

**Determination of Nonattainment and Reclassification of the Memphis,
TN/Crittenden County, AR 8-Hour Ozone Nonattainment Area**

Effective Date: 04/28/08 (73 FR 16457)

Background of the Plan: On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). The new standard was more stringent than the previous 1-hour ozone standard. Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). (See, 69 FR 23857 (April 30, 2004) for further information). The Clean Air Act (CAA) required EPA to designate as nonattainment any area that was violating the 8-hour ozone national ambient air quality standards (NAAQS) based on the three most recent years of ambient air quality data.

The Memphis area was initially designated nonattainment for the 8-hour ozone standard on April 30, 2004, and classified “moderate” based on a design value of .092 ppm, with an attainment date of June 15, 2010. The Memphis 8-hour ozone nonattainment area is located in both Northeastern Arkansas and Western Tennessee, and consists of Shelby County, Tennessee, and Crittenden County, Arkansas. For areas subject to Subpart 2 of the CAA, such as the Memphis TN-AR nonattainment area, the maximum period for attainment runs from the effective date of designations and classifications for the 8-hour ozone NAAQS and will be the same period as provided in Table 1 of CAA Section 181(a): Marginal-3 years; Moderate-6 years; Severe-15 or 17 years; and Extreme-20 years. Section 181(b)(2) prescribes the process for making determinations upon failure of an ozone nonattainment area to attain by its attainment date, and for reclassification of an ozone nonattainment area. Section 181(b)(2)(A) of the CAA requires that EPA determine, based on the area’s design value (as of the attainment date), whether an ozone nonattainment area attained the ozone standard by that date. For marginal, moderate, and serious areas, if EPA finds that the nonattainment areas has failed to attain the ozone standard by the applicable attainment date, the area must be reclassified by operation of law to the higher of (1) the next higher classification for the area, or (2) the classification applicable to the area’s design value as determined at the time of the required Federal Register notice. Section 181(b)(2)(B) requires EPA to publish in the Federal Register a notice identifying any area that has failed to attain by its attainment date and the resulting reclassification.

On July 15, 2004, pursuant to section 181(a)(4) of the CAA, the States of Tennessee and Arkansas submitted a petition to EPA Regions 4 and 6, requesting a downward reclassification of the Memphis TN-AR Nonattainment Area from “moderate” to “marginal.” The petition for reclassification to “marginal” was approved by EPA, and became effective on November 22, 2004. As a result of the downward classification, the new attainment date for the Memphis TN-AR “marginal” Nonattainment Area was set at June 15, 2007. Based on ozone monitoring data from 2004-2006, the Memphis TN-AR Nonattainment Area failed to meet its attainment date of June 15, 2007. Consequently, under the CAA statutory scheme, the Memphis TN-AR Nonattainment Area was

reclassified as “moderate” for failing to attain the 8-hour ozone standard by the attainment date of June 15, 2007.

Summary of the Plan: Pursuant to Section 181(b)(2)(B) EPA finalized a finding that the Memphis TN-AR area has failed to attain the 8-hour ozone NAAQS by the June 15, 2007, attainment deadline as prescribed under the CAA for marginal ozone nonattainment areas. The Memphis TN-AR Nonattainment area, is now classified by operation of law, as a moderate 8-hour ozone nonattainment area.

Control Measures: When an area is reclassified, EPA has the authority under section 182(i) of the Act to adjust the Act’s submittal deadlines for any new SIP revisions that are required as a result of the reclassification. Pursuant to 40 CFR 51.908(d), for each nonattainment area, the state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area’s attainment date, in this case, 2009 (40 CFR 51.900(g)). The ozone season is the ozone monitoring season as defined in 40 CFR part 58, Appendix D, section 4.1, Table D-3 (October 17, 2006, 71 FR 61236). For the purposes of the reclassification for the Memphis TN-AR “moderate” Nonattainment Area, March 1st is the beginning of the ozone monitoring season. As a result, EPA determined that the required SIP revision be submitted as expeditiously as practicable, but not later than December 31, 2008.

A revised SIP must include the following moderate area requirements: (1) an attainment demonstration (40 CFR 51.908); (2) provisions for reasonably available control technology and reasonably available control measures (40 CFR 51.912); (3) reasonable further progress reductions in volatile organic compound (VOC) emissions (40 CFR 51.910); (4) contingency measures to be implemented in the event of failure to meet a milestone or attain the standard (CAA 172(c)(9)); (5) a vehicle inspection and maintenance program (40 CFR 51.350); and (6) nitrogen oxide and VOC emission offsets of 1.15 to 1 for major source permits (40 CFR 51.165(a)). (See also, the requirements for moderate ozone nonattainment areas set forth in CAA section 182(b).)

Federal Register:

(72 FR 58577, 10/16/2007); Determination of Nonattainment and Reclassification of the Memphis, TN/Crittenden County, AR 8-Hour Ozone Nonattainment Area; Proposed Rule

(73 FR 16457, 03/28/2008); Determination of Nonattainment and Reclassification of the Memphis, TN/Crittenden County, AR 8-Hour Ozone Nonattainment Area; Final Rule

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