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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-]

RIN 2060-

**Proposed Rule to Implement the 8-Hour Ozone National
Ambient Air Quality Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reopening of public comment period.

SUMMARY: In this document, we are reopening the public comment period on the Proposed Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS or standard) that was published on June 2, 2003 (68 FR 32802) to solicit additional comment on alternative approaches for classifying ozone nonattainment areas, based on comments received during the comment period. The comment period on the proposed rule originally closed on August 1, 2003. Based on comments received on the proposed rule, we are reconsidering how to classify areas and are giving the public the opportunity to comment on two alternative strategies for classifying areas.

DATES: Comments must be received on or before [**insert date 15 days from date of publication**].

ADDRESSES: All comments should be submitted to Docket #OAR 2003-0079. When mailing documents, comments, or requests to the EPA Docket Center through the U.S. Postal Service, please use the following address: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, N.W., Mail Code: 6102T, Washington, DC 20460. To mail comments or documents through a courier service, the mailing address is: EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, 1301 Constitution Avenue, N.W., Room: B108; Mail Code: 6102T, Washington, DC 20460. The normal business hours are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. Comments can be submitted to the address above, by fax (202) 566-1741, or by e-mail to A-and-R-Docket@epa.gov. The voice telephone number is (202) 566-1742. In addition, we have placed a variety of materials regarding implementation options on the web site: www.epa.gov/ttn/naags/ozone/o3imp8hr. While this web site is not an exact duplicate of the Air Docket, we have placed materials that we have generated and materials that have been submitted in an electronic

format on the web site. We request that comments be submitted by e-mail to facilitate expeditious distribution within EPA and placement on the web site.

FOR FURTHER INFORMATION CONTACT: Mr. John Silvasi, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-02, Research Triangle Park, NC 27711, phone number (919) 541-5666 or by e-mail at: silvasi.john@epa.gov or Ms. Denise Gerth, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-02, Research Triangle Park, NC 27711, phone number (919) 541-5550 or by e-mail at: gerth.denise@epa.gov.

SUPPLEMENTARY INFORMATION:

I. GENERAL INFORMATION

A. *How Can I Get Copies of This Document and Other Related Information ?*

1. *Docket.* EPA has established an official public docket for this action under Docket ID Number OAR 2003-0079. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742).

2. *Electronic Access.* You may access this Federal Register document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the

appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute and which, therefore, is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version

of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the

online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. 2003-0090. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to A-and-R-Docket@epa.gov, Attention Docket ID No. 2003-0090. In addition, in order to expedite this process, please also sent your comments to both silvasi.john@epa.gov and gerth.denise@epa.gov. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.B.2 below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Air and Radiation Docket, U.S. Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460, Attention Docket ID No. OAR 2003-0079.

3. *By Hand Delivery or Courier.* Deliver your comments to: Air and Radiation Docket, U.S. Environmental Protection Agency, 1301 Constitution Avenue, N.W., Room: B102, Washington, DC 20004, Attention Docket ID No. OAR 2003-0079. Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.A.1.

4. *By Facsimile.* Fax your comments to: 202-566-1741, Attention Docket ID No. OAR 2003-0079.

C. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for

preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. BACKGROUND

On June 2, 2003 (68 FR 32802), we proposed options for implementing the 8-hour ozone NAAQS, including two different classification options. Classifications establish which requirements apply to individual nonattainment areas and the maximum timeframe for areas

to attain. Option 1 would place all 8-hour ozone nonattainment areas into subpart 2 and would classify areas in accordance with table 1 in section 181 of the CAA as modified by EPA to reflect the 8-hour NAAQS.

Option 2 would place areas that are designated nonattainment for the 8-hour ozone standard under subpart 1 or subpart 2 (of part D, title I) based on the area's 1-hour ozone design value. Areas placed under subpart 2 would be classified in accordance with table 1 in section 181 of the Clean Air Act (CAA) as modified by EPA to reflect the 8-hour NAAQS. (In general, subpart 1 contains less prescriptive requirements for air quality planning than does subpart 2.) We indicated a preference for classification option 2 because it would provide more flexibility to States and Tribes as they address their unique air quality problems.

We received many comments concerning the classification options we proposed. A number of commenters favored option 2, indicating that they believed it provided needed flexibility in implementing the standard. Other commenters favored option 1, indicating that they believed that the Supreme Court ruling established a preference for subpart 2 and,

therefore, it was not appropriate to classify areas under subpart 1. Northeast States and some other States, as well as environmental organization commenters,¹ objected to allowing some areas to be subject to subpart 1, stating that the mandatory measures under subpart 2 helped reduce ozone concentrations and were a forcing function for more expeditious control. A number of other States outside the Northeast preferred that some areas be covered under subpart 1, because of the flexibility it provided to local areas to adopt controls that are appropriate for their area.

Several other commenters suggested new options or variants of option 2. There were two key concerns that seemed to be the basis for most of these comments. First, many commenters were concerned that under EPA's option 2, some areas classified under subpart 1 could have worse 8-hour air quality than areas classified under subpart 2.² Many of these commenters noted that it seemed

¹E.g., Clean Air Task Force, docket document OAR-2003-0079-0154; Environmental Defense, docket document OAR-2003-0079-0264, -0265, -0266; Massachusetts Department of Environmental Protection, docket document OAR-2003-0079-0267.

² See e.g., Hunton and Williams LLP representing the Utility Air Regulatory Group (UARG), docket document OAR-2003-0079-0362; Northeast States for Coordinated Air

inequitable to have areas with more significant air quality problems subject to less stringent planning obligations and more flexible attainment periods. Second, a number of commenters raised a concern that the distribution scheme under a modified Table 1 resulted in too many areas in the lower classifications. These commenters believed that the classification for many areas under this approach would not reflect the significance of the 8-hour ozone problem for these areas and therefore would not provide the appropriate amount of time needed for those areas to attain the standard.³

In considering the comments on this issue, we identified several suggestions that we believe deserve further consideration as they may address some of the above-noted concerns.⁴ We are therefore re-opening the comment period for the limited purpose of accepting

Use Management, OAR-2003-0079-0315; Kansas City Power and Light (KCPL), docket document OAR-2003-0079-0185; FirstEnergy Corporation, docket document OAR-2003-0079-0218

³See e.g., South Coast Air Quality Management District, docket document OAR-2003-0079-0327; E.I. duPont de Nemours, Inc., docket document OAR-2003-0079-0246.

⁴We do not discuss all possible alternatives raised in the comments but rather the alternatives that we believe are most likely to improve the implementation framework.

comment on the alternatives suggested in some of the comments. While we recognize that this action will delay by a brief period the issuance of the final rule to implement the 8-hour NAAQS, we believe that the comments submitted on classifications merit the consideration of new alternatives and the opportunity for the public to review and comment on these alternatives. Below, we provide a brief summary of several alternative approaches submitted in the comments and indicate the docket number of relevant comment documents so that any interested person can review those comments.⁵ We then describe two specific approaches for incorporating some of these suggestions into a classification scheme for the 8-hour standard that, based on our initial review of the comments, seem the most promising for improving the implementation framework. While we are open to comment on any of the ideas suggested during the initial comment period, we are most interested in hearing comment on the concepts we have incorporated into the two alternative approaches we discuss below. We also provide comparisons

⁵We do not attempt to cite to all comments which may have raised a specific alternative; rather we try to cite examples of comments in which the alternatives were discussed.

of two alternatives with our previously proposed option 2 without the incentive feature. This does not imply that we have decided to not include the incentive feature, nor does it imply that we have decided not to adopt our proposed option 1. In addition, we may add to the docket additional material as it becomes available that relates to the two alternatives discussed below; readers should continue to check the electronic docket for any such material during the comment period.

Sequential Implementation. Several commenters contended that EPA does not have the authority to re-write the statute by modifying Table 1 in section 181(a) to reflect the 8-hour NAAQS (see e.g., comments from Electronics Industries Alliance, docket document OAR-2003-0079-0156; and Advanced Micro Devices, Inc., docket document OAR-2003-0079-0139). These commenters suggested that EPA adopt a sequential implementation scheme under which areas that are meeting the 1-hour NAAQS but not the 8-hour NAAQS would be designated in April 2004 as not meeting the 8-hour NAAQS and begin implementation under subpart 1. Areas that are still violating the 1-hour NAAQS would continue to implement the 1-hour NAAQS under subpart 2 and would not be

designated for the 8-hour NAAQS or begin implementing that standard until the area attains the 1-hour NAAQS. At the time an area is designated nonattainment for the 8-hour NAAQS, it would be classified under subpart 1 for that standard. Thus all areas would be classified under subpart 1 for the 8-hour NAAQS. This approach would eliminate the inequity issue by placing all 8-hour areas under subpart 1 and would allow more flexibility in setting attainment dates for areas although the maximum attainment period would be 10 years from designation. However, EPA believes that this approach conflicts with the Supreme Court's holding that the classification provisions of subpart 2 must apply for purposes of implementing the 8-hour NAAQS. See *Whitman v. ATA*, 121 S. Ct. 903, 917 (2001).

Use 8-hour design values exclusively under Option 2.

Several commenters that supported option 2 recommended against using the 1-hour design value for determining which areas would be classified under subpart 1 and which would be classified under subpart 2. (See e.g., UARG, docket document OAR-2003-0079-0362; Kansas City Power & Light, docket document OAR-2003-0079-0185; TXU Energy docket document OAR-2003-0079-0204.) These commenters

suggested that it would be more logical and more consistent with the nature of the 8-hour standard for EPA instead to translate the lowest 1-hour design value threshold in Table 1 into an approximate 8-hour equivalent. (The original translation table we proposed appears at 68 FR 32812 (June 2, 2003).) They point to the record in the rulemaking which established the 8-hour NAAQS and suggest that the approximate 8-hour equivalent of the 0.12 ppm 1-hour NAAQS is 0.090 ppm. [See, for instance, statement in third column, section D of 62 FR 38858 (July 18, 1997).] They recommend that rather than translating the lower bound for marginal areas in Table 1 of section 181 to 0.080 ppm or 0.085 ppm, EPA should start it at 0.090 ppm or 0.091 ppm, which they believe reflects the 8-hour "equivalent" of the 1-hour NAAQS. Thus, this approach would result in 8-hour nonattainment areas with design values less than that lower bound being covered under subpart 1. This approach, unlike our June 2, 2003 proposal, would result in all subpart 1 areas having 8-hour design values (an indication of the magnitude of the ozone problem) that are lower than any area covered under subpart 2.

Place all areas with a design value equivalent to

"moderate" under subpart 2. The American Lung Association (docket document OAR-2003-0079-0111) suggested that under Option 2, all areas with an 8-hour design value equivalent to moderate or above should be classified under subpart 2. Thus, an area that is meeting the 1-hour standard that would have been classified under subpart 1 under EPA's Option 2, based on its 8-hour design value, would instead be subject to subpart 2 if its 8-hour design value is equivalent to or greater than the design value for a moderate area under Table 1 of section 181 as modified to reflect 8-hour design values. This approach would eliminate much of the inequity that commenters believed could result if areas classified under subpart 1 have more significant 8-hour air quality problems than areas classified under subpart 2.

Establish classifications that better reflect an area's 8-hour problem. A variety of commenters were concerned that EPA's classification scheme places too many areas in the lower classifications.⁶ The commenters stated that the classification options lead to

⁶ This comment was raised with respect to both Option 1 and Option 2.

classifications for some areas that do not reflect the significance of the 8-hour problem in those areas and do not reflect the time needed for those areas to attain. (See, e.g., The American Petroleum Institute (API) docket document OAR-2003-0079-0281). They provided several suggestions for establishing a classification scheme that would classify areas in a way that better reflects their air quality problem. API provided 3 options while other commenters suggested alternatives similar to one or more of the alternatives suggested by API. (See e.g., ExxonMobile Refining & Supply docket document OAR-2003-0079-0212; Clean Air Task Force⁷ docket document OAR-2003-0079-0215; American Chemistry Council, docket document OAR-2003-0079-0217.)

API's suggested alternatives are as follows:

- C Maintain a rebuttable presumption that an area's 1-hour classification would be retained under the 8-hour standard if the 1-hour classification was higher than the 8-hour classification.

⁷ Their rationale was that more areas should be placed in higher classifications to ensure that they implement the mandatory control measures contemplated by Congress and have a specified rate of reduction out to their attainment date. However, they believed our rule should require all 8-hour nonattainment areas to be covered under subpart 2.

C Translate the classification table using only one-half the percentage above the standard that each statutory classification threshold (or cutpoint) represents.⁸ (These percentages are shown in Table 2 of the proposed rule, 68 FR at 32812, and were the basis for translating the 1-hour ozone values in Table 1 of section 181 of the CAA into 8-hour ozone values.) For further description, see p. 13 of docket document OAR-2003-0079-0281.

C Use a distribution of classifications that mirrors more closely the distribution of areas in the original 1991 classifications.

While each of these alternatives would result in more areas being placed in higher classifications, EPA believes that the second alternative would more likely result in classifications that better reflect an area's 8-hour ozone problem.

⁸The rationale for the 50 percent adjustment was that the 8-hour standard is more stringent than the 1-hour standard and that past air quality trends showed that 8-hour average ozone concentrations declined over the past 20 years at about half the rate that 1-hour averages declined. Thus, we would expect attainment for areas with 8-hour values a certain percentage above the standard to take relatively more time to attain the 8-hour standard than areas with 1-hour values the same percentage above the 1-hour standard would take to attain the 1-hour standard.

3. Alternative approaches for comment.

Based on these comments, we are reopening the comment period for consideration of two alternative approaches for classifying areas. The first one, Alternative A, would translate the classification table to 8-hour values beginning with an 8-hour design value that, to the extent possible, would be equivalent to the 1-hour design value of 0.121 ppm. This could be the value suggested in the comment (0.091) or some other value determined upon further analysis to be equivalent. The EPA is in the process of conducting additional analysis and will be placing the results of that analysis in the docket within a week of publication of this notice, where it will be available to anyone interested in reviewing it. This approach could then be combined with the suggestion of translating the classification table for the remaining thresholds using one-half of the percentage above the standard which each of the classification thresholds represents. This alternative approach would address the two key concerns identified by many commenters: 1) ensuring that areas classified under subpart 1 have a less significant ozone problem than areas classified under subpart 2; and 2) shifting areas

subject to subpart 2 into higher classifications that better reflect their 8-hour problem and the time it will take them to attain.

The second alternative approach, Alternative B, would address the issues of equity between subpart 1 and subpart 2 areas with a structure that is closer to that of our June 2, 2003 proposal. In order to provide sufficient time for attainment, and similar to Alternative A above, we would reduce the range of design values that comprise a classification (e.g., the range of design values for marginal areas under Table 1 of section 181 is 0.121 up to 0.138, the range for moderate areas is 0.138 up to 0.160 and so on). Under this modified option 2 approach--

- Areas with 1-hour ozone design values of 0.121 ppm or greater would be covered under subpart 2 and would be classified with a revised classification table reflecting the 8-hour ozone NAAQS and starting at 0.085 ppm. The range for each classification would be determined by using 50 percent of the range in Table 1 of section 181.⁹

⁹In the June 2, 2003 proposal, we calculated the range for each classification using the following formula: ((the level of the 8-hour standard 0.08) + (0.08 X (the percent the 1-hour threshold is above the 1-hour standard of 0.12)/100). Rather than using this

- Areas meeting both of the following criteria would also be covered under subpart 2:
 - 1-hour design value less than 0.121 ppm and
 - 8-hour design value representing a classification threshold of areas that have relatively high magnitude of an 8-hour ozone problem, for example 0.091 ppm or greater. (0.091 is the lower threshold for moderate areas.)
- All other areas with a 1-hour design value of less

formula to see the bottom threshold for the marginal classification, we set the threshold at 0.085, which is the lowest design value of any area that would be designated nonattainment for the 8-hour standard. (See discussion at 68 FR 32812, middle column and footnote 1 to Table 2 on same page.) If we apply the same formula using 50 percent of the percentage that the 1-hour threshold is above the 1-hour standard, the range of the marginal classification would shrink to one value, viz., 0.085 ppm, with the lower threshold for the moderate classification being 0.086 ppm. We believe such a result is not consistent with Congressional intent since it would give the marginal classification little or no meaning. Thus, for purposes of this option, we believe it makes sense to use 0.085ppm (the minimum exceeding value of the 8-hour standard), rather than 0.08 ppm (the level of the standard) for the calculation. Therefore, we used the following formula for establishing the classification ranges for this approach: $(0.085 + (0.085 \times (0.5 \times (\text{the percent the 1-hour threshold is above the 1-hour standard of } 0.12)))/100)$. As an indication of the difference this makes, there would only be 1 marginal area with the lower threshold for moderate areas being 0.086 ppm, compared to 10 marginal areas with the revised method we employed, where 0.091 would be the lower threshold for moderate areas; see Tables 1 and 2 below, which are described in the next section.

than 0.121 ppm would be covered under subpart 1. This approach would significantly reduce the number of areas under subpart 1 that have an 8-hour design value greater than an area under subpart 2, but not to the extent of Alternative A above. In addition, it would place several areas in higher classifications, better reflecting the areas' air quality problems and the time the areas need to attain the 8-hour standard.

Effects of Alternatives A and B:

Table 1 below illustrates how a classification table (that would apply in place of Table 1 in section 181 of the CAA) could be structured for Alternatives A and B. Columns A through E appeared in the June 2, 2003 proposed rule. Column F presents 50 percent of the percentages of column D. Columns G and H present the classification thresholds that could apply for Alternatives A and B.

The June 2, 2003 proposed rule used hypothetical nonattainment areas for evaluation of different classification approaches. These were documented in the report cited in the June 2, 2003 notice¹⁰ and relied on

¹⁰Background Information Document, Hypothetical Nonattainment Areas for Purposes of Understanding the EPA Proposed Rule for Implementing the 8-hour Ozone National Ambient Air Quality Standard. Illustrative Analysis Based on 1998-2000 Data. U.S. Environmental Protection

air quality data primarily from the 3-year period 1998 to 2000. To compare the effects of the differing alternatives, we have updated 8-hour design values based on air quality data from 2000 to 2002. We have developed a list of hypothetical areas using the 2000 to 2002 data following the same procedure for defining them as we did for the proposal.¹¹ The same cautionary statements that applied to the original list apply to this list.

Table 2 below provides a comparison between our proposed option 2 (without the incentive feature) (row A) and Alternatives A and B (rows B and C respectively); row D provides for reference the distribution of the original set of classifications of 1-hour nonattainment areas in 1991. It should be noted that under either alternative approach, compared with our June 2, 2003 preferred

Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Draft, April 2003. Available at:
<http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/>.

¹¹REVISED: Background Information Document, Hypothetical Nonattainment Areas for Purposes of Understanding the EPA Proposed Rule for Implementing the 8-hour Ozone National Ambient Air Quality Standard in Relation to Re-Opened Comment Period. Illustrative Analysis Based on 2000-2002 Data. U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Draft, October 2003. Available at:
<http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/>.

approach, fewer areas would be covered under subpart 1.

Other Possible Issues:

1-hour Threshold to Distinguish Between Subpart 1
and Subpart 2 Coverage

In our June 2, 2003, proposal, classification Option 2 relied on the lowest 1-hour design value in the Clean Air Act's classification table to determine which areas were required to be covered under subpart 2, viz., 0.121 ppm. Under our long-standing rounding conventions, values between 0.121 and 0.124 inclusive round down to 0.12, which is not an exceedance of the 1-hour standard. Several commenters¹² noted that the 0.121 ppm value does not represent an exceedance of the 1-hour standard due to our rounding conventions. They recommend that 0.125 ppm (which rounds to 0.13 ppm, an exceedance) be adopted as the cutpoint for determining whether an area must be covered under subpart 2. The likely practical effect would be to place a few additional areas under subpart 1. We are soliciting comment on this suggestion.

Five Percent Adjustment provision

If we change our classification scheme to have a

¹²E.g., American Petroleum Institute, docket document OAR-2003-0079-0281; Michigan Chemistry Council, docket document OAR-2003-0079-0200

narrower range for each classification, we may need to modify the provisions for the 5 percent "reclassification" feature of section 181(a)(4) to reflect that change. The apparent intent of Congress was to allow States to request a different classification if an area's design value was within 5 percent of a higher or lower classification threshold. That was based on the original threshold values, which were certain percentages above the level of the 1-hour standard. Our June 2, 2003 proposal would have retained the original percentages for the classification table based on 8-hour average design values. If we adopt a classification table based on lower percentages above the standard, the adjustment feature might have to be modified to keep the same relative "window" of adjustment. For instance, using 100 percent of the percentages between the 1-hour design value thresholds, we would use a 5 percent adjustment, but using only 50 percent of those percentages, we may want to use only a 2.5 percent adjustment, since the thresholds themselves are half as large.

Alternatives to a 50 percent adjustment

As noted above, one option for addressing concerns that our proposed option 2 may not have provided

classifications high enough to provide adequate time for some areas to attain the 8-hour standard was to use only half (50 percent) of the percentages above the 1-hour standard calculated for each of the classification thresholds. The commenters' rationale for the 50 percent adjustment was that the 8-hour standard is more stringent than the 1-hour standard and that past air quality trends information provided by the commenter for 11 metropolitan areas showed that, on average, 8-hour average ozone concentrations declined over the 1998-2002 period at about half the rate that 1-hour averages declined. Thus, we would expect attainment for areas with 8-hour values a certain percentage above the standard to take relatively more time to attain the 8-hour standard than areas with 1-hour values the same percentage above the 1-hour standard would take to attain the 1-hour standard. However, we could use another appropriate percentage that may be based on how soon areas are expected to attain the 8-hour standard based on measures that are currently in effect or are scheduled to go into effect. EPA is soliciting comments on other possible adjustments that may place areas in classifications that better reflect their 8-hour air quality problem and the time needed to

attain.

Authority: 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C.
7501-7511f; 42 U.S.C. 7601(a)(1).

Dated:

Jeffrey R. Holmstead,
Assistant Administrator for Air and Radiation

TABLE 1-ALTERNATIVE CLASSIFICATIONS							
TABLE 1 OF SUBPART 2 1-HOUR OZONE CLASSIFICATION TABLE							
TRANSLATION TO 8-HOUR DESIGN VALUES							
A	B	C	D	E	F	G	H
Area class		CAA design value thresholds (1-hour ozone ppm)	Percent above 1-hour ozone NAAQS	Translated 8-hour design value thresholds (ppm ozone) using Col D (June 2, 2003 proposal)	50% of col. D	Translated 8-hour design value thresholds (ppm ozone) w/50% of Col D starting with 0.091*	Translated 8-hour design value thresholds (ppm ozone) w/50% of Col D starting with 0.085**
Marginal	from	0.121		0.085		0.091	0.085
	up to	0.138	15	0.092	7.5	0.097	0.091
Moderate	from	0.138	15	0.092	7.5	0.097	0.091
	up to	0.16	33.333	0.107	16.6665	0.105	0.099
Serious	from	0.16	33.333	0.107	16.6665	0.105	0.099
	up to	0.18	50	0.120	25	0.113	0.106
Severe-15	from	0.18	50	0.120	25	0.113	0.106
	up to	0.19	58.333	0.127	29.1665	0.116	0.110
Severe-17	from	0.19	58.333	0.127	29.1665	0.116	0.110
	up to	0.28	133.333	0.187	66.6665	0.150	0.142
Extreme	equal to or above	0.28	133.333	0.187	66.6665	0.150	0.142
* $0.09 + (0.09 \times (\text{col F}/100))$					** $0.085 + (0.085 \times (\text{col F}/100))$		

TABLE 2--CLASSIFICATION OPTIONS								
COUNTS OF HYPOTHETICAL NONATTAINMENT AREAS (2000-2002 data)								
	Subpart 2						Subpart 1	
	Extreme	Severe-17	Severe-15	Serious	Moderate	Marginal		Total
Option 2 as proposed 6/2/03	0	1	0	4	21	11	64	101
Alternative A (8-hour- only design value option)	0	1	2	5	12	26	55	101
Alternative B (Modified Option 2)	0	3	4	9	30	10	45	101
ORIGINAL 1991 CLASSIFICATIONS*	1	5	7	13	30	43	2	101
*Does not account for section 185A or incomplete data areas								