Non-Attainment Designation: *There are Consequences*

When an area (usually a county or metropolitan area) is designated as a "non-attainment" (NA) area under the Clean Air Act, serious repercussions result immediately. These come in the form of increased costs to industry, permitting delays, restrictions on industry expansion within the area, as well as impacts to transportation planning. There are also increased costs to businesses and consumers due to special requirements for vehicles, fuels sold in the area, and for commercial and consumer products.

- **Loss of industry and economic development in and around the Area.** Companies interested in building a major manufacturing plant will likely not build in a NA area due to the increased costs, delays, and uncertainties associated with the restrictive permit requirements.

- **Loss of federal highway and transit funding.** Federally supported highway and transit projects may be halted in a NA area if the state cannot demonstrate that the project will cause no increase in applicable emissions.

- **New emissions in the Area must be "offset," or the unit cannot be built.** Companies must offset the projected emissions of the proposed new plant or major modification by purchasing unused emission credits from others, or by reducing their own emissions. The ability to purchase emissions credits becomes increasingly difficult as the available emissions credits are used up over time. Similarly, the ability to reduce existing emissions at a plant that is proposing a major modification may be difficult or impossible for sources that already meet stringent standards and have installed emissions control equipment. Where no offset can be found, the project may not go forward. In ozone NA areas, offsets typically must be greater than 1:1 ratio (e.g., a ton of offsets per ton of emissions).

- **Compensation for Foreign Sources of Emissions**. Certain States may also have to compensate for contributions to ambient concentrations in an area coming from foreign sources (such as Canada) in order to reach attainment with the NAAQS.

- **Additional restrictive permitting requirements that are not applied in attainment areas.** Companies that plan to build a new facility or construct a major modification to an existing facility in, or near, a NA area will be required to install the most effective emission reduction technology *without consideration of cost.* Less stringent controls may be installed in attainment areas. The permitting process can be expected to last a year or longer as the company demonstrates that its proposal will meet all of the applicable NA requirements. These differences would tend to discourage new business investments in NA areas compared with moving to an attainment area.

- **Greater EPA involvement and oversight in permit decisions.** EPA may intervene and require permit revisions, even after the state and company seeking the permit have negotiated the terms of a final permit. This causes tremendous uncertainty, delays, and increased costs in the permitting process.

- **Continuing oversight by EPA even after the NA area meets the standard.** Before a NA area can be redesignated as an attainment area, EPA must determine that: 1) the area has met the standard (for ozone, this means it must be in attainment for three full years); 2) the improvement in the area's air quality is due to permanent and enforceable emissions

reductions; and 3) the area has an approved maintenance plan and an approved contingency plan that contain enforceable requirements to keep the area from lapsing into NA.

- **Technical and Formula Changes for Commercial and Consumer Products.** In order to meet the NAAQS standard, some State Implementation Plans may include regulations that would reduce the pollutant or its chemical "precursors" (e.g., for ozone, certain types of Volatile Organic Compounds [VOC]), by requiring changes to operating processes, to a product's technical design, or to the actual chemical formulation of commercial or consumer products, such as paint, which may result in increased costs to users or differences in performance.