

**Environmental Protection Agency**

**§ 51.904**

**§ 51.902 Which classification and non-attainment area planning provisions of the CAA shall apply to areas designated nonattainment for the 8-hour NAAQS?**

(a) *Classification under subpart 2 (CAA).* An area designated nonattainment for the 8-hour NAAQS with a 1-hour ozone design value equal to or greater than 0.121 ppm at the time the Administrator signs a final rule designating or redesignating the area as nonattainment for the 8-hour NAAQS will be classified in accordance with section 181 of the CAA, as interpreted in § 51.903(a), for purposes of the 8-hour NAAQS, and will be subject to the requirements of subpart 2 that apply for that classification.

(b) *Covered under subpart 1 (CAA).* An area designated nonattainment for the 8-hour ozone NAAQS with a 1-hour design value less than 0.121 ppm at the time the Administrator signs a final rule designating or redesignating the area as nonattainment for the 8-hour NAAQS will be covered under section

172(a)(1) of the CAA and will be subject to the requirements of subpart 1.

**§ 51.903 How do the classification and attainment date provisions in section 181 of subpart 2 of the CAA apply to areas subject to § 51.902(a)?**

(a) In accordance with section 181(a)(1) of the CAA, each area subject to § 51.902(a) shall be classified by operation of law at the time of designation. However, the classification shall be based on the 8-hour design value for the area, in accordance with Table 1 below, or such higher or lower classification as the State may request as provided in paragraphs (b) and (c) of this section. The 8-hour design value for the area shall be calculated using the three most recent years of air quality data. For each area classified under this section, the primary NAAQS attainment date for the 8-hour NAAQS shall be as expeditious as practicable but not later than the date provided in the following Table 1.

TABLE 1—CLASSIFICATION FOR 8-HOUR OZONE NAAQS FOR AREAS SUBJECT TO § 51.902(A)

Area class		8-hour design value (ppm ozone)	Maximum period for attainment dates in state plans (years after effective date of nonattainment designation for 8-hour NAAQS)
Marginal .....	from .....	0.085	3
	up to <sup>1</sup> .....	0.092	
Moderate .....	from .....	0.092	6
	up to <sup>1</sup> .....	0.107	
Serious .....	from .....	0.107	9
	up to <sup>1</sup> .....	0.120	
Severe-15 .....	from .....	0.120	15
	up to <sup>1</sup> .....	0.127	
Severe-17 .....	from .....	0.127	17
	up to <sup>1</sup> .....	0.187	
Extreme .....	equal to .....	0.187	20
	or above .....		

<sup>1</sup> but not including.

(b) A State may request a higher classification for any reason in accordance with section 181(b)(3) of the CAA.

(c) A State may request a lower classification in accordance with section 181(a)(4) of the CAA.

**§ 51.904 How do the classification and attainment date provisions in section 172(a) of subpart 1 of the CAA apply to areas subject to § 51.902(b)?**

(a) *Classification.* The Administrator may classify an area subject to § 51.902(b) as an overwhelming transport area if:

(1) The area meets the criteria as specified for rural transport areas under section 182(h) of the CAA;

(2) Transport of ozone and/or precursors into the area is so overwhelming that the contribution of local emissions to observed 8-hour ozone concentration above the level of the NAAQS is relatively minor; and

(3) The Administrator finds that sources of VOC (and, where the Administrator determines relevant, NO<sub>x</sub>) emissions within the area do not make a significant contribution to the ozone concentrations measured in other areas.

(b) *Attainment dates.* For an area subject to § 51.902(b), the Administrator will approve an attainment date consistent with the attainment date timing provision of section 172(a)(2)(A) of the CAA at the time the Administrator approves an attainment demonstration for the area.

**§ 51.905 How do areas transition from the 1-hour NAAQS to the 8-hour NAAQS and what are the anti-backsliding provisions?**

(a) *What requirements that applied in an area for the 1-hour NAAQS continue to apply after revocation of the 1-hour NAAQS for that area?—(1) 8-Hour NAAQS Nonattainment/1-Hour NAAQS Nonattainment.* The following requirements apply to an area designated nonattainment for the 8-hour NAAQS and designated nonattainment for the 1-hour NAAQS at the time of designation for the 8-hour NAAQS for that area.

(i) The area remains subject to the obligation to adopt and implement the applicable requirements as defined in § 51.900(f), except as provided in paragraph (a)(1)(iii) of this section, and except as provided in paragraph (b) of this section.

(ii) If the area has not met its obligation to have a fully-approved attainment demonstration SIP for the 1-hour NAAQS, the State must comply with one of the following:

(A) Submit a 1-hour attainment demonstration no later than 1 year after designation;

(B) Submit a RFP plan for the 8-hour NAAQS no later than 1-year following designations for the 8-hour NAAQS providing a 5 percent increment of emissions reduction from the area's 2002 emissions baseline, which must be in addition to measures (or enforceable

commitments to measures) in the SIP at the time of the effective date of designation and in addition to national or regional measures and must be achieved no later than 2 years after the required date for submission (3 years after designation).

(C) Submit an 8-hour ozone attainment demonstration no later than 1 year following designations that demonstrates attainment of the 8-hour NAAQS by the area's attainment date; provides for 8-hour RFP for the area out to the attainment date; and for the initial period of RFP for the area (between 2003–2008), achieve the emission reductions by December 31, 2007.

(iii) If the area has an outstanding obligation for an approved 1-hour ROP SIP, it must develop and submit to EPA all outstanding 1-hour ROP plans; where a 1-hour obligation overlaps with an 8-hour RFP requirement, the State's 8-hour RFP plan can be used to satisfy the 1-hour ROP obligation if the 8-hour RFP plan has an emission target at least as stringent as the 1-hour ROP emission target in each of the 1-hour ROP target years for which the 1-hour ROP obligation exists.

(2) *8-Hour NAAQS Nonattainment/1-Hour NAAQS Maintenance.* An area designated nonattainment for the 8-hour NAAQS that is a maintenance area for the 1-hour NAAQS at the time of designation for the 8-hour NAAQS for that area remains subject to the obligation to implement the applicable requirements as defined in § 51.900 (f) to the extent such obligations are required by the approved SIP, except as provided in paragraph (b) of this section. Applicable measures in the SIP must continue to be implemented; however, if these measures were shifted to contingency measures prior to designation for the 8-hour NAAQS for the area, they may remain as contingency measures, unless the measures are required to be implemented by the CAA by virtue of the area's requirements under the 8-hour NAAQS. The State may not remove such measures from the SIP.

(3) *8-Hour NAAQS Attainment/1-Hour NAAQS Nonattainment—(i) Obligations in an approved SIP.* For an area that is 8-hour NAAQS attainment/1-hour NAAQS nonattainment, the State may