

FACT SHEET
November 20, 2018

**RESOURCE DOCUMENT FOR 1997 OZONE NAAQS AREAS:
SUPPORTING INFORMATION FOR STATES DEVELOPING MAINTENANCE PLANS**

The EPA is providing a resource document and supporting technical information to assist states in developing maintenance plans for areas that have second maintenance plan obligations in accordance with the recent *South Coast II* decision, or that are seeking initial redesignation to attainment for that standard. The resource document also discusses the option of developing a “limited maintenance plan” (LMP) for certain areas.

Background

The EPA has established three progressively more health-protective ozone National Ambient Air Quality Standards (NAAQS) in 1997, 2008, and 2015. As part of EPA’s strategy to implement the ozone NAAQS, EPA revoked the 1997 ozone NAAQS on April 5, 2015, and issued regulations indicating that states were no longer responsible for developing and submitting maintenance plans for current and former 1997 ozone NAAQS nonattainment areas. Various parties challenged the application of this provision with respect to “orphan maintenance areas,” i.e., areas that were redesignated to maintenance for the 1997 ozone NAAQS and initially designated attainment for the 2008 ozone NAAQS. The D.C. Circuit Court issued its decision on this issue and others in [*South Coast Air Quality Management District v. EPA*](#) on February 16, 2018.

The court found that the EPA cannot waive the 1997 ozone NAAQS maintenance plan requirements with respect to these orphan maintenance areas, even if the standard has been revoked. As a result, states with areas that were redesignated to attainment (i.e., maintenance areas) for the 1997 ozone NAAQS and were initially designated attainment for the 2008 ozone NAAQS are required to develop and submit a second maintenance plan SIP revision to ensure that the area attains the standard through the end of the 20-year period from redesignation.

The decision also indicated that the EPA’s longstanding interpretation that the Agency does not have authority to redesignate areas that were nonattainment at the time of revocation is not correct. Therefore, some states may seek new redesignations under Clean Air Act section 107(d)(3)(E) for their 1997 ozone NAAQS nonattainment areas, and those areas will be required to develop an initial 10-year maintenance plan SIP revision. Until such time as the area is redesignated, all applicable antibacksliding requirements for the 1997 ozone NAAQS, including nonattainment new source review, continue to apply in those areas.

- We note that EPA’s Office of Transportation and Air Quality is separately developing guidance for implementing the *South Coast II* decision with respect to transportation conformity requirements. This guidance will be posted at: <https://www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation>.

Resource Document and Technical Information

The resource document provides background information about technical data that may be useful for states in developing maintenance plans for the 1997 ozone areas, including:

- air quality monitoring data;
- air quality modeling projections for 2023; and
- emissions inventory data.

The resource document provides links to the sources of technical information provided in the accompanying spreadsheets.

The resource document also references past EPA guidance on LMPs for certain NAAQS. The key criteria outlined in these documents are that the current air quality concentrations for ambient monitoring sites in the area should be substantially below the level of the standard (e.g., below 85% of the level of the standard), and that air quality concentrations had not been highly variable during preceding years. A LMP submission may rely primarily on air quality data to demonstrate that the area is not expected to experience a future NAAQS violation, and it does not need to include projected future year emissions inventories for the end of the maintenance plan period.