

expeditiously as practicable but no later than November 15, 2000.

The Bay Area Air Quality Management District (BAAQMD), along with its co-lead agencies—the Metropolitan Transportation Commission and the Association of Bay Area Governments—prepared a 1-hour ozone attainment plan, which was submitted by the California Air Resources Board (CARB) on August 13, 1999. On September 20, 2001 (66 FR 48340), we approved the emissions inventories, reasonable further progress (RFP) provisions, control measure commitments, and contingency measures. In the same rulemaking, we disapproved the remaining portions of the SIP, *i.e.*, the attainment demonstration and reasonably available control measure (RACM) provision, issued a finding that the area failed to attain by the applicable deadline, and set a new attainment deadline of “as expeditiously as practicable” but no later than September 20, 2006.

On November 30, 2001, CARB submitted the Bay Area’s 2001 Plan, addressing the new attainment deadline.² On July 16, 2003 (68 FR 42174), we proposed to approve the following elements of the 2001 Plan: attainment assessment, motor vehicle emissions budgets, and commitments to adopt control measures and to adopt and submit a plan revision by April 15, 2004, based on new modeling. On the same date, we issued an interim final determination that the 2001 Plan corrects the deficiencies in the 1999 Plan, thereby staying the CAA section 179 offset sanction and deferring the imposition of the highway sanction triggered by our September 20, 2001 disapproval. 68 FR 42172.

On October 16, 2003, William C. Norton, Executive Officer of the BAAQMD, sent a letter to Catherine Witherspoon, CARB Executive Officer, reporting that the Bay Area has attained the national 1-hour ozone standard and stating that, based on the monitoring data, a finding of attainment would be appropriate. Mr. Norton also stated that: “We are continuing our air quality planning and rule development work in order to achieve additional reductions in ozone precursor emissions. We want to reduce local ozone and transport, and to maintain progress toward the state standard. The District’s and ARB’s staffs have been working intensively on the modeling and rule review phases of our

mid-course review for the 2004 ozone planning process.”

On October 21, 2003, CARB formally requested that we make a finding of attainment for the 1-hour ozone NAAQS for the Bay Area (letter from Catherine Witherspoon to Wayne Nastri, Regional Administrator, EPA Region 9). The CARB letter endorsed the BAAQMD’s commitment to continue to reduce ozone precursor emissions in order to ensure progress toward attaining the national 8-hour ozone standard in the Bay Area and downwind areas, the more protective State ozone standard, and the national fine particulate matter (PM_{2.5}) standards.

B. Clean Air Act Provisions for Attainment Findings

Under CAA section 181(b)(2)(A), we must determine within six months of the applicable attainment date whether an ozone nonattainment area has attained the standard, basing our determination on the area’s design value as of its applicable attainment date. Although the Bay Area is not subject to this provision and the attainment deadline for the area has not yet been reached, we are making an attainment finding based on the Bay Area’s current air quality data and design value, which is in attainment of the 1-hour ozone NAAQS.

The 1-hour ozone NAAQS is 0.12 ppm, not to be exceeded on average more than 1 day per year over any 3-year period. 40 CFR 50.9 and appendix H. Under our policies, we determine if an area has attained the 1-hour standard by calculating, at each monitor, the average number of days over the standard per year during the preceding 3-year period.³ For this proposal, we have based our determination of attainment on both the design value and the average number of exceedance days per year for the period 2001 through 2003.

The design value is an ambient ozone concentration that indicates the severity of the ozone problem in an area and is used to determine the level of emission reductions needed to attain the standard, that is, it is the ozone level around which a state designs its control

strategy for attaining the ozone standard. A monitor’s design value is the fourth highest ambient concentration recorded at that monitor over the previous 3 years. An area’s design value is the highest of the design values from the area’s monitors.⁴

We make attainment determinations for ozone nonattainment areas using all available, quality-assured air quality data for the current or applicable 3-year period.⁵ Consequently, we used all of the 2001, 2002, and 2003 data available to determine whether the Bay Area attained the 1-hour ozone standard by the end of the 2003 ozone season. From the available air quality data, we have calculated the average number of days over the standard and the design value for each ozone monitor in the Bay Area nonattainment area.

C. Attainment Finding for the Bay Area

1. Adequacy of the Bay Area Ozone Monitoring Network

Determining whether or not an area has attained under CAA section 181(b)(1)(A) is based on monitored air quality data. Thus, the validity of a determination of attainment depends on whether the monitoring network adequately measures ambient ozone levels in the area.

We evaluate 4 basic elements in determining the adequacy of an area’s ozone monitoring network. The network needs to meet the design requirements of 40 CFR part 58, appendix D; the network needs to utilize monitoring equipment designated as reference or equivalent methods under 40 CFR part 53; the agency or agencies operating the equipment need to have a quality assurance plan in place that meets the

⁴ The fourth highest value is used as the design value because a monitor may record up to 3 exceedances of the standard in a 3-year period and still show attainment, since 3 exceedances over 3 years would average 1 day per year, the maximum allowed to show attainment of the 1-hour ozone standard. If the monitor records a fourth exceedance in that period, it would average more than 1 exceedance day per year and would no longer show attainment. Therefore, if a state can reduce the fourth highest ozone value to below the standard, thus preventing a fourth exceedance, then it will be able to demonstrate attainment.

⁵ This includes all data that are available from the state and local/national air monitoring station (SLAMS/NAMS) network as submitted to EPA’s Aerometric Information Retrieval System-Air Quality Subsystem (AIRS-AQS) database and certified as final. Also included are all data available to EPA from special purpose monitoring (SPM) sites that meet the requirements of 40 CFR 51.18. See Memorandum dated August 22, 1997, from John Seitz to Regional Air Directors, entitled “Agency Policy on the Use of Ozone Special Purpose Monitoring Data” (<http://www.epa.gov/ttn/amtic/files/ambient/criteria/spms3.pdf>). Monitoring data for the 2003 ozone season must be certified by the BAAQMD prior to publication of the final attainment finding.

² An electronic copy of the plan is available at <http://www.baaqmd.gov/planning/2001sip/2001sip.htm> and at the BAAQMD offices at 939 Ellis Street, San Francisco, CA 94105.

³ See generally 57 FR 13506 (April 16, 1992) and Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, EPA, to Regional Air Office Directors; “Procedures for Processing Bump Ups and Extensions for Marginal Ozone Nonattainment Areas,” February 3, 1994 (http://www.epa.gov/ttn/oarpg/t1/memoranda/o_bump.pdf). While explicitly applicable only to marginal areas, the general procedures for evaluating attainment in this memorandum apply regardless of the initial classification of an area because all findings of attainment are made pursuant to the same procedures.