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

NOV 14 1994

MEMORANDUM

SUBJECT: Attainment Determination and the Processing of Initial PM-10 Nonattainment Area SIP's

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

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

The EPA has the responsibility, pursuant to the Clean Air Act, for making determinations as to whether PM-10 nonattainment areas have attained or failed to attain the standard by the applicable attainment date. These determinations must be made no later than 6 months after the attainment date for the areas.

The attached policy and guidance memorandum contains the criteria for making these determinations and provides for granting a 1-year extension of the attainment date. The policy also provides information on the reporting requirements for quantitative emission reduction milestones. Each Region should make sure that this information is made available to States containing PM-10 nonattainment areas.

The attainment date for the 70 initial moderate nonattainment areas is December 31, 1994. The SIP's for these areas were to be submitted to EPA by November 15, 1991. It has come to my attention that, in many cases, EPA may not have taken action on the State's plan by the attainment date. In such cases, EPA will find itself in the awkward position of having to

make attainment determinations for areas which may not have approved plans. I urge you to give a higher priority to reviewing and taking action on these SIP's in order to avoid this type of situation.

If there are any questions concerning the attached policy, please contact Larry Wallace at (919) 541-0906.

Attachment

cc: Joe Paisie, AQSSD
Rich Ossias, OGC

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

NOV 14 1994

MEMORANDUM

SUBJECT: Criteria for Granting 1-Year Extensions of Moderate PM-10 Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones

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

TO: Director, Air, Pesticides and Toxics Management Division, Regions I and IV
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Director, Air, Pesticides and Toxics Division, Region VI
Director, Air and Toxics Division, Regions VII, VIII, IX, and X

Purpose

Pursuant to sections 179(c) and 188(b)(2) of the Clean Air Act,[1] the Administrator is to determine whether a nonattainment area has attained the PM-10 NAAQS by the applicable attainment date. The purpose of this memorandum is to provide the EPA Regional Offices and the State air pollution control agencies with the relevant criteria for making attainment determinations, to provide information on the criteria for granting attainment date extensions for moderate PM-10 nonattainment areas, and to implement quantitative milestone requirements.[2]

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[1]The Clean Air Act is codified, as amended, at 42 U.S.C. 7401, et seq.

[2]The policies set out in this memorandum are intended solely as guidance, do not represent final action, and are not ripe for judicial review. They are not intended to bind the States and

(continued...)

Background

The EPA has general authority to designate areas which violate the PM-10 NAAQS as nonattainment pursuant to section 107(d) of the Act. Upon designation as nonattainment, these areas are classified, by operation of law, as "moderate" nonattainment areas [see section 188(a) of the Act].

On the date of enactment of the 1990 Clean Air Act Amendments, PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated nonattainment by operation of law. These areas included all former group I areas identified in 52 FR 29383 (August 7, 1987) and further clarified in 55 FR 45799 (October 31, 1990) any other areas violating the PM-10 NAAQS prior to January 1, 1989. All other areas were designated unclassifiable [see section 107(d)(4)(B)(iii) of the Act]. The EPA may redesignate any of these unclassifiable areas as nonattainment in accordance with section 107(d)(3) of the Act.

States with areas which have been redesignated as nonattainment for PM-10 have the responsibility of developing and submitting to EPA a SIP which addresses the nonattainment air quality problem in the area. The EPA issued a "General Preamble" describing EPA's preliminary views on the interpretation of various SIP requirements, including those requirements applicable to moderate PM-10 nonattainment areas.[3] Sections 172(c) and 189(a) of the Act outline some of the most important elements which must be contained in the SIP. Among these elements is the requirement to submit a SIP revision that provides for the implementation of reasonably available control measures (RACM) [including reasonably available control technology (RACT)].[4]

States containing initial moderate PM-10 nonattainment areas were required to submit SIP's containing RACM by November 15, 1991, and these SIP's were required to provide for

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[2](...continued)
public as a matter of law. This guidance contains EPA's preliminary views, and EPA may modify this guidance at any time or act at variance with the guidance based upon analysis of specific circumstances.

[3]See generally, 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992).

[4]All references to RACM in this document include RACT, which is a subset of the RACM requirement.

the implementation of RACM no later than December 10, 1993.[5] Affected States are required to demonstrate attainment of the PM-10 NAAQS in these areas as expeditiously as practicable, and no later than December 31, 1994, or demonstrate that timely attainment is impracticable [see sections 188(c)(1) and 189(a)(1)(B) of the Act].

States containing areas redesignated as moderate PM-10 nonattainment areas subsequent to the 1990 Amendments are required to submit SIP's for these areas containing RACM no later than 18 months after redesignation [see section 189(a)(2)(B) of the Act]. The SIP revisions are required to provide for the implementation of RACM no later than 4 years after redesignation as nonattainment [see section 189(a)(1)(C) of the Act]. These SIP's were required to demonstrate attainment of the PM-10 NAAQS as expeditiously as practicable, but no later than the end of the sixth calendar year after redesignation as nonattainment or to demonstrate that timely attainment is impracticable [see sections 188(c)(1) and 189(a)(1)(B) of the Act].

Overview of the Policy

I. Background

The Administrator must determine whether PM-10 nonattainment areas have attained the NAAQS within 6 months of the applicable attainment date, and the State must report on the quantitative milestones for the area within 90 days of the milestone date for the area. The attainment date for the initial PM-10 nonattainment areas is December 31, 1994.

II. Attainment determination

A. Attainment determination will be based upon whether an area has 3 consecutive years of clean air quality data. This determination will be made in accordance with EPA as prescribed under 40 CFR part 50, appendix K.

B. Any discrepancies with the data will be resolved in accordance with 40 CFR part 50, appendix K, during the process of reviewing the data.

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[5]Initial nonattainment areas were those areas designated nonattainment under section 107(d)(4)(B) of the Act. These areas were required to implement RACM no later than December 10, 1993, pursuant to section 189(a)(1)(C) of the Act.

III. Criteria for obtaining an extension of the attainment date for moderate areas

A. The area must have no more than one measured exceedance at any monitoring site in the nonattainment area in the year preceding the extension year.

B. The State must demonstrate that it is complying with all requirements that pertain to the area in the applicable SIP. The applicable SIP is the latest federally-approved particulate matter SIP for the nonattainment area [see section 302(q) of the Act].

C. The EPA will request additional information from States to make its decision on whether to grant an attainment date extension. The EPA will be disinclined to grant an attainment date extension unless the State can substantially demonstrate that certain information concerning the Act planning requirements have been completed. The EPA will expect the State to demonstrate that:

1. Control measures have been submitted in the form of a SIP revision and substantially implemented to satisfy the RACM/RACT requirement for the area.

2. The area has made emission reduction progress that represents reasonable further progress toward timely attainment of the PM-10 NAAQS.

IV. Consequences of failure to attain or qualify for an extension

A. The consequence of an area failing to attain the standard or qualify for an extension of the attainment date is that the area will be reclassified to serious by operation of law [see section 188(b)(2) of the Act]. In addition, contingency measures must be implemented in any area which fails to attain the standard by the applicable attainment date.

B. Upon reclassification, the State must meet the planning requirements for serious PM-10 nonattainment areas. These requirements include, among other things, provisions for the implementation of best available control measures (BACM) no later than 18 months from the date of reclassification.

C. The Regional Offices will prepare the Federal Register notices that identify the areas which will be reclassified to serious or will be granted an extension of the attainment date. These determinations will be announced in the Federal Register following notice and comment rulemaking procedures.

1. The EPA Headquarters will draft the Federal Register notice identifying the areas which have attained the standard.

V. Quantitative emission reduction milestones and reasonable further progress

A. The PM-10 nonattainment plan revisions demonstrating attainment must provide for quantitative emission reduction milestones which must be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress for the area.

1. The State should address at least the first two milestones along with the moderate area SIP.

a. The first milestone is the emission reduction progress made between the SIP submittal and the attainment date for the area.

b. The second milestone should provide for maintenance to ensure that the area remains in attainment after the attainment date.

2. The PM-10 nonattainment areas must provide for quantitative emission reduction milestones which must be achieved every 3 years and which demonstrate reasonable further progress until the area is redesignated to attainment.

B. Within 90 days of the date on which the milestone for a nonattainment area occurs, each State in which all or part of such nonattainment area is located must submit a milestone report to EPA. This report must demonstrate that all of the measures in the SIP approved under section 189 of the Act have been implemented, that the milestone for the area has been met, and that reasonable further progress has been achieved. Thus, EPA has broad discretion in determining the manner of the submittal and the information contained in the submittal (see the detailed discussion concerning milestone reporting).

VI. Requests for redesignation to attainment

A. If an area is determined to have attained the PM-10 NAAQS by the attainment date, the area will remain nonattainment until all five of the requirements under section 107(d)(3)(E) of the Act have been met. Among the requirements of section 107(d)(3)(E) is that the State submit, and EPA approve, a SIP revision which satisfies the requirements of the 1990 Amendments. The rationale for the above policy statements are discussed in detail in the following actions.

Determination of Attainment

The EPA has the responsibility for determining whether a nonattainment area has attained the PM-10 NAAQS by the applicable attainment date.[6] The EPA must make an attainment determination for the initial moderate nonattainment areas by June 30, 1995, no later than 6 months after the attainment date for the area.[7] The Act also requires EPA to publish a notice in the Federal Register identifying those areas which failed to attain and reclassifying those areas as "serious" nonattainment areas.

The EPA will be making attainment determinations for nonattainment areas based solely upon an area's air quality data, and no special or additional SIP submittal will be required from the State for this determination. Section 179(c)(1) of the Act provides that the attainment determination is to be based upon an area's "air quality as of the attainment date." The EPA will make the determination of whether an area's air quality is meeting the PM-10 NAAQS by the applicable attainment date based upon data gathered from air quality monitoring sites which have been entered into the Aerometric Information Retrieval System (AIRS) data base.

A PM-10 nonattainment area's air quality status is determined in accordance with appendix K of 40 CFR part 50. Attainment of the annual PM-10 standard is achieved when the annual arithmetic mean PM-10 concentration is equal to or less than 50 $\mu g/m3$. Attainment of the 24-hour PM-10 standard is determined by calculating the expected number of exceedances of the 150 $\mu g/m3$ limit per year. The 24-hour standard is attained when the expected number of exceedances is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24-hour and annual standard for PM-10. A complete year of air quality data, as referred to

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[6]See sections 179(c) and 188(b)(2) of the Act.

[7]In some cases, States may choose to submit moderate area SIP's which include requests for redesignation to attainment before the applicable attainment date. In these cases, if EPA finds the SIP's to be approvable, the SIP's will be promulgated in the Federal Register. The EPA will make a determination of attainment for the area no later than 6 months after promulgation of the SIP approval in the Federal Register. This determination will be made in accordance with 40 CFR part 50, appendix K. The EPA will grant those requests for redesignation to attainment which satisfy all of the requirements of section 107(d)(3)(E) of the Act.

in part 50, appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.[8]

The EPA will begin processing and analyzing data related to the attainment of PM-10 areas immediately after the applicable attainment date for the affected areas. Current EPA policy, pursuant to 40 CFR part 58, sets the deadline for submittal of air quality data into the AIRS data base for no later than 90 days after the end of the calendar year. In order for EPA to determine the attainment status of PM-10 areas, EPA must review the data for the 3 years prior to the attainment date for the areas. Due to the schedule for making attainment determinations, pursuant to sections 179(c)(2) and 188(b)(2), States should submit the required air quality data for the year preceding the attainment date into the AIRS data base as expeditiously as practicable, but no later than 90 days after the attainment date for the area. States should identify any issues concerning the validity of the data or discrepancies related to the data during this time period. The EPA will address issues related to the adequacy of data on a case-by-case basis in accordance with 40 CFR part 50, appendix K.

Section 179(c)(2) of the Act also states that EPA may revise or supplement the attainment determination at any time based upon more complete information or analysis concerning the area's air quality as of the attainment date. The EPA interprets this to mean that in cases where there are discrepancies concerning the data or the validity of the data revealed subsequent to an attainment determination, EPA may later address these issues in accordance with EPA guidance as stated in 40 CFR part 50, appendix K.

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[8]Under 40 CFR 50.6(a), the 24-hour primary and secondary standards are attained when the expected number of exceedances per year at each monitoring site is less than or equal to one. In the simplest case, the number of exceedances at a site is determined by recording the number of exceedances in each calendar year and then averaging them over the past 3 calendar years. Under 40 CFR part 58.13, the minimum percentage of monitoring data which can be considered as sufficient to determine attainment for PM-10 at any given monitoring site is 75 percent. The amount of data required varies with the sampling frequency, data capture rate, and the number of years recorded at a monitoring site. More than 3 years of data may be considered if all additional representative years of data meeting the 75 percent criterion are utilized. Data not meeting this criteria may also suffice to show attainment; however, such exceptions must be approved by the appropriate Regional Administrator in accordance with EPA guidance (see part 50, appendix K, sections 2.0-2.3).

While EPA may determine that an area's air quality data indicate that the area may be meeting the PM-10 NAAQS for a specified period of time, this does not eliminate the State's responsibility under the Act to adopt and implement an approvable SIP. If EPA determines that an area has attained the standard, the area will remain classified as nonattainment until the State has requested, and EPA has approved, redesignation to attainment for the area.

In order for an area to be redesignated as attainment, the State must comply with the five requirements listed under section 107(d)(3)(E) of the Act. Among other things, section 107(d)(3)(E) requires that EPA determine that an area has met the PM-10 NAAQS and that the State has submitted a SIP which has been approved by EPA.[9]

Attainment Date Extension Criteria for Moderate Areas

If a State containing a moderate PM-10 nonattainment area does not have 3 consecutive years of clean air quality data to demonstrate that the area has attained the PM-10 NAAQS, the State may apply for a 1-year extension of the attainment date. The EPA may extend the attainment date for 1 year only if the State submits an application for the affected nonattainment area satisfying all of ~~the~~ following requirements:

1. ~~The area~~ must have no more than one exceedance of the 24-hour PM-10 NAAQS in the year preceding the extension year and the annual mean concentration of PM-10 in the year preceding the extension year must be less than or equal to the PM-10 NAAQS.[10] Data requirements for purposes of making comparisons with the 24-hour and annual PM-10 NAAQS must be consistent with section 2.3 of 40 CFR part 50, appendix K.

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[9]See "Procedures for Processing Requests to Redesignate Areas to Attainment" memorandum to Regional Air Directors from John Calcagni, Director of the Air Quality Management Division, September 4, 1992.

[10]The Act states that no more than one exceedance may have occurred in the area [see section 189(d)(2)]. The EPA interprets this to prohibit extensions if there is more than one measured exceedance of the 24-hour standard at any monitoring site in the nonattainment area. The number of exceedances will not be adjusted to expected exceedances as long as the minimum required sampling frequencies have been met.

2. The State must demonstrate that it has complied with all requirements and commitments pertaining to the affected nonattainment area in the applicable implementation plan.[11] Requirements and commitments in the "applicable implementation plan" include SIP revisions approved by EPA under section 110(k) of the Act and FIP's promulgated by EPA under section 110(c)(1) of the Act [see section 302(q) of the Act[12] [see generally section 188(d) of the Act].

The authority delegated to the Administrator to extend attainment dates for moderate areas is discretionary. Section 188(d) of the Act provides that the Administrator "may" extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that EPA grant extensions to such areas.

In exercising this discretionary authority for PM-10 nonattainment areas, EPA will examine the air quality planning progress made in the moderate area. In addition to the two criteria specified in section 188(d), EPA will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM-10 planning obligations for the area. While States are encouraged to take expeditious steps toward completing SIP revisions which satisfy the requirements of the Act, Federal approval of PM-10 SIP requirements is not required in order to be granted an attainment date extension. The EPA, however, will expect the State to have adopted and substantially implemented control measures submitted to address the requirement for implementing RACM/RACT in the moderate nonattainment area, the central control requirement that applies to such areas.[13]

The EPA believes that requesting the State to demonstrate that control measures have been adopted and are being implemented for areas seeking an extension is a reasonable expectation because the implementation of the control measures is an

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[11]The PM-10 SIP revisions required under the 1990 Amendments are not included in the definition of "applicable implementation plan" if EPA has not taken final rulemaking action to approve the revisions.

[12]States were required to submit PM-10 SIP revisions for initial moderate nonattainment areas on November 15, 1991. In the instances where EPA will not have taken final rulemaking action on the State's moderate area SIP revision prior to granting the attainment date extension for the area, the applicable SIP for the area would be the most recent federally-approved particulate matter SIP for the area.

[13]See sections 172(c)(1) and 189(a)(1)(C) of the Act.

appropriate indication that the improvement in air quality, evidenced by the low number of exceedances, reflects the application of permanent steps to improve the air quality, rather than temporary economic or meteorological changes. As a part of this showing, EPA will expect the State to demonstrate that the PM-10 nonattainment area has made emission reductions amounting to reasonable further progress toward attainment of the PM-10 NAAQS as defined in section 171(1) of the Act.

In order to demonstrate that the control measures have been adopted and are being implemented, and that reasonable further progress is being met, the State must submit an application for an attainment date extension in the form of a report similar to the quantitative emission reduction milestone report discussed below. (See section below on the criteria for the quantitative emission reduction milestone report.) This report may be submitted to EPA by the governor or his/her designee no later than 90 days after the attainment date for the area. The EPA Regional Offices will address a State's request for a 1-year extension of the attainment date through the comment and rulemaking process no later than 6 months after the applicable attainment date. If the State cannot make a sufficient demonstration that the area has complied with the extension criteria stated above, and EPA determines that the area has not timely demonstrated attainment of the PM-10 NAAQS, the area will be reclassified as serious by operation of law pursuant to section 188(b) of the Act.

If an extension is granted at the end of the extension year, EPA will again determine whether the area has attained the PM-10 NAAQS. If the requisite 3 consecutive years of clean air quality data needed to demonstrate attainment are not met, the State may apply for a second 1-year extension of the attainment date. In order to qualify for the second 1-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. In addition, EPA will consider the State's PM-10 planning progress for the area similar to its evaluation of the first extension request. However, EPA may grant no more than two 1-year extensions of the attainment date to a single nonattainment area [see section 188(d) of the Act].

Consequences for Moderate Areas that Fail to Timely Attain the PM-10 NAAQS

The discussion which follows addresses the consequences of EPA's determination that a moderate area has failed to timely attain the PM-10 NAAQS. The consequences described below apply with equal force to moderate areas that fail to attain the PM-10 NAAQS by the initial attainment date, that are not granted extended attainment dates, or that fail to meet an extended attainment date.

If EPA finds that a moderate area is not in attainment after the applicable attainment date, the area will be reclassified by operation of law as a serious PM-10 nonattainment area.[14] The EPA Regional Offices will identify the areas that have failed to attain the PM-10 NAAQS and reclassify them as serious, through the notice and comment rulemaking process in the Federal Register, no later than 6 months following the attainment date. For efficiency, the Regional Offices may also choose to identify those areas which have been granted a 1-year extension of the attainment date in the same Federal Register notices.

Within 18 months after reclassification of an area as serious nonattainment, the affected States must submit, among other requirements, SIP's containing provisions to assure that best available control measures (including best available control technology) are implemented no later than 4 years after reclassification.[15] In addition, contingency measures must take effect upon a determination by EPA that an area has failed to timely attain the PM-10 NAAQS.[16] Moderate area plans are required to provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the NAAQS by the applicable attainment date. Such measures are to be included in the plan as contingency measures to take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve reasonable further progress, or to timely attain the NAAQS.

For the initial moderate nonattainment areas, EPA established November 15, 1993 as the due date for submission of contingency measures [see General Preamble (57 FR 13543), April 16, 1992)]. The General Preamble contains significant guidance about the implementation of the contingency measure requirement.[17] The EPA is currently developing further guidance on contingency measures which will be forwarded to the States and Regional Offices at a later date.

The EPA interprets the requirement that contingency measures "take effect . . . without further action by the State, or [EPA]" to mean that no further rulemaking activities by the State or EPA

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[14]See section 188(b)(2) of the Act.

[15]See section 189(b) of the Act and 59 FR 41998 [August 16, 1994 (guidance on serious PM-10 nonattainment area SIP requirements including BACM)].

[16]See section 172(c)(9) of the Act.

[17]See 57 FR 13510 and 13543-44.

would be needed to implement the contingency measures.[18] In general, EPA will expect all actions needed to affect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure to attain the standard.

Contingency measures have not been submitted for several of the initial moderate PM-10 nonattainment areas. The EPA made findings of failure to submit for these areas in January of 1994. States which failed to submit contingency measures have 18 months to correct this deficiency before sanctions must be imposed [see section 179 of the Act and 59 FR 39832 (August 4, 1994)].

Quantitative Emission Reduction Milestones and Reasonable Further Progress

VII. Milestone submittals

The PM-10 nonattainment area SIP's demonstrating attainment must include quantitative emission reduction milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1) of the Act, toward timely attainment.[19] The EPA has issued general guidance on the implementation of this requirement for moderate PM-10 nonattainment areas as well as for serious PM-10 nonattainment areas.[20]

The Act does not clearly indicate the starting point for counting the first 3-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the 3-year milestones, indicating that it would begin from the due date for the SIP revision containing the control measures for the area, i.e., November 15, 1991 for initial moderate PM-10 nonattainment areas (see 57 FR 13539).

Section 189(c) plainly provides that quantitative milestones are to be achieved "until the area is redesignated attainment." However, this endpoint for quantitative milestones is speculative because redesignation of an area as attainment is contingent upon several factors and future events. The EPA believes that it is unreasonable to require planning for each nonattainment area to cover quantitative milestones several years into the future based

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[18]See section 172(c)(9) of the Act and 57 FR 13512.

[19]See section 189(c) of the Act.

[20]See 57 FR 13539 for the PM-10 moderate area guidance on milestones and 59 FR 41998 for guidance on milestones for serious nonattainment areas.

on the possibility that such time may elapse before an area is in fact redesignated to attainment. On the other hand, EPA believes that it is reasonable for States initially to submit a number of milestones sufficient to ensure that there is ongoing air quality protection beyond the attainment deadline. This will help to ensure that areas timely attaining the PM-10 NAAQS do not fall out of attainment before qualifying for redesignation.

The EPA believes that at least two milestones should initially be addressed. Thus, submittals to address the SIP revisions due on November 15, 1991 for the initial moderate PM-10 nonattainment areas should have demonstrated that, at a minimum, the following two milestones will be achieved: (1) First milestone--November 15, 1991 through November 15, 1994; and (2) second milestone--November 15, 1994 through November 15, 1997. In all instances, additional milestones must be addressed and submitted at 3-year intervals if an area is not redesignated attainment.

The EPA has previously indicated that for the initial PM-10 moderate nonattainment areas that demonstrate timely attainment of the PM-10 NAAQS, the emission reduction progress made between the SIP submittal (i.e., due date of November 15, 1991) and the attainment date (i.e., no later than December 31, 1994) will satisfy the first quantitative milestone.[21] For areas that demonstrate timely attainment of the PM-10 NAAQS, the milestones beyond the attainment date should, at a minimum, provide for continued maintenance of the standards. The EPA intends to provide further guidance at a later date concerning the application of quantitative milestones and reasonable further progress for moderate nonattainment areas which demonstrate that attainment by the applicable attainment date is not practicable.

Those moderate nonattainment areas designated subsequent to enactment of the 1990 Amendments will similarly be expected to initially submit two milestones. States are required to submit SIP's for these areas 18 months after their redesignation as nonattainment.[22] The attainment date for new PM-10 nonattainment areas is "as expeditiously as practicable" but no later than the end of the sixth calendar year after an area's designation as nonattainment.[23]

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[21] See 57 FR 13539.

[22] See section 189(a) of the Clean Air Act.

[23] See section 188(c)(1) of the Act.

Because the SIP revision, including the quantitative milestone submittal, for a new nonattainment area is due 18 months after the area is designated as nonattainment, the first 3-year milestone is to be achieved 4 1/2 years after the nonattainment redesignation. The second quantitative milestone must be achieved 3 years after the first milestone or 7 1/2 years after the nonattainment redesignation. Therefore, the second milestone will fall at least a year and a half after the attainment deadline if a maximum of 6 years is needed to attain the PM-10 standard. The second quantitative milestone should provide for continued emission reduction progress toward attainment and should provide for continued maintenance of the standard after the attainment date for the area.

Subsequent milestones must be submitted at 3-year intervals if an area is not redesignated to attainment. Thus, if an area is not redesignated to attainment by the due date for when the second milestone must actually be achieved, a third milestone must be submitted. The third milestone should be submitted at the same time that the State is required to submit a demonstration that the second milestone has been met, which is 90 days after the milestone is due, as explained in section IX below. This pattern of submitting subsequent milestones along with the demonstration for the previous milestone should be continued even if the moderate nonattainment area is reclassified as serious. Submittal of milestones must continue until the area is redesignated to attainment.

VIII. Reasonable further progress

In addition to addressing quantitative emission reduction milestones, PM-10 nonattainment plans are also required to demonstrate reasonable further progress.[24] Reasonable further progress is defined as "such annual incremental reductions in emissions of the relevant air pollutant as are required by [part D, title I of the Act] or may reasonably be required by the Administrator for the purpose of ensuring attainment of the [NAAQS] by the applicable date."[25]

The SIP's for PM-10 nonattainment areas should include detailed schedules for compliance with applicable control requirements in the areas and accurately indicate the corresponding annual emission reductions to be realized. In reviewing SIP revisions, EPA will determine whether the annual incremental emission reductions to be achieved are reasonable in light of the statutory objective to ensure timely attainment of the PM-10 NAAQS. Additionally, EPA believes that it may be appropriate for

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[24]See sections 172(a)(2) and 189(c)(1) of the Act.

[25]See section 171(1) of the Act.

States to require early implementation of control measures that are not capital intensive (e.g., controlling fugitive dust emissions at a stationary source) while phasing in control measures that require significant investment, such as the installation of new hardware.

The EPA will generally assess whether an area has achieved reasonable further progress in conjunction with determining its compliance with the quantitative emission reduction milestone requirement. Thus, as indicated below, when a State demonstrates an area's compliance with a quantitative milestone, it should also address whether reasonable further progress has been achieved during each of the relevant 3 years. The EPA is currently developing further guidance on reasonable further progress which will be forwarded to the States and Regional Offices at a later date.

IX. Milestone and reasonable further progress reporting

Within 90 days of the date on which a milestone applicable to an area occurs, each State in which all or part of such area is located must demonstrate the following to EPA: (1) All measures in the plan approved under section 189 of the Act have been implemented, and (2) the milestone has been met. The demonstration must be submitted in such form and manner and must contain such information and analyses as EPA requires [see section 189(c)(2) of the Act]. Thus, EPA is granted broad discretion in determining the manner of the submittal and the information contained therein.

In order to demonstrate that an area has met a quantitative milestone, the State must generally submit a report which demonstrates that the area has implemented RACM/RACT and has achieved the emission reductions predicted in the quantitative milestone for the area.[26] More specifically, the State should provide the information outlined below.

A. RACM implementation

The report should identify the PM-10 sources that are located in the area. The RACM requirements adopted by the State to control sources of PM-10 should be identified, and the report should specify the steps that have been taken to implement each control measure, the percent of implementation that has been achieved, and an estimate of the reductions achieved. The State should describe how the estimate of the emission reductions was made.

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[26]See sections 172(c)(1) and 189(a)(1)(C) of the Act.

A table may be used to summarize the source(s)/source category(ies) and associated control measures. This table should include an estimate of PM-10 emissions before and after controls. The report should provide an explanation of why 100 percent implementation was not achieved and why the projected emission reductions were not achieved. The State should also identify the steps that will be taken to achieve the emission reductions which were not met. The emission reductions should also be analyzed by year, and the report should assess whether reasonable further progress was achieved in each of the 3 years during the applicable milestone period.

The EPA is not requiring the State to provide an updated emissions inventory to address the previous information. The EPA is requesting that the State provide significant and reliable estimates of the percentage of the control strategy that has been implemented in the nonattainment area and resulting emission reduction progress.

Example: The two significant PM-10 sources in a nonattainment area consist of reentrained road dust from 10 miles of unpaved roads and the change out of 50 uncertified wood stoves. The RACM for the area is the paving of all 10 miles of road and the change out of all 50 wood stoves. The State estimates that a total of 1000 tons per year of emission reductions would be achieved from the paving of all 10 miles of unpaved roadways and 1000 tons per year from the change out of the wood stoves. The State also projects that 100 tons per year of emission reductions would be achieved from the paving of each mile of roadway and 20 tons per year from the change out of each wood stove. In the quantitative milestone report, the State indicates that, due to unforeseeable economic difficulties, it was only able to pave a total of 5 miles of roadway and change out of only 25 wood stoves. The State should report the estimated emission reductions achieved as a result of paving 5 miles of roadway and the change out of the 25 wood stoves. The State should project when it expects to complete the paving of the remaining 5 miles of roadway and the change out of the remaining 25 wood stoves. The State should also address the annual emission reductions that were expected and in fact achieved.

ESTIMATED EMISSION REDUCTIONS TABLE

Source Category	Projected Emission Reductions Needed to Show Attainment After Implementation of RACM/RACT	Percent Implementation Achieved	Estimated Emission Reductions Achieved
Point sources	900	66	600
Reentrained road dust from paved and unpaved roadways	1000	50	500
Residential wood combustion	1000	50	500
Mobile sources	500	100	500
Total	3400	66.5	2100

The State should explain why the projected emission reductions from point sources, reentrained road dust, and residential wood combustion were not achieved. The State should also indicate its plans to achieve 100 percent implementation of the control measures and the associated emission reductions. If additional control measures are needed to obtain the reductions, these measures should be identified and a schedule for implementation provided.

B. Enforcement and compliance measures

The quantitative emission reduction milestone report should identify when the affected sources in the nonattainment area were expected to come into compliance with RACM and which sources are not in compliance. The report should also indicate the percent of compliance being achieved for appropriate source categories (e.g., 50 percent compliance with the voluntary wood stove curtailment program). The report should state whether the applicable recordkeeping requirements are being met, and by what governmental entity(ies). An indication of whether any compliance tests have been conducted and the results of those tests should also be given. Compliance information is necessary to adequately assess the effectiveness of the control measures and the associated emission reductions likely achieved.

C. Failure to submit a report or to meet a milestone

If a State fails to submit a required quantitative milestone report for an affected PM-10 nonattainment area, or if EPA determines that such area has not met an applicable milestone, the State must submit a plan revision within 9 months after such failure or determination. The plan revision must assure that the

State will achieve the next milestone for the area by the applicable date, or attain the PM-10 NAAQS, if there is no next milestone.[27]

Therefore, if the projected quantitative milestone for an area was not achieved (i.e., the control measures were not implemented to the extent expected by the milestone due date), the report should indicate how the State plans to meet the next milestone or attainment date. The report should address the expected contents of the required plan revision, including the control measures that will likely be included and the emission reductions projected from the implementation of these additional measures. This plan revision must be submitted by the governor or his designee and must be adopted in accordance with the procedures required for all SIP revisions.

If the State fails to submit the plan revision within 9 months after EPA's determination that the milestone was not met or that the State failed to submit the milestone report, EPA will issue a finding of failure to submit and initiate the sanctions process for the area.[28]

Requests for Redesignation to Attainment

A State that has a PM-10 nonattainment area that has been determined by EPA to have attained the PM-10 NAAQS, may request redesignation to attainment. The Administrator may grant a request to redesignate an area to attainment if the following conditions are satisfied:

1. The EPA determines that the area has attained the NAAQS.

2. The applicable implementation plan for the area has been fully approved by EPA under section 110(k).

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

4. The State has met all requirements applicable to the area under section 110 and part D, title I, of the Act.

5. The EPA has fully approved a maintenance plan, including a contingency plan, for the area as meeting the requirements of section 175A of the Act [see generally section 107(d)(3)(E) of the Act].

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[27]See section 189(c)(3) of the Act.

[28]See sections 110(m) and 179(a) of the Act and 59 FR 39832, August 4, 1994.

Each of these criteria is discussed in more detail in a memorandum from John Calcagni to the Regional Air Directors, dated September 4, 1992, addressing the guidelines for qualifying for redesignation to attainment. [See "Procedures for Processing Requests to Redesignate Areas to Attainment" memorandum to Regional Air Directors from John Calcagni, Director of the Air Quality Management Division, September 4, 1992.] The second half of the memorandum gives particular attention to the maintenance plan requirement under section 175A since this constitutes a new requirement under the 1990 Amendments. The memorandum provides that special concerns for areas seeking redesignation will be addressed on a case-by-case basis.

If there are any questions concerning this policy, please contact Larry Wallace of the Integrated Policy and Strategies Group at (919) 541-0906.

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