

conformity program and, in a separate action, may revise the regulations as appropriate, with respect to the 8-hour standard.

3. Who Runs the General Conformity Program?

Each Federal agency is responsible for determining if the action it takes is subject to the conformity regulations and, if so, whether the action conforms to the SIP. Each Federal agency's approach to the conformity evaluation differs depending upon the actions being taken. Agencies that are permitting or funding actions subject to the conformity rules generally require the applicant to develop the technical support for the conformity determination, although some agencies undertake the complete evaluation themselves.

4. How Does an Agency Demonstrate Conformity?

Depending upon the pollutant and the specific situation, Federal agencies have several options for demonstrating conformity. For actions in ozone nonattainment and maintenance areas, the Federal agency can demonstrate that the project/action is specifically identified and accounted for in the SIP, obtain documentation from the State that the emissions are included in the SIP, have the State commit to include the emissions in the SIP, or mitigate the emissions or offset the emissions from emissions reductions within the same nonattainment or maintenance area.

5. General Conformity Regulation Revisions for the 8-Hour Ozone Standard

a. *What de minimis emission levels will be set for ozone precursors?* For the ozone precursors VOC and NO_x, we are proposing to retain the existing *de minimis* emission levels. Those levels were based on the definition of a major stationary source for the NSR programs as established by sections 182, 183, and 302 of the CAA. The current *de minimis* levels are identified in Table 4 below.

TABLE 4.—DE MINIMIS EMISSION LEVELS FOR VOC AND NO_x

Type of ozone area	VOC tons/year	NO _x tons/year
Extreme Nonattainment	10	10
Severe Nonattainment	25	25
Serious Nonattainment	50	50
Moderate and Marginal Nonattainment in the OTR ...	50	100

TABLE 4.—DE MINIMIS EMISSION LEVELS FOR VOC AND NO_x—Continued

Type of ozone area	VOC tons/year	NO _x tons/year
Other Nonattainment	100	100
Maintenance in OTR	50	100
Other Maintenance ...	100	100

Areas covered by subpart 1 are included in the "Other Nonattainment" category listed in Table 4 and would have *de minimis* emission levels of 100 tons per year for both VOC and NO_x emissions.

b. *What impact will the implementation of the 8-hour ozone standard have on a State's general conformity SIP?* Since we are not now proposing to make specific revisions to its general conformity regulations in this proposal, States should not need to revise their general conformity SIPs, unless they need to do so to ensure the regulations apply in the appropriate areas.

c. *Are there any other impacts on the SIPs related to general conformity based on implementation of the 8-hour standard?* Currently, we are reviewing the general conformity regulations and are considering whether it would be appropriate to revise them in the near future. We are not proposing any revisions at this time. However, as areas develop SIPs for the 8-hour ozone standard, we recommend that State and local air quality agencies work with major facilities which are subject to the general conformity regulations (e.g., commercial airports and large military bases) to establish an emission budget for those facilities in order to facilitate future conformity determinations. Such a budget could be used by Federal agencies in determining conformity or identifying mitigation measures.

6. How Does the 1-Year Grace Period Apply to General Conformity Determinations?

Section 42 U.S.C. 7506(c)(6) applies to both transportation and general conformity. Therefore, the general conformity requirements would not apply to actions/projects in newly designated nonattainment areas until 1 year after the effective date of the designation. As discussed in section M.4., the 8-hour ozone standard is a new standard and the grace period applies to all the areas designated nonattainment for that standard. Actions/projects in areas previously designated nonattainment or maintenance for the 1-hour ozone standard must demonstrate conformity

for the 1-hour standard until that standard is revoked in whole or in part. Once the 1-hour ozone standard is revoked in whole or in part, Federal agencies will be required to conduct conformity determinations for the 8-hour standard if the project/action is in an area designated nonattainment for that standard. The general conformity regulations specify requirements for actions/projects in areas without an approved SIP. Those requirements would apply to 8-hour ozone nonattainment areas until the SIP is approved by EPA.

O. How Should the NSR Program be Implemented Under the 8-Hour Ozone NAAQS?

1. Background

The major NSR program contained in parts C and D of title I of the CAA is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the CAA. In nonattainment areas, and throughout the OTR, the program is implemented under the requirements of part D of Title I of the CAA, and is referred to as nonattainment NSR. In attainment or unclassifiable areas outside the OTR, the requirements under part C of title I of the CAA apply, and the program is called the Prevention of Significant Deterioration (PSD) program. Collectively, we also commonly refer to these programs as the major NSR program. These regulations are contained in 40 CFR 51.165, 51.166, 52.21, 52.24 and part 51, appendix S.

In attainment/unclassifiable areas outside of the OTR, a new major source, or a major modification to an existing source, must install best available control technology (BACT) and conduct an air quality modeling analysis and an analysis of potential impacts on Class I areas (see section 162 of the CAA). If the source is located in a nonattainment area, or anywhere in the OTR, including OTR attainment areas, it must install technology that meets the lowest achievable emission rate (LAER), secure emission reductions to offset any increases in emissions, and perform other analyses.

As of the date areas are designated attainment or nonattainment under the 8-hour standard, major NSR will apply under the standard. In areas outside the OTR that will be designated as attainment for the 8-hour ozone standard, the part C PSD program will apply. As there are currently PSD programs in place in all areas of the country, implementation of the new standard should be a straightforward