



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
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AND STANDARDS

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TO: Air Program Managers

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SUBJECT: 1-Hour Ozone Maintenance Plans Containing Basic I/M Programs

This memo is intended to provide clarification regarding how the anti-backsliding provisions detailed in the 8-hour ozone standard implementation rule published April 30, 2004 (69 FR 23931), apply under the special case of basic vehicle Inspection and Maintenance (I/M) programs in 1-hour ozone maintenance areas.

Per the 8-hour rule, "Areas that are maintenance for the 1-hour National Ambient Air Quality Standard (NAAQS) at the time of 8-hour designations and are designated nonattainment for the 8-hour NAAQS, must continue to implement mandatory control requirements (i.e., 'applicable requirements') that have been approved into the State Implementation Plan." The 8-hour rule goes on to define "applicable requirements" as those requirements that apply or applied to the area under §181(a)(1) of the Clean Air Act (CAA) for the 1-hour ozone standard at the time of designation under the newer 8-hour ozone standard. One of the control measures included in the 8-hour rule's list of applicable requirements is I/M.

Specifically, you should be aware of special provisions that were published January 5, 1995 (60 FR 1735) which apply to areas required to implement basic I/M programs under the 1-hour ozone standard that are subsequently redesignated to attainment for that standard. These provisions can be found at section 51.372 (c) of the I/M rule, under the heading "Redesignation requests." Under these provisions, a basic I/M area which has been redesignated to attainment for the 1-hour ozone standard can convert the I/M program to a contingency measure as part of the area's maintenance plan. Assuming that the 1-hour maintenance area in question is subsequently designated nonattainment for the 8-hour ozone standard, but at a classification that would not otherwise trigger the I/M requirement, such an area continues to have the option of converting the I/M program to a contingency measure, provided the area can demonstrate that doing so will not interfere with its ability to comply with any NAAQS or any other applicable CAA

requirement [as required in compliance with section 110(l) of the CAA]¹.

It must be stressed that section 51.372 (c) applies only to areas that previously were required to adopt a *basic* I/M program. This includes moderate areas, and in some cases marginal areas² under the 1-hour standard, which have been subsequently, successfully redesignated to attainment. Under section 51.372 (c), areas that voluntarily opted into an enhanced I/M program can also convert the enhanced portion of their I/M program to a contingency measure. Current 1-hour maintenance areas that were required to implement an enhanced program (i.e., serious, severe, and extreme areas) that are also designated nonattainment for the 8-hour standard are not covered by this provision and therefore must continue to implement I/M. Attachment A includes a listing of current 1-hour ozone maintenance areas that qualify for the flexibility provided under section 51.372 (c) of the I/M rule.

¹ EPA is currently developing guidance on what areas need to include in a section 110(l) demonstration of non-interference. Until section 110(l) guidance is issued for the 8-hour standard, 1-hour maintenance areas meeting the criteria discussed above which are seeking to revise their SIPs to convert their basic I/M programs to contingency measures can demonstrate non-interference through a photochemical modeling exercise or by providing for equivalent emissions reductions. That said, EPA encourages areas to retain all measures included in their 1-hour SIPs in order to aid in the development of future 8-hour SIPs.

² §182(a)(2)(B) required areas classified as marginal that were required to implement an I/M program before enactment of the 1990 Amendments, or already included such a program in their SIP, to upgrade the program to meet EPA's existing basic I/M guidance immediately following enactment.

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