§ 51.860 Mitigation of air quality impacts.

(a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.

(b) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations.

(c) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

(d) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another

1 Copies may be obtained from the Technical Support Division of OAQPS, EPA, MD–14, Research Triangle Park, NC 27711.

2 See footnote 1 at §51.858(b)(2).
governmental or private entity, approval by the Federal agency must be conditioned on the other entity meeting the mitigation measures set forth in the conformity determination.

(e) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures is subject to the reporting requirements of §51.856 and the public participation requirements of §51.857.

(f) The implementation plan revision required in §51.851 shall provide that written commitments to mitigation measures must be obtained prior to a positive conformity determination and that such commitments must be fulfilled.

(g) After a State revises its SIP to adopt its general conformity rules and EPA approves that SIP revision, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the applicable SIP will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.

EFFECTIVE DATE NOTE: At 75 FR 17272, Apr. 5, 2010, §51.860 was removed and reserved, effective July 6, 2010.

Subpart X—Provisions for Implementation of 8-hour Ozone National Ambient Air Quality Standard

SOURCE: 69 FR 23996, Apr. 30, 2004, unless otherwise noted.

§51.900 Definitions.

The following definitions apply for purposes of this subpart. Any term not defined herein shall have the meaning as defined in 40 CFR 51.100.

(a) 1-hour NAAQS means the 1-hour ozone national ambient air quality standards codified at 40 CFR 50.9.

(b) 8-hour NAAQS means the 8-hour ozone national ambient air quality standards codified at 40 CFR 50.10.

(c) 1-hour ozone design value is the 1-hour ozone concentration calculated according to 40 CFR part 50, Appendix H and the interpretation methodology issued by the Administrator most recently before the date of the enactment of the CAA Amendments of 1990.

(d) 8-Hour ozone design value is the 8-hour ozone concentration calculated according to 40 CFR part 50, appendix I.

(e)CAA means the Clean Air Act as codified at 42 U.S.C. 7401–7671q (2003).

(f) Applicable requirements means for an area the following requirements to the extent such requirements apply or applied to the area for the area’s classification under section 181(a)(1) of the CAA for the 1-hour NAAQS at designation for the 8-hour NAAQS:

1. Reasonably available control technology (RACT).
2. Inspection and maintenance programs (I/M).
3. Major source applicability cut-offs for purposes of RACT.
4. Rate of Progress (ROP) reductions.
5. Stage II vapor recovery.
6. Clean fuels fleet program under section 183(c)(4) of the CAA.
7. Clean fuels for boilers under section 182(e)(3) of the CAA.
8. Transportation Control Measures (TCMs) during heavy traffic hours as provided under section 182(e)(4) of the CAA.
9. Enhanced (ambient) monitoring under section 182(c)(1) of the CAA.
10. Transportation controls under section 182(c)(5) of the CAA.
11. Vehicle miles traveled provisions of section 182(d)(1) of the CAA.
12. NOX requirements under section 182(f) of the CAA.
13. Attainment demonstration or an alternative as provided under §51.905(a)(1)(ii).

(g) Attainment year ozone season shall mean the ozone season immediately preceding a nonattainment area’s attainment date.

(h) Designation for the 8-hour NAAQS shall mean the effective date of the 8-hour designation for an area.

1. Higher classification/lower classifications are ranked from...