

local controls that are more expensive than national and regional measures. However, as noted below, national and regional measures alone are not anticipated to bring all areas into attainment. Thus, some areas will need to adopt local controls through the SIP process.

### III. How Did EPA Obtain Stakeholder Input for This Effort?

We initiated a process to obtain stakeholder feedback on options the Agency developed for implementation of the 8-hour ozone NAAQS. We held three public meetings in addition to a number of conference calls and meetings with State, local and Tribal governments, environmental groups and industry representatives. (The lists of the organizations with whom we had discussions are in the docket, in addition to meeting and conference call summaries.) The purpose of the meetings and conference calls was to obtain stakeholder feedback regarding the options that we had developed as well as to listen to any new or different ideas that stakeholders were interested in presenting.

We received comments in response to the meetings and conference calls. The comments from the public meetings addressed a number of issues related to the implementation approach.

In addition to comments received at the public meetings, we received a number of written comments on how to implement the 8-hour ozone NAAQS. We have considered these comments in the implementation approach proposed below.

### IV. What Is EPA's Schedule for Issuing an 8-Hour Ozone Implementation Rule?

We plan to issue a final rule on an implementation approach by the end of 2003. While there is not a CAA deadline for promulgating a strategy to implement the 8-hour ozone NAAQS, the CAA does establish a deadline for EPA to promulgate designations of nonattainment areas under section 107 of the CAA.<sup>8</sup> We have entered into a consent decree that requires us to promulgate designations by April 15, 2004.<sup>9</sup>

<sup>8</sup> Section 107(d) of the CAA sets forth a schedule for designations following the promulgation of a new or revised NAAQS. The Transportation Equity Act for the Twenty-first Century (TEA-21) revised the deadline to publish nonattainment designations to provide an additional year (to July 2000), but HR3645 (EPA's appropriation bill in 2000) restricted EPA's authority to spend money to designate areas until June 2001 or the date of the Supreme Court ruling on the standard, whichever came first.

<sup>9</sup> *American Lung Association v. EPA* (D.D.C. No. 1:02CV02239).

The nonattainment designation for an area starts the process whereby a State must develop a SIP that demonstrates how the air quality standard will be attained by the attainment dates required in the CAA. We plan to have an implementation strategy in place prior to designating areas for the 8-hour ozone standard. This will enable areas that are designated nonattainment for the 8-hour ozone standard to understand the obligations that attach to nonattainment designations and associated classifications.

### V. In Short, What Does This Proposed Rulemaking Contain?

This summary is intended to give an overview of our proposed rule. It should not be relied on for the details of the actual proposal. The proposed rule described in Section VI. below should be consulted directly. The order in which issues are described in this summary does not match exactly the order these issues are discussed in the actual proposal.

#### A. Classification of Areas

Under the CAA, an ozone nonattainment area's classification determines the minimum measures that must be included in the area's SIP for meeting the 8-hour standard and the maximum time period allowed for the area to meet the standard. We are proposing two options for classifying areas.

Under option 1, all areas would be classified under subpart 2 according to 8-hour ozone levels. As a result, all areas would be classified as marginal, moderate, serious, or severe or extreme (based on the most recent air quality data, no areas would fall in the "extreme" classification), and would be subject to control requirements specified in the CAA for each classification.

Under option 2, more than half the nonattainment areas would likely be regulated under subpart 1. All of these would be areas meeting the 1-hour ozone standard. The rest of the areas—those exceeding, and a few that may be meeting the 1-hour standard—would be classified under subpart 2 in the same manner as option 1.

We are also proposing an "incentive feature" that would allow areas to qualify for a lower classification under subpart 2 than their air quality would dictate if they demonstrate they will attain by the earlier attainment date of a lower classification. For example, an area that would be classified "moderate" could qualify for a "marginal" classification by showing it will attain within 3 years of designation.

The "incentive feature" is proposed for use in conjunction with either classification option.

#### B. Attainment Deadlines

We are proposing that for areas classified under subpart 2, the periods for attainment (running from the date of designation/classification) would be 3 years for marginal areas, 6 years for moderate areas, 9 years for serious areas, and 15 years for severe-15 areas, and 17 years for severe-17 areas.

If classification option 2 were selected, some areas would be classified under subpart 1. Attainment dates for these areas would be no later than 5 years after designation, although they could be extended up to 10 years after designation depending on the severity of the area's air pollution and the availability and feasibility of pollution control measures.

For all areas, the CAA requires each plan to be designed to meet the standard as expeditiously as practicable, regardless of the maximum statutory period specified for attainment.

#### C. How Will EPA Implement the Transition From the 1-Hour to the 8-Hour Standard in a Way To Ensure Continued Momentum in States' Efforts Toward Cleaner Air?

This section discusses which obligations would remain in effect for areas that were designated nonattainment under the 1-hour ozone NAAQS on or after November 15, 1990, as areas begin to implement the 8-hour standard. It also proposes two alternatives for revoking the 1-hour ozone standard: revocation in whole and revocation in part.

1. *Areas designated nonattainment under the 8-hour standard.* We are proposing that all areas designated nonattainment for the 8-hour ozone NAAQS remain subject to certain obligations that applied by virtue of the area's classification for the 1-hour standard where the area's 1-hour classification was higher than the area's classification for the 8-hour standard. These obligations include major source thresholds, inspection and maintenance (I/M) programs and fuel programs. However, these obligations would not apply to portions of an 8-hour ozone nonattainment area that was not a part of a 1-hour ozone nonattainment area. We believe that Congress intended these requirements to continue to apply to areas as they move forward to address an ozone NAAQS. We are soliciting comment whether areas that have not yet met the attainment demonstration obligation for the 1-hour standard