vehicles designed to have very low emissions when operated on low-sulfur gasoline, and oil refiners would provide that cleaner gasoline nationwide. The EPA subsequently issued two supplemental notices. 64 FR 35112 (June 30, 1999); 64 FR 57827 (October 27, 1999).

These notices provide 1-hour ozone modeling and monitoring information that support EPA's belief that the Tier 2/Sulfur program is necessary to help areas attain the 1-hour NAAQS. Under the proposed rule, NO_x and VOC emission reductions (as well as other reductions not directly relevant for attainment of the 1-hour ozone standard) would occur beginning in the 2004 ozone season although incentives for early compliance by vehicle manufacturers and refiners will likely result in some reductions prior to 2004. Nationwide, the Tier 2/Sulfur program is projected to result in reductions of approximately 800,000 tons of NO_x per year by 2007 and 1,200,000 tons by 2010.

In the October 27, 1999 supplemental notice, EPA reported in Table 1 that EPA's regional ozone modeling indicated that 17 metropolitan areas for which the 1-hour standard applies need the Tier 2/Sulfur program reductions to help attain the 1-hour ozone standard. The New York-North New Jersey-Long Island and Philadelphia NAA areas whose attainment demonstration SIP EPA is proposing to approve and disapprove in-the-alternative today is included on that list.

The EPA issued a memorandum that provides estimates of the emissions reductions associated with the Tier 2/Sulfur program proposal.⁸ The memorandum provides the tonnage

benefits for the Tier 2/Sulfur program in 2007 on a county-by-county basis for all counties within the 10 serious and severe nonattainment areas for which EPA is proposing to take action today and the 2005 tonnage benefits for the Tier 2/Sulfur program for each county for three areas.

The EPA also issued a memorandum which explains the connection between the Tier 2/Sulfur program, motor vehicle emissions budgets for conformity determinations, and timing for SIP revisions to account for the Tier 2/Sulfur program benefit.⁹ This memorandum explains that conformity analyses in serious and severe ozone nonattainment areas can begin including Tier 2/Sulfur program benefits once EPA's Tier 2 rule is promulgated, provided that the attainment demonstration SIPs and associated motor vehicle emissions budgets include the Tier 2 rule benefits. For areas that require all or some portion of the Tier 2 rule benefits to demonstrate attainment but have not yet included the benefits in the motor vehicle emissions budgets, EPA's adequacy finding will include a condition that conformity determinations may not take credit for Tier 2 until the SIP budgets are revised to reflect Tier 2 benefits. See EPA's memorandum for more information.

For the New York-North New Jersey-Long Island area, Philadelphia-Wilmington-Trenton, Baltimore, Atlanta, and Houston nonattainment areas, the EPA is proposing to determine that additional emission reduction beyond those provided by the SIP submission are necessary for attainment. With the exception of the Atlanta nonattainment area, a portion of that reduction will be achieved by EPA's Tier 2/Sulfur program, which EPA expects to finalize shortly. States that need to rely in whole or in part on the Tier 2 benefits to help demonstrate attainment will need to adjust the demonstration for their SIP submission, emission inventories and motor vehicle emissions budgets to include the Tier 2/Sulfur program reductions in order for EPA to approve the SIP submittal. The submittal requirement including the analysis to make that submission is described in the two memoranda cited. States may use the tonnage benefits and guidance in these memoranda to make these adjustments to the SIP submission

and motor vehicle emission budgets. The EPA encourages states to submit these SIP revisions by December 31, 1999 to allow EPA to include them in the motor vehicle emissions budget adequacy determinations which need to be completed by May 31, 2000. Alternatively, these revisions should be submitted by July 2000 for serious nonattainment areas, as EPA anticipates completing rulemaking on these SIPs in the fall of 2000. For severe nonattainment areas, these revisions should be submitted by December 31, 2000.

A number of areas for which the EPA is not proposing to determine that additional emission reduction beyond those provided by the SIP submission are necessary for attainment will be taking a partial credit for Tier 2 when they use credit from national low emissions vehicles (NLEV) in their attainment demonstration. These nonattainment areas are the Milwaukee-Racine, Chicago-Gary-Lake County and Metropolitan Washington, D.C. areas. By regulation, the NLEV standards do not extend beyond the 2003 model year unless EPA promulgates Tier 2 vehicle standards at least as stringent as the NLEV standards. See 40 CFR 86.1701-99(c). Thus, the emission reductions relied upon from 2004 and later model year NLEV vehicles will actually be due to the promulgation of the Tier 2 standards, either through the extension of the NLEV program or a portion of the reduction from vehicles meeting the Tier 2 standards.

Like all the other SIPs that rely on Tier 2 reductions in order to demonstrate attainment, the attainment demonstrations for the Milwaukee-Racine, Chicago-Gary-Lake County and Metropolitan Washington, D.C. areas must be revised to estimate the effects of Tier 2 according to our policy before EPA can take final action approving such attainment demonstrations. Until the SIPs are revised to include full Tier 2 credit, EPA can determine by May 31, 2000 that a motor vehicle emissions budget is adequate if the budget would be otherwise adequate. No conditions need be placed on such adequacy determinations since the budgets in such SIPs already include reductions equivalent to the amount of emission reductions the areas will be relying on from Tier 2 by virtue of the NLEV reductions included in the budgets.

Revisions to the Motor Vehicle Emissions Budget and the Attainment Demonstration When EPA Issues the MOBILE6 Model. Within one year of when EPA issues the MOBILE6 model for estimating mobile source emissions which takes into account the emissions

⁸Memorandum, "1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking" from Lydia Wegman, Office of Air Quality Planning and Standards and Merrylin Zaw-Mon, Office of Mobile Sources to the Air Division Directors, Regions I-VI, issued November 8, 1999. A copy of this memorandum may be found on EPA's web site at <http://www.epa.gov/oms/transp/traqconf.html>.

⁹Memorandum, "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations", from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I-VI, issued November 3, 1999. A copy of this memorandum may be found on EPA's web site at <http://www.epa.gov/oms/transp/traqconf.html>.

benefit of EPA's Tier 2/Sulfur program, states will need to revise their motor vehicle emissions budgets in their attainment demonstration SIPs if the Tier 2/Sulfur program is necessary for attainment. In addition, the budgets will need to be revised using MOBILE6 in those areas that do not need the Tier 2/Sulfur program for attainment but decide to include its benefits in the motor vehicle emissions budget anyway. The EPA will work with states on a case-by-case basis if the new emission estimates raise issues about the sufficiency of the attainment demonstration.

States described in the paragraph above will need to submit an enforceable commitment in the near term to revise their motor vehicle emissions budget within one year after EPA's release of MOBILE6. This commitment should be submitted to EPA along with the other commitments discussed elsewhere in this notice, or alternatively, as part of the SIP revision that modifies the motor vehicle emission inventories and budgets to include the Tier 2/Sulfur program benefits needed in order for EPA to approve the SIP submittal.

5. Additional Measures to Further Reduce Emissions

The EPA is proposing to find that the attainment demonstrations for New York-North New Jersey-Long Island; Baltimore; Philadelphia-Wilmington-Trenton; Houston and Atlanta, even considering the Tier II/Sulfur program reductions and the Weight of evidence, will not achieve attainment without the application of additional emission control measures to achieve additional emission reductions. Thus, for each of these areas, EPA has identified specific tons per day emissions of NO_x and/or VOC that must be reduced through additional control measures in order to demonstrate attainment and to enable EPA to approve the demonstration. The need for additional emission reductions is generally based on a lack of sufficient compelling evidence that the demonstration shows attainment at the current level of adopted or planned emission controls. This is discussed in detail below for the State of New Jersey. The method used by EPA to calculate the amount of additional reductions is described in a technical support document located in the record for this proposed rule. Briefly, the method makes use of the relationship between ozone and its precursors (VOC and NO_x) to identify additional reductions that, at a minimum, would bring the model predicted future ozone concentration to a level at or below the

standard. The relationship is derived by comparing changes in either (1) the model predicted ozone to changes in modeled emissions or (2) in observed air quality to changes in actual emissions.

The EPA is not requesting that states perform new photochemical grid modeling to assess the full air quality impact of the additional reductions that would be adopted. Rather, as described above, one of the factors that EPA can consider as part of the Weight of evidence analysis of the attainment demonstration is whether there will be additional emission reductions anticipated that were not modeled. Therefore, EPA will consider the reductions from these additional measures as part of the Weight of evidence analysis if the state adopts the measures or, as appropriate, submits an enforceable commitment to adopt the measures.

As an initial matter, for areas that need additional measures, the state must submit a commitment to adopt additional control measures to meet the level of reductions that EPA has identified as necessary for attainment. For purposes of conformity, if the State submitted a commitment, which has been subject to public hearing, to adopt the control measures necessary for attainment and ROP through the area's attainment date in conformance with the December 1997 Wilson policy, the State will not need an additional commitment at this time. However, the state will need to amend its commitment by letter to provide two things concerning the additional measures.

First, the State will need to identify a list of potential control measures (from which a set of measures could be selected) that when implemented, would be expected to provide sufficient additional emission reductions to meet the level of reductions that EPA has identified as necessary for attainment. States need not commit to adopt any specific measures on their list at this time, but if they do not do so, they must affirm that some combination of measures on their list has the potential to meet or exceed the additional reductions identified later in this notice by EPA. These measures may not involve additional limits on highway construction beyond those that could be imposed under the submitted motor vehicle emissions budget. (See memorandum, "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations," from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I-VI"). States may, of course, select control measures that do

impose limits on highway construction, but if they do so, they must revise the budget to reflect the effects of specific, identified measures that were either committed to in the SIP or were actually adopted. Otherwise, EPA could not conclude that the submitted motor vehicle emissions budget would be providing for attainment, and EPA could not find it adequate for conformity purposes.

Second, the letter should provide that the state will recalculate and submit a revised motor vehicle emissions budget that includes the effects, if any, of the measure or measures that are ultimately adopted when those measures are submitted as SIP revisions should any of the measures pertain to motor vehicles.

For purposes of approving the SIP, the state will need an enforceable commitment that identifies the date by which the additional measures will be submitted, identifies the percentage reductions needed of VOC and NO_x, and provides that the State will recalculate and submit a revised motor vehicle emissions budget that includes the effects, if any, of the measure or measures that are ultimately adopted when these measures are submitted as SIP revisions should any of the measures pertain to motor vehicles. To the extent the State's current commitment does not include one of the above items or to the extent that a State plans to revise one of the above items in an existing commitment, the State will need a new public hearing.

For areas within the OTR, such as New Jersey, EPA believes it is appropriate to provide a state that is relying on a regional solution to a Congressionally-recognized regional air pollution problem with more time to adopt and submit measures for additional reductions to EPA than for a state that will rely on intrastate measures to achieve the reductions. Therefore, the EPA believes that states in the OTR must be allowed sufficient time for the OTR to analyze the appropriate measures as well as time for the state to adopt the measures. For these states, EPA believes it is appropriate for them to commit to work through the OTR to develop a regional strategy regarding the measures necessary to meet the additional reductions identified by EPA for these areas. However, as a backstop, the state will need to commit to adopt intrastate measures sufficient to achieve the additional reductions if the regional measures are not identified by the OTR and adopted by the relevant states. For purposes of conformity, if the State submitted a commitment consistent with the December 1997 Wilson policy

and which has been subject to public hearing, the State may amend its current commitment by letter to provide these assurances. However, before EPA can take final rulemaking action to approve the attainment demonstration, the state will need to meet public hearing requirements for the commitment and submit it to EPA as a SIP revision. The EPA will have to propose and take final action on this SIP revision before EPA can fully approve the State's attainment demonstration. The State will have to submit the necessary measures themselves (and a revised motor vehicle emissions budget that includes the effects, if any, of the measure or measures that are ultimately adopted should any of the measures pertain to motor vehicles) as a SIP revision no later than October 31, 2001.

Guidance on Additional Control Measures. Much progress has been made over the past 25 years to reduce VOC emissions and over the past 9 years to reduce NO_x emissions. Many large sources have been controlled to some extent through RACT rules or other emission standards or limitations, such as maximum achievable control technology (MACT), new source performance standards (NSPS) and the emission control requirements for NSR—lowest achievable emissions rate (LAER) and best achievable control technology (BACT). However, there may be controls available for sources that have not yet been regulated as well as additional means for achieving reductions from sources that have already been regulated. The EPA has prepared a report to assist states in identifying additional measures. This report is called "Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures." The purpose of this report is to provide information to state and local agencies to assist them in identifying additional control measures that could, if later determined to be appropriate, be adopted into their SIPs to support the attainment demonstrations for the serious and severe nonattainment areas under consideration. This report has been added to the record for this proposal.

In summary, the report provides information in four areas. First, the report contains detailed information on emissions for ozone precursor emissions of NO_x and VOCs. This inventory data gives an indication of where the major emissions are coming from in a particular geographic area and may indicate where it will be profitable to look for further reductions. Second, the

report contains information on control measures for emission sources of NO_x and VOC (including stationary, area and mobile source measures) for which controls may not have been adopted by many jurisdictions. This would include many measures listed among the control measures EPA considered when developing the Regulatory Impact Analysis (RIA) for promulgation of the 8-hour ozone NAAQS. Third, the report includes information on standards EPA has issued for the NSPS and MACT programs as well as information on alternative control techniques (ACT) documents. This may be useful to states who may already specify emission limits on existing source categories to which NSPS and MACT for new sources apply, but the current RACT level of control for these existing sources may not match the level specified in the NSPS or MACT standards for new sources or sources which emit hazardous air pollutants. Finally, the report includes information on the control measures not already covered elsewhere that states have adopted, or have proposed to adopt at the date of the report, into their SIPs. Comparison of information on measures already adopted into others' SIPs may help inform states about reductions that may be available from their sources whose emissions are currently not regulated.

Another source of information is the BACT and LAER determinations that states have made for individual new sources. Information on BACT/LAER determinations is available through EPA's RACT/BACT/LAER Clearinghouse (RBLCL) which may be accessed on EPA's web site on the Internet at the following address: www.epa.gov/ttn/catc/.

The ACT documents for VOC and NO_x are valuable because EPA has not issued control technique guidelines (CTGs) that specify the level of RACT for several categories of sources. For some of these source categories, EPA has prepared ACT documents which describe various control technologies and associated costs for reducing emissions. While states were required to adopt RACT for major sources within these source categories, the ACT documents may identify an additional level of control for regulated sources or may provide control options for non-major sources within these source categories. States are free to evaluate the various options given and use the results to assist in formulating their own regulations.

The EPA report lists the various sources EPA used to develop the lists of additional measures. These sources include an EPA draft control measure

data base, State and Territorial Air Pollution Administrators and the Association of Local Air Pollution Control Officials' (STAPPA/ALAPCO's) books "Controlling Nitrogen Oxides under the Clean Air Act: A Menu of Options", and "Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act: A Menu of Options", California's ozone SIP for the South Coast and various ACT documents.

There is one control approach which bears special mention because it is broader in application than any one specific control measure. That is the approach of "cap and trade." In this approach, a cap is placed on emissions, and existing sources are given emission allotments. Under a declining cap, emissions would be decreased each year. Sources may over-control and sell part of their allotments to other sources which under-control. Overall, the percentage decrease in emissions is maintained, but the reductions are made where they are most economical. A cap and trade program has been in operation in the South Coast Air Quality Management District in California since about 1992.

The State of Illinois has adopted a declining cap and trade program. The Illinois program will set a cap on future emissions of major sources in the Chicago area that in most cases is 12 percent lower than baseline emissions. Illinois will issue a number of emission allotments corresponding to the cap level and will require each source to have VOC emissions at or below the level for which it holds emission allotments. Trading of emission allotments will be allowed, so that sources that reduce VOC emissions more than 12 percent may sell emission allotments, and sources that reduce VOC emission less than 12 percent must buy emission allotments. The proposed reductions are planned to begin in the next ozone season, May 2000.

In addition, EPA's draft economic incentives program guidance (EIP) was proposed in September 1999. This encourages cost-effective and innovative approaches to achieving air pollution goals through emissions trading. Such an approach has been demonstrated to be successful and cost-effective in reducing air pollution in EPA's acid rain emissions trading program. These and other similar programs should allow cost-effective implementation of additional control measures.

Finally, a reduction in VOC and NO_x emissions can be achieved through a wide range of control measures. These measures range from technology based actions such as retrofitting diesel trucks and buses, and controlling ground

service equipment at airports to activity based controls such as increased use of transit by utilizing existing Federal tax incentives, market and pricing based programs, and ozone action days. States can also achieve emission reductions by implementing programs involving cleaner burning fuels. The State of Texas is also considering a rule to change the times during the day in which construction can occur to reduce ozone precursor emissions during periods when ozone formation is occurring. There are a wide range of new and innovative programs beyond the few examples listed here. These measures, if taken together, can provide significant emission reductions for attainment purposes. In addition, a variety of mobile source measures could be considered as part of the commitment to meet the need for additional emission reduction measures.

6. Mid-Course Review

A mid-course review (MCR) is a reassessment of modeling analyses and more recent monitored data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable but no later than the statutory dates.

The EPA believes that a commitment to perform a MCR is a critical element

of the Weight of evidence analysis for the attainment demonstration on which EPA is proposing to take action today. In order to approve the attainment demonstration SIP for the Philadelphia, Wilmington, Trenton and the New York-Northern New Jersey-Long Island nonattainment areas, EPA believes that the state must submit an enforceable commitment to perform a MCR as described here.¹⁰

EPA invites the states to participate in a public consultative process to develop a methodology for performing the MCR and developing the criteria by which adequate progress would be judged.

For severe areas, the states must have an enforceable commitment to perform the MCR preferably following the 2003 ozone season, and to submit the results to EPA by the end of the review year (e.g., by December 31, 2003). EPA believes that an analysis in 2003 would be most robust since some or all of the regional NO_x emission reductions should be achieved by that date. EPA would then review the results and determine whether any states need to adopt and submit additional control measures for purposes of attainment. The EPA is not requesting that states commit now to adopt new control measures as a result of this process. It would be impracticable for the states to make a commitment that is specific enough to be considered enforceable. Moreover, the MCR could indicate that

upwind states may need to adopt some or all of the additional controls needed to ensure an area attains the standard. Therefore, if EPA determines additional control measures are needed for attainment, EPA would determine whether additional emission reductions as necessary from states in which the nonattainment area is located or upwind states, or both. The EPA would require the affected state or states to adopt and submit the new measures within a period specified at the time. The EPA anticipates that these findings would be made as calls for SIP revisions under section 110(k)(5) and, therefore, the period for submission of the measures would be no longer than 18 months after the EPA finding. A draft guidance document regarding the MCR process is located in the docket for this proposal and may also be found on EPA's web site at <http://www.epa.gov/ttn/scram>.

D. In Summary, What Does EPA Expect to Happen with Respect to Attainment Demonstrations for the New York-Northern New Jersey-Long Island Area, and the Philadelphia, Wilmington, Trenton Area 1-Hour Ozone Nonattainment Areas?

The following table shows a summary of information on what EPA expects from states to allow EPA to approve the 1-hour ozone attainment demonstration SIPs.

SUMMARY SCHEDULE OF FUTURE ACTIONS RELATED TO ATTAINMENT DEMONSTRATION FOR THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND AND PHILADELPHIA, WILMINGTON, TRENTON SEVERE NONATTAINMENT AREA IN NEW JERSEY WHICH IS LOCATED IN THE OTR

Required no later than:	Action
12/31/99	State submits the following to EPA: —motor vehicle emissions budget ¹ —Commitments ² to do the following: —Submit by 10/31/01 measures for additional emission reductions as required in the attainment demonstration test; for additional emission reduction measures developed through the regional process, the State must also submit a commitment for the additional measures and a backstop commitment to adopt and submit by 10/31/01 intrastate measures for the emission reductions in the event the OTR process does not recommend measures that produce emission reductions. —Submit revised SIP & motor vehicle emissions budget by 10/31/01 if additional measures (due by 10/31/01) affect the motor vehicle emissions inventory —Revise SIP & motor vehicle emissions budget 1 year after MOBILE6 issued. ³ —Perform a mid-course review. ⁴ —A list of potential control measures that could provide additional emission reductions needed to attain the standard ⁴
4/15/00	State submits in final form any previous submissions made in proposed form by 12/31/99.
Before EPA final rulemaking	State submits enforceable commitments for any above-mentioned commitments that may not yet have been subjected to public hearing.
12/31/00	—State submits adopted modeled measures relied on in attainment demonstration and relied on for ROP through the attainment year —State revises & submits SIP & motor vehicle emissions budget to account for Tier 2 reductions as needed
10/31/01	—OTR States submit additional measures developed through the regional process. —State revises SIP & motor vehicle emissions budget if the additional measures are for motor vehicle category.
Within 1 yr after release of MOBILE6 model.	State submits revised SIP & motor vehicle emissions budget based on MOBILE6.

¹⁰ For purposes of conformity, the state needs a commitment that has been subject to public hearing. If the state has submitted a commitment

that has been subject to public hearing and that provides for the adoption of all measures necessary for attainment, the state should submit a letter prior

to December 31, 1999, amending the commitment to include the MCR.

SUMMARY SCHEDULE OF FUTURE ACTIONS RELATED TO ATTAINMENT DEMONSTRATION FOR THE NEW YORK-NORTHERN NEW JERSEY-LONG ISLAND AND PHILADELPHIA, WILMINGTON, TRENTON SEVERE NONATTAINMENT AREA IN NEW JERSEY WHICH IS LOCATED IN THE OTR—Continued

Required no later than:	Action
12/31/03	State submits to EPA results of mid-course review

¹ Final budget preferable; however, if public process is not yet complete, then a proposed budget (the one undergoing public process) may be submitted at this time with a final budget by 4/15/00. However, if a final budget is significantly different from the proposed submitted earlier, the final budget must be submitted by 2/15/00 to accommodate the 90 day processing period prior to the 5/31/00 date by which EPA must find the motor vehicle emissions budget adequate. Note that the budget can reflect estimated Tier 2 emission reductions—see memorandum from Lydia Wegman and Merrylin Zaw-Mon, “1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking.”

² As provided in the preamble text, the state may clarify by letter an existing commitment, which has been subject to public hearing, to submit the control measures needed for attainment. If the state has not yet submitted such a commitment, the state should adopt a commitment after public hearing. If the public hearing process is not yet complete, then proposed commitments may be submitted at this time. The final commitment should be submitted no later than 4/15/00.

³ The revision for MOBILE6 is only required for SIPs that include the effects of Tier 2. The commitment to revise the SIP after MOBILE6 may be submitted at the same time that the state submits the budget that includes the effects of Tier 2 (no later than 12/31/00).

⁴ New Jersey's August 31, 1998 submittal contains an enforceable commitment to perform a mid course review.

⁵ If the state submits such a revision, it must be accompanied by a commitment to revise the SIP and motor vehicle emissions budget 1 year after MOBILE6 is issued (if the commitment has not already been submitted).

E. What Are the Relevant Policy and Guidance Documents?

This proposal has cited several policy and guidance memoranda. The EPA has also developed several technical documents related to the rulemaking action in this proposal. Some of the documents have been referenced above. The documents and their location on EPA's web site are listed below; these documents will also be placed in the docket for this proposal action.

Recent Documents

1. “Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled.” U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: <http://www.epa.gov/ttn/scram>.

2. “Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures.” Draft Report. November 3, 1999. Ozone Policy and Strategies Group. U.S. EPA, RTP, NC.

3. Memorandum, “Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations,” from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I–VI. November 3, 1999. Web site: <http://www.epa.gov/ome/transp/traqconf.ht>.

4. Memorandum from Lydia Wegman and Merrylin Zaw-Mon to the Air Division Directors, Regions I–VI, “1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur/Sulfur Rulemaking.” Web site: <http://www.epa.gov/ttn/scram>.

5. Draft Memorandum, “1-Hour Ozone NAAQS—Mid-Course Review Guidance.” From John Seitz, Director, Office of Air Quality Planning and Standards. Web site: <http://www.epa.gov/ttn/scram>.

6. Memorandum, “Guidance on Reasonably Available Control Measures (RACM) Requirement and Demonstration Submissions for Ozone Nonattainment Areas.” John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

Previous Documents

1. U.S. EPA (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA-450/4-91-013, (July 1991). Web site: <http://www.epa.gov/ttn/scram/> (file name: “UAMREG”).

2. U.S. EPA (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-95-007 (June 1996). Web site: <http://www.epa.gov/ttn/scram/> (file name: “O3TEST”).

3. Memorandum, “Ozone Attainment Demonstrations,” from Mary D. Nichols, issued March 2, 1995. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

4. Memorandum, “Extension of Attainment Dates for Downwind Transport Areas,” issued July 16, 1998. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

5. December 29, 1997 Memorandum from Richard Wilson, Acting Assistant Administrator for Air and Radiation “Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS.” Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

II. EPA's Review and Technical Information

There are four areas in New Jersey designated nonattainment for the ozone standard: one classified as marginal—the Allentown Bethlehem Easton Area; one classified as moderate—the Atlantic City Area; and two classified as severe—the New York-Northern New Jersey-Long Island Area, and the Philadelphia, Wilmington, Trenton Area. The marginal and moderate areas have monitored attainment of the 1-hour ozone standard for the last three years and consequently, are not required to submit an attainment demonstration. This **Federal Register** action addresses the New Jersey portion of the New York-Northern New Jersey-Long Island and the New Jersey portion of the Philadelphia, Wilmington, Trenton nonattainment areas and will be referred to as, respectively, the Northern New Jersey ozone nonattainment area (NAA) and the Trenton NAA. Unless specifically discussed below, the following discussions apply to both nonattainment areas since New Jersey usually addresses CAA requirements on a statewide basis.

A. What Was Included in New Jersey's Submittals?

On August 31, 1998, Commissioner Shinn of the New Jersey Department of Environmental Protection (NJDEP) submitted to EPA a SIP revision “Attainment and Maintenance of the Ozone National Ambient Air Quality Standards—Meeting the Requirements of the Alternate Ozone Attainment Demonstration Policy.” Referred to as the Ozone Attainment Demonstration SIP. On October 16, 1998 this was supplemented with the public participation appendix. New Jersey held a public hearing on the Ozone

Attainment Demonstration SIP on August 6, 1998 and the comment period closed on August 13, 1998.

This SIP submittal addresses the requirements related to attainment of the 1-hour National Ambient Air Quality Standards (NAAQS) for ozone and are intended to fulfill the requirements contained in the March 2, 1995 memo from Mary Nichols and the December 29, 1997 memo from Richard D. Wilson which were previously described. This submittal included the following: Demonstration of Attainment of the 1-hour NAAQS for Ozone for the two nonattainment areas; enforceable commitments described later in this action; control measures adopted to date; and potential control measures the state will be investigating.

Commitments

New Jersey made the following commitments in their Ozone Attainment Demonstration SIP revision:

- (1) to submit post-1999 ROP Plans and to submit adopted regulations needed to achieve post-1999 emission reductions by December 31, 2000;
- (2) to implement its portion of the EPA regional NO_x cap (NO_x SIP Call);
- (3) to undertake an assessment of the ambient air quality and modeling as part of the mid-course review and submit a report to EPA by December 31, 2002;
- (4) evaluate additional control measures which are not currently implemented for potential future implementation; and
- (5) to propose such reasonable and necessary control measures needed to address any shortfall identified in the mid-course review which are necessary for attainment.

All of these commitments have gone through New Jersey's administrative public hearing process and therefore are considered enforceable commitments.

Post-1999 ROP Plans

Pursuant to the December 29, 1997 Wilson policy memo, New Jersey submitted a SIP commitment to submit a plan on or before the end of 2000 which contains target calculations for post-1999 ROP Plan milestone up to the attainment date and to submit adopted regulations needed to achieve the post-1999 ROP Plan requirements. EPA is proposing to approve this commitment.

NO_x SIP Call

New Jersey has identified emission reduction credits resulting from the NO_x SIP call and are relying on these credits to achieve attainment of the 1-hour ozone standard. New Jersey adopted Subchapter 31 "NO_x Budget Program" in 1998 to implement Phase II

and Phase III of the Ozone Transport Commission's NO_x Budget Trading Program. Minor revisions to Subchapter 31 were necessary to accommodate EPA's NO_x SIP Call, as well as proposing specific source category budgets. These were proposed on July 2, 1999 and public hearings were held on September 1, 1999. EPA anticipates that New Jersey will complete the adoption process within a few months.

Mid-Course Review

New Jersey's commitment to a mid-course evaluation and submittal of a report to EPA by December 31, 2002 satisfies EPA's requirement discussed earlier for a mid-course review (see section I.C.6.). New Jersey, however, may wish to consider coordinating the mid-course evaluation with the surrounding states which are likely to complete this effort by December 31, 2003. A revised enforceable commitment would be necessary if the date is changed.

B. What Modeling Did the States Do To Show Attainment of the 1-Hour Ozone Standard?

As discussed previously, EPA's guidance allows the states to use modeling with optional weight of evidence analyses to show that they will attain the 1-hour ozone standard. The goal is to calculate how much ozone-forming emissions need to be reduced to meet the ozone standard by the 2005 attainment deadline for the Trenton NAA and 2007 for the Northern New Jersey NAA. The two main kinds of emissions that form ozone are volatile organic compounds and nitrogen oxides.

The Clean Air Act requires ozone nonattainment areas like the Northern New Jersey NAA to attain the ozone standard by 2007. These areas are called severe-17 since these areas have 17 years from 1990 to attain the standard. This area includes most of northern New Jersey, southeastern New York and southwest Connecticut. The Clean Air Act requires ozone nonattainment areas like the Trenton NAA to attain the ozone standard by 2005. These areas are called severe-15 since they have 15 years from 1990 to attain the standard. This area includes most of southern New Jersey, southeastern Pennsylvania, northern Delaware and northeastern Maryland.

Both areas primarily used a photochemical grid model called Urban Airshed Model-IV (UAM-IV) to predict ozone concentrations for the attainment year. The states also used other methods as well to make a Weight of evidence

argument that they will attain the 1-hour ozone standard by the attainment date. One of these methods is called "design value rollback." Design value rollback relies on actual measurements of ozone levels and information from the modeling results to predict future ozone design values. The states also used air quality trends analysis, extrapolating changes in measured air quality over the last decade to project future ozone concentrations.

C. How Did the States Do Photochemical Grid Modeling?

1. Northern New Jersey Nonattainment Area

New Jersey, New York and Connecticut agreed to work together on the modeling for the Northern New Jersey Nonattainment area since parts of all three states are in the nonattainment area. They developed a modeling protocol, which they followed. New York agreed to perform the photochemical grid modeling and coordinate the effort. Connecticut contributed analysis of air quality trends and New Jersey performed additional analyses to support the Weight of evidence for attainment. All three states contributed air quality and emissions data and worked together on special analyses like selection of days for modeling.

The modeling domain included the entire New York City ozone plume including locations downwind in Connecticut, southeast New York and northern New Jersey. New York ran the UAM-IV model for the two episodes selected by the states. The states reviewed air quality and weather data from 1987 through 1991 to find periods representative of high ozone which could be used for modeling. The July 1988 and July 1991 episodes were selected as being representative of the days most conducive to ozone formation. Other episodes were reviewed, but only the 1988 and 1991 episodes were selected. EPA guidance recommends three episodes from at least two kinds of weather conditions that occur with high ozone concentrations. However, EPA allowed the states to use the two episodes they selected for the following reasons. The episodes were representative of weather conditions on over 50 percent of the high ozone days and had some of the most severe ozone days during the time from 1987 through 1991. In addition, modeling over a broader region was available to support analyses of the 1988 and 1991 episodes in the metropolitan area modeling domain. This modeling is referred to as regional modeling. The

states used this regional modeling to provide input into the local modeling on changes in ozone and ozone-forming chemicals coming into the modeling domain from sources outside the nonattainment area.

The states used emission inventories developed for the regional modeling for the base year modeling. For the year 2007 prediction of ozone, the states used an emission inventory that was used to model the effects of emission controls in the Ozone Transport Region. These controls included low emission vehicles, reductions in nitrogen oxides from major sources and is representative of the emission reduction plans submitted by these states.

To model how the winds distributed the pollution, two methods were tested and compared with observed data. The method selected did better at predicting where the highest ozone concentrations were observed.

The results of the modeling for the 1988 and 1991 episodes were compared with the observed ozone from those episodes. The model performed well, based on the statistics recommended by EPA guidance. The model also did well at reproducing the observed distribution of ozone, however, the predicted ozone concentrations exceeded the maximum monitored concentrations. Since there are more modeling grid cells than monitoring sites, it is possible that higher concentrations could occur between monitors.

2. Trenton Nonattainment Area

The states in the Trenton NAA worked together to prepare modeling for their SIPs and developed and followed a modeling protocol. The Ozone Research Center at Rutgers University did the photochemical grid modeling runs for the Philadelphia airshed. The SIPs from these states use modeling results to show how emission control programs will reduce emissions to decrease future ozone concentrations. New York was also in the modeling area and supplied information on its emissions and air monitoring data, as well. The states reviewed the modeling and prepared modeling inputs as they needed to complete the modeling. The modeling domain included the entire Philadelphia area plume including its extent downwind into New Jersey, Delaware and Pennsylvania.

The Ozone Research Center ran the UAM-IV model for the two episodes selected by the states. EPA guidance recommends three episodes from at least two kinds of weather conditions that occur with high ozone concentrations. However, EPA allowed the states to use the two episodes they

selected for the following reasons. The states reviewed air quality and weather data from 1987 through 1991 to find periods of high ozone for modeling. The July 1998 and July 1991 episodes were selected as being representative of the days most conducive to ozone formation. The 1988 and 1991 episodes had national modeling which could be used by our states to represent ozone and ozone-forming chemicals coming into the area from sources outside the area the nonattainment area. States modeled one additional episode from June 1987, which was representative of a different weather type than the other two episodes. The other two episodes were more severe and regional modeling was not done for the 1987 episode, so the states did not run an attainment year model since they did not have the information needed by the model at the boundaries of the domain for the attainment year.

The states used emission inventories developed for the regional modeling when they started the modeling, but later, particularly for the 1991 episode, the states developed local emission inventories. To model how the winds distributed the pollution, various methods were tested and compared with observed data. One method was selected by the states since it did a better job at predicting the location of areas of high ozone and was used for future case runs which predicted ozone for 2005.

D. What Were the Results of Photochemical Grid Modeling?

1. Northern New Jersey Nonattainment Area

The modeling for the nonattainment area predicted that ozone levels in 2007 would exceed the 1-hour ozone standard. The highest ozone in the predictions for 2007 using the 1988 and 1991 weather conditions were 171 ppb and 169 ppb, respectively. These concentrations predicted for 2007 are well over the 124 ppb standard. However, the design value for the peak site in and downwind of the Northern New Jersey NAA was less than 163 ppb in the past four years. Since some major controls included in the 163 ppb prediction for 2007 are yet to be implemented, the area's design value for 2007 should be lower than the photochemical grid model's prediction for 2007. To corroborate these results, the states turned to other methods, namely design value rollback and extrapolation of air quality trends.

2. Trenton Nonattainment Area

The photochemical grid modeling for the nonattainment area predicted that

ozone concentrations in 2005 would exceed the one-hour ozone standard. The highest ozone predicted for 2005, using 1988 and 1991 weather conditions, was 159 ppb and 149 ppb, respectively. These are the peak concentrations in the portion of the modeling domain affected by the Philadelphia metropolitan area. Since the modeling domain included the entire state of New Jersey, ozone plumes from the New York City metro area are in the modeling domain on some days. These days were modeled by the New York modeling domain and are considered in their modeling and attainment demonstration. Therefore, peak concentrations associated with the New York City nonattainment area are not considered here.

Present air quality in the Trenton NAA is better than the concentrations the model predicts for 2005. Since some major controls included in the model's predictions for 2005 have not been implemented yet, ozone in 2005 should be less than the ozone predicted by the photochemical grid model's prediction for 2005. To corroborate these results, the states turned to other methods, namely, design value rollback and extrapolation of air quality trends.

E. What Were the Results of the State's Design Value Rollback Analysis?

1. Northern New Jersey Nonattainment Area

The results depended on the method selected. The states did several design value rollback calculations using slightly different data sets. Some calculations used the amount of ozone change from the regional or local photochemical grid modeling results. The calculations included different starting points from which the modeling "rolled back" to predict the ozone design value in 2007. In general, the calculations predicted that the ozone design value in 2007 could be close to or below the 124 ppb standard, with results ranging from as low as 122 ppb to as high as 131 ppb. The states acknowledged that there was significant uncertainty in these estimates. New Jersey proposed to address this uncertainty by committing to a mid course review.

As discussed later in this notice EPA independently performed a design rollback analysis using the change in ozone from 1990 to 2007 from the local modeling and using an average design value from around 1990. However, EPA performed its own design value rollback analysis with more robust data to account for fluctuations in the results

due to meteorology. EPA's results predict nonattainment.

2. Trenton Nonattainment Area

The design value rollback used in the Philadelphia airshed used the 1996 design value as the starting point from which the modeling "rolled back" to predict the ozone design value in 2005. The regional modeling from EPA's NO_x SIP Call proposal was used. The rollback method predicted ozone of 122 ppb in 2005, which was less than the 124 ppb needed for attainment. As we noted in the discussion of results for the Northern New Jersey NAA, different starting design values and modeling data give different results. In the case of Trenton NAA, these methods predict concentrations at or less than 124 ppb. However, EPA performed its own design value rollback analysis with more robust data to account for fluctuations in the results due to meteorology. EPA's results predict nonattainment.

F. What were the results of air quality trends analyses?

1. Northern New Jersey Nonattainment Area

New Jersey, working with the other states in the New York metro area, used data from the late 1980s through 1997 to attempt to make a qualitative argument that by extrapolating the 1-hour peak ozone and the highest design value in the airshed over the past decade, ozone would decrease to less than the standard by 2007.

Year to year trends in ozone are affected by the number of days with hot weather. Since hot weather favors ozone formation, hot summers will tend to have more high ozone days. Some of the trends analyses used by the states and EPA attempt to factor out the effects of year to year changes in weather so we can see effects of emission changes on ozone. These state and EPA analyses show that ozone changes due to emission changes have leveled off in recent years.

EPA agrees that ozone will decrease as new programs are implemented. However, EPA believes that these trends data are not quantitative enough to help EPA determine if the standard will be attained in 2007. The design value rollback analyses provide more accurate answers to the question about how much ozone air quality will improve by the 2007 attainment date due to future emission reductions.

2. Trenton Nonattainment Area

New Jersey believes that the emission control programs in their SIPs will continue the downward trend in ozone

that occurred in earlier years before ozone concentrations leveled off. EPA agrees that ozone will decrease as new programs are implemented. However, EPA believes that these trends data are not quantitative enough to help EPA determine if the standard will be attained in 2005 in the Trenton area downwind of Philadelphia. The design value rollback analyses provide more accurate answers to the question about how much ozone air quality will improve by the 2007 attainment date due to future emission reductions.

G. What Are the Uncertainties in These Analyses?

There is a large difference between the results using the photochemical grid modeling and methods that use air quality data, like design value rollback and extrapolation of air quality trends. For example, in the Northern New Jersey NAA, UAM-IV predicts concentrations in 2007 that would lead to a design value of 163 ppb in 2007, well above the 124 ppb standard. The predictions for 2007 from design value rollback range from 122 to 141 ppb. Air quality trends, if extrapolated, may predict attainment by 2007. A similar wide range of values also occurs for Trenton NAA. The wide range of values from these analyses lead EPA to conclude that additional assurances are needed to conclusively determine that New Jersey's Ozone Attainment SIP will result in attainment and EPA will be able to approve these plans.

H. What are the results of EPA's Evaluation?

1. Northern New Jersey Nonattainment Area

EPA finds that New Jersey's attainment demonstration does not conclusively predict attainment. The New York-Northern New Jersey-Long Island nonattainment area will need more reductions in ozone-causing emissions than that presented in New Jersey's Ozone Attainment Demonstration SIP. Specifically, the additional reductions needed is 3.8 percent reduction in VOCs and 0.3 percent reduction in NO_x, based on the 1990 emission inventory. This is equivalent to reducing emissions in the New York-Northern New Jersey-Long Island ozone nonattainment area by 85 tons of VOC per summer day and 7 tons of NO_x per summer day.

EPA determined the amount of additional reductions needed by performing an additional analysis (described later in this document) to better calculate a design value for 2007 using a nationally consistent method for

serious and severe ozone nonattainment areas. EPA's analysis included the modeled decrease in ozone due to the emission reductions resulting from all the adopted and implemented measures, including those reductions expected from the NO_x SIP Call (both at the boundaries and in the local area). To make the method more robust and account for fluctuations in ozone due to meteorology, EPA used a three-year average of design values from 1990 through 1992 with the design value rollback technique. The method calculates that the ozone design value in 2007 will be 129 ppb. Since this more robust method predicts a 2007 concentration above the 124 ppb standard, EPA has determined that the states will need to commit to additional emission reductions to demonstrate attainment.

Then EPA developed methods for calculating the amount of additional reductions the states need to attain the ozone standard. Details are in the Technical Support Document. These methods extrapolate the additional VOC and NO_x reductions needed to reduce ozone from 129 to 124 ppb. The additional emission reductions described earlier are after EPA applied credits for the Tier 2/Sulfur program.

New Jersey can use either VOC or NO_x reductions in the ROP Plans and the Attainment Demonstrations to the extent allowed by the Act. This is because photochemical grid modeling studies for New Jersey predict that ozone will be reduced if emissions of VOC or of NO_x are reduced. When the states modeled the impact of proportionally reducing emissions of VOC and NO_x together the results showed that reductions in VOC or NO_x together or alone reduces peak ozone concentrations. The actual substitution ratio will vary and depends on the total VOC and NO_x emission inventories.

2. Trenton Nonattainment Area

EPA finds that New Jersey's attainment demonstration does not conclusively predict attainment. The Philadelphia, Wilmington, Trenton NAA will need more reductions in ozone-causing emissions than that presented in New Jersey's Ozone Attainment Demonstration SIP. Specifically, the additional reductions needed is 4.5 percent reduction in VOCs and 0.3 percent reduction in NO_x, based on the 1990 emission inventory. This is equivalent to reducing emissions in the Philadelphia, Wilmington, Trenton NAA by 62 tons of VOC per summer day and 3 tons of NO_x per summer day.

This was calculated using the same method as for the Northern New Jersey NAA. EPA determined that the ozone design value in 2005 will be 128 ppb. Since this, more robust method, predicts a 2005 concentration above the 124 ppb standard, EPA has determined that the states will need to commit to additional emission reductions to demonstrate attainment. The additional reductions described earlier are after EPA applied credits for the Tier 2/Sulfur program. When the states modeled the impact of proportionally reducing emissions of VOC and NO_x together the results showed that reductions in VOC or NO_x together or alone reduces peak ozone concentrations.

I. What Is Needed To Demonstrate Attainment?

EPA's analysis predicts that the states will need additional measures to reduce ozone after all the already planned measures are implemented in order to be more certain that the area will attain the standard by 2007 for Northern New Jersey NAA and 2005 for Trenton NAA. These additional measures include Tier 2/Sulfur program, the NO_x SIP call and some additional local controls.

If the states commit to implementing these additional reductions, they will provide sufficient assurance of attainment by 2007/2005. In addition, New Jersey has committed to a mid-course review as part of their Weight of evidence argument. These commitments account for any uncertainty in the ability of the states to show that they will attain the standard by the attainment date.

J. How is the Tier 2/Sulfur Program needed?

As result of EPA's review of the State's SIP submittal, EPA believes that the ozone modeling submitted by the State for the Northern New Jersey and Trenton NAA on which EPA is proposing to approve and disapprove-in-the-alternative today will need the emission reductions from EPA's Tier 2/Sulfur program to attain the 1-hour ozone NAAQS. Further, EPA believes that the Northern New Jersey and Trenton NAA will require additional emission reductions identified by EPA, beyond those from EPA's Tier 2/Sulfur program, to attain the 1-hour ozone NAAQS.

For the Northern New Jersey and Trenton NAA, EPA is proposing to determine that the submitted control strategy does not provide for attainment by the attainment deadline. However, the emission reductions of EPA's Tier 2/Sulfur program, which are not reflected in the submitted SIP, will assist in

attainment. Because the New Jersey must rely on reductions from the Tier 2/Sulfur program in order to demonstrate attainment, the effects of these standards must be included in the motor vehicle emissions budget that is established for transportation conformity purposes.

To assist the State in the preparation of a new submission which could be approved, EPA has prepared an estimate of the air quality benefits of EPA's Tier 2/Sulfur program. In our calculation, EPA assumed that all of the Tier 2/Sulfur emissions reductions will contribute to the ability of New Jersey to demonstrate attainment. The EPA has further calculated how much additional emission reduction is needed for the Northern New Jersey and Trenton NAAs in order for EPA to approve a revised and re-submitted attainment demonstration for this area. The EPA suggests that the State include these calculations as part of the Weight of evidence analysis accompanying the adjusted attainment demonstration and revised motor vehicle emissions budget for this area. Today EPA is proposing to approve a new attainment demonstration if it meets this description.

K. What Is the Status of New Jersey's Transportation Conformity Budgets?

The EPA has found that the motor vehicle emissions budgets in the attainment demonstrations submitted by New Jersey for the Northern New Jersey NAA and the Trenton NAA inadequate for conformity purposes for Attainment Year 2007 and 2005, respectively (November 16, 1999, 64 FR 62197). The EPA is proposing to approve the attainment demonstration SIP if New Jersey corrects the deficiencies that cause the motor vehicle emissions budget to be inadequate and, alternatively, to disapprove it if New Jersey does not correct the deficiencies. Because many states may shortly be submitting revised demonstrations with revised motor vehicle emission budgets, EPA is providing a 60 day comment period on this proposed rule. If New Jersey submits a revised attainment demonstration, EPA will place the revisions in the docket for this rulemaking and will post a notice on EPA's website at www.epa.gov/oms/traq. By posting notice on the website, EPA will also initiate the adequacy process.

L. What Future Actions Are Needed from New Jersey for an Approvable Ozone Attainment Demonstration SIP?

1. NO_x SIP Call Submittal

Since New Jersey has taken credit for emission reductions associated with the NO_x SIP Call occurring in the Northern New Jersey and the Trenton NAAs for purposes of the 1-hour Attainment Demonstration SIP, it must be adopted as part of an approved 1-hour attainment demonstration.

2. CAA Measures and Measures Relied on in the Modeled Attainment Demonstration SIP

With the exception of two CAA requirements, New Jersey has adopted all required elements. As discussed above, New Jersey provided an enforceable commitment to submit the post-1999 ROP Plans for the Northern New Jersey NAA and the Trenton NAA up to the attainment date and the adopted regulations needed to achieve the post-1999 ROP Plan emission reductions by December 31, 2000. The remaining element involves implementation of the enhanced inspection and maintenance program which EPA has not yet fully approved. For details see 63 FR 45402, August 26, 1998.

New Jersey has made significant strides to implement the enhanced inspection and maintenance program. In a joint letter dated November 19, 1999, from Commissioners Robert C. Shinn (Department of Environmental Protection) and James Weinstein (Department of Transportation), New Jersey confirmed that the enhanced inspection and maintenance program will be operational on December 13, 1999. EPA will be taking action on the enhanced inspection and maintenance program in a separate **Federal Register** action.

Therefore, EPA is proposing to approve this attainment demonstration provided EPA has first fully approved the enhanced inspection and maintenance program. New Jersey must submit: the adopted ROPs along with the supporting control measures by December 31, 2000 which EPA is proposing to approve. New Jersey must continue to implement the enhanced inspection and maintenance program. Failure by New Jersey to implement the enhanced inspection and maintenance program will jeopardize this proposed approval of the 1-hour ozone attainment demonstration since this program is a required CAA measure and has been relied upon in the attainment demonstrations. EPA must fully approve the enhanced inspection and

maintenance program prior to giving full approval to this attainment demonstration.

3. Additional Measures to Further Reduce Emissions

New Jersey must submit an enforceable commitment to adopt additional control measures to meet that level of reductions identified by EPA for attainment of the 1-hour ozone standard. New Jersey should submit the commitment by December 31, 1999. However, if the public process on the commitment is not yet complete by that date, it should submit the proposed commitment and submit the final commitment as quickly as possible, but no later than April 15, 2000.

New Jersey must commit to work through the OTR to develop a regional strategy regarding the measures necessary to meet the additional reductions identified by EPA. However, as a backstop, New Jersey will need to commit to adopt intrastate measures sufficient to achieve the additional reductions if the regional measures are not identified by the OTR and adopted by the relevant states.

4. Attainment Demonstration—Conformity Budget—Tier 2/Sulfur Program Benefit

a. In order for EPA to complete the adequacy determination by May 31, 2000, New Jersey should submit a revised budget no later than December 31, 1999. This revised budget would be submitted with the commitment to adopt sufficient measures to address the required level of emission reductions identified by EPA. The State may choose to include preliminary Tier 2/Sulfur program benefits in this submittal. If the State chooses not to include these benefits, then Metropolitan Planning Organizations may not use these emission reductions in conformity determinations until the State revises the budgets to account for the Tier 2/Sulfur program benefits.

In addition, in order for EPA to find the motor vehicle emissions budget adequate for conformity purposes, the State will need to identify a list of potential control measures that could provide sufficient additional emission reductions as identified by EPA. These measures may not involve additional limits on highway construction beyond those that could be imposed under the submitted motor vehicle emissions budget. New Jersey need not commit to adopt any specific measure(s) on their list at this time. In satisfying the additional emission reductions, the State is not restricted to the list and could choose other measures that may

prove feasible. It is not necessary for the State to evaluate each and every measure on the list.

b. If New Jersey chooses not to include the Tier 2/Sulfur program benefits in its December 31, 1999 SIP submittal, New Jersey must make a subsequent SIP submittal by December 31, 2000. This latter SIP submittal would incorporate the Tier 2/Sulfur program benefits and appropriately modify the transportation conformity budgets.

c. New Jersey must submit an enforceable commitment to revise its transportation conformity budgets within one year after EPA's release of MOBILE6. This commitment should be submitted to EPA along with the other commitments discussed in this section, or alternatively, as part of the SIP revision that modifies the motor vehicle emission inventories and transportation conformity budgets to include the Tier 2/Sulfur program benefits which is due December 31, 2000.

d. New Jersey must commit to recalculate and submit a revised motor vehicle emissions budget if any of the additional emission reductions pertain to motor vehicle measures. This must be done when the measures are submitted as a SIP revision.

M. What Are the Consequences of State Failure?

This section explains the CAA consequences of state failure to meet the time frames and terms described generally in this notice. The CAA provides for the imposition of sanctions and the promulgation of a federal implementation plan (FIP) if states fail to submit a required plan, submit a plan that is determined to be incomplete or if EPA disapproves a plan submitted by the state. (EPA is using the phrase "failure to submit" to cover both the situation where a state makes no submission and the situation where the state makes a submission that we find is incomplete in accordance with section 110(k)(1)(B) and 40 CFR part 51, appendix V.) For purposes of sanctions, there are no sanctions clocks in place based on a failure to submit. Thus, the description of the timing of sanctions, below, is linked to a potential disapproval of the state's submission.

1. What Are the CAA's Provisions for Sanctions?

If EPA disapproves a required SIP, such as the Attainment Demonstration SIPs, section 179(a) provides for the imposition of two sanctions. The first sanction would apply 18 months after EPA disapproves the SIP if the state fails to make the required submittal which

EPA proposes to fully or conditionally approve within that time. Under EPA's sanctions regulations, 40 CFR 52.31, the first sanction would be 2:1 offsets for sources subject to the new source review requirements under section 173 of the CAA. If the state has still failed to submit a SIP for which EPA proposes full or conditional approval 6 months after the first sanction is imposed, the second sanction will apply. The second sanction is a limitation on the receipt of Federal highway funds. EPA also has authority under section 110(m) to sanction a broader area, but is not proposing to take such action today.

2. What are the CAA's FIP Provisions If a State Fails to Submit a Plan?

In addition to sanctions, if EPA finds that a state failed to submit the required SIP revision or disapproves the required SIP revision EPA must promulgate a FIP no later than 2 years from the date of the finding if the deficiency has not been corrected. The attainment demonstration SIPs on which EPA is taking action today were originally due in November 1994. However, through a series of policy memoranda, EPA recognized that states had not submitted attainment demonstrations and were constrained to do so until ozone transport had been further analyzed. As discussed previously, EPA provided for states to submit the attainment demonstration SIPs in two phases. In June 1996, EPA made findings that ten states (including New Jersey) and the District of Columbia had failed to submit the phase I SIPs for nine nonattainment areas. 61 FR 36292 (July 10, 1996). In addition on May 19, 1997, EPA made a similar finding for Pennsylvania for the Philadelphia area. 62 FR 27201.

In July 1998, several environmental groups filed a notice of citizen suit, alleging that EPA had outstanding sanctions and FIP obligations for the serious and severe nonattainment areas on which EPA is proposing action today. These groups filed a lawsuit in the Federal District Court for the District of Columbia on November 8, 1999.

N. What are EPA's Conclusions?

EPA has evaluated New Jersey's Ozone Attainment Demonstration SIP submittal for consistency with the Act, applicable EPA regulations, and EPA policy. EPA has determined that the ozone standard in the Northern New Jersey NAA and the Trenton NAA will not be achieved until the states and EPA implement some additional measures, including Tier 2/Sulfur program and some additional local controls. EPA is proposing to approve New Jersey's Post

1999 ROP Plan commitment. EPA is proposing two alternative actions on New Jersey's Ozone Attainment Demonstration SIP, depending on whether New Jersey submits the adopted NO_x SIP Call, the revised transportation conformity budgets and necessary enforceable commitments.

First, EPA is proposing to approve New Jersey's Ozone Attainment Demonstration SIP provided New Jersey submits:

- the adopted NO_x SIP Call program as a SIP revision;
- an enforceable commitment to adopt sufficient measures to address the required level of emission reductions identified by EPA;
- revised transportation conformity budgets which reflect the additional emission reductions identified by EPA for attainment;
- revised transportation conformity budgets to include the Tier 2/Sulfur program benefits, if these benefits have not already been incorporated;
- an enforceable commitment to revise the Attainment Demonstration SIP, including recalculation of the transportation conformity budgets (if any of the additional emission reductions pertain to motor vehicle measures) to reflect the adopted additional measures needed for attainment; and
- an enforceable commitment to revise the Attainment Demonstration, including transportation conformity budgets, when MOBILE6 is released.

With respect to the NO_x SIP Call, the proposed approval is predicated upon the expectation that New Jersey will submit the NO_x SIP Call program prior to EPA taking final action on today's proposal.

EPA also is proposing to disapprove-in-the-alternative New Jersey's Ozone Attainment Demonstration SIP if New Jersey does not provide one or more of the identified elements by the required dates.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under Executive

Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health and safety risks.

C. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have

"substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic

reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds.

Union Electric Co. v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

The EPA's alternative proposed disapproval of the state request under section 110 and subchapter I, part D of the CAA would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the state submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, EPA certifies that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the Act does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed

disapproval because it would affect only the State of New Jersey, which is not a small government.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 29, 1999.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 99–31713 Filed 12–15–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 074–3046; FRL–6502–4]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; One-Hour Ozone Attainment Demonstration for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the State Implementation Plan (SIP) consisting of the 1-hour ozone attainment demonstration for the Baltimore severe nonattainment area submitted by the Maryland Department of the Environment (MDE) on April 29, 1998 and August 18, 1998. We are also proposing, in the alternative, to disapprove this demonstration if Maryland does not submit an adequate motor vehicle emissions budget consistent with attainment and adopt

and submit rules for the regional NO_x reductions consistent with the modeling demonstration. For purposes of an adequate motor vehicle emissions budget, the State will need to reaffirm that its previously submitted enforceable commitment to adopt the measures needed for attainment would apply to the additional measures to reduce emissions to support the attainment test. The reaffirmation must also include the State's commitment to the performance of a mid-course review and to revisions to the SIP and motor vehicle emissions budget after MOBILE6 (the most recent model for estimating mobile source emissions) is released.

DATES: Written comments must be received on or before February 14, 2000.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone & Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178. Or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: This document provides background information on attainment demonstration SIPs for the 1-hour ozone national ambient air quality standard (NAAQS) and an analysis of the 1-hour ozone attainment demonstration SIP submitted by MDE for the Baltimore area. This document addresses the following questions:

- What is the Basis for the Attainment Demonstration SIP?
- What are the Components of a Modeled Attainment Demonstration?
- What is the Frame Work for Proposing Action on the Attainment Demonstration SIPs?
- What Does EPA Expect to Happen with Respect to Attainment Demonstrations for the Severe 1–Hour Ozone Nonattainment Areas?
- What are the Relevant Policy and Guidance Documents?
- How Does Maryland's Submittal Satisfy the Frame Work?