pertinent to  $SO_2$  areas are those contained in subparts 1 and 5. These provisions have been described previously in the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), and the following discussion will focus on the requirements of particular relevance to the implementation of a new NAAQS.

## 1. Attainment and SIP Submittal Dates

To determine the attainment dates and SIP submittal dates applicable to a new  $SO_2$  NAAQS, it is necessary to analyze the relationship of the relevant provisions of both subpart 1 and subpart

The starting point for the analysis is section 172(a) in subpart 1. Section 172(a)(2)(A) provides that the attainment date for attaining a primary NAAQS is the date by which attainment can be achieved as expeditiously as practicable, but not later than 5 years from the date of designation under section 107(d). It also provides that EPA may extend the attainment date to the extent appropriate, for a period of up to 10 years after designation, considering the severity of the air quality problem and the feasibility and availability of pollution control measures. Section 172(a)(2)(D), however, provides that "[t]his paragraph (paragraph (2)) shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part." This language therefore leads to the question of whether areas designated nonattainment with respect to a new SO<sub>2</sub> NAAQS are areas for which attainment dates are provided elsewhere in part D of title I.

As subpart 5 establishes attainment dates for certain SO<sub>2</sub> nonattainment areas, the issue is whether those provisions establish attainment dates for areas designated nonattainment with respect to a new SO<sub>2</sub> NAAQS. Of particular relevance are sections 192(a) and 191(a). Section 192(a) provides that SIP's required under section 191(a) provide for attainment "as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation." Section 191(a) requires that "[a]ny State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part."

One possible interpretation of the Act is that the language of section 191(a) applies to areas designated nonattainment with respect to a new SO<sub>2</sub> NAAQS promulgated after the enactment of the 1990 Amendments. If that interpretation is followed, section 192(a), rather than section 172(a)(2), would determine the attainment date for those areas. This is due to the language in section 172(a)(2)(D) providing that section 172(a)(2) does not apply to areas for which attainment dates are specifically provided elsewhere in part D. The language of section 191(a), rather than section 172(b), would also apply to the establishment of the SIP submittal date for nonattainment SIP's required to implement the new NAAQS. The consequence of this interpretation for the attainment deadline is that the 5year attainment deadline of section 192(a) would apply, rather than the 5year deadline that can be extended to 10 years under certain conditions under section 172(a). As far as SIP submittal deadlines are concerned, section 191(a)'s 18-month deadline would apply rather than section 172(b)'s 3-year

An alternative interpretation is that the provisions of subpart 5 were intended to apply only to attainment dates and SIP submittal deadlines concerning a NAAQS in existence at the time of the enactment of the 1990 Clean Air Act Amendments. Under this view, the general provisions of subpart 1 (i.e., sections 172(a)(2)(A) and 172(b)) would apply to the determination of attainment dates and SIP submittal deadlines pertaining to a new SO<sub>2</sub> NAAQS promulgated after the 1990 Amendments. The EPA notes, however, that it believes that an 18-month SIP submittal deadline would provide adequate time for the States to develop and submit their SIP's regarding a new NAAQS. It would also provide more time to implement the control strategy adopted in the SIP, which EPA believes is preferable. If the maximum period of 3 years were allowed, there would only be 2 years between the date of the submittal of the SIP and the 5-year attainment date, and even less time between EPA's final action regarding the approvability of the SIP's and the attainment date. Consequently, even if the provisions of section 172(b) were to apply to SIP submittal deadlines for a new NAAQS, EPA would require States to submit their SIP's within an 18month timeframe pursuant to section 172(b)'s authority to establish a shorter period than the maximum 3-year period.

The EPA requests comment on both of these interpretations and the consequences that they lead to regarding

the establishment of attainment dates and SIP submittal deadlines for a new  $SO_2$  NAAQS.

## 2. Classifications—Section 172(a)(1)

The classification provisions (section 172(a)(1)) give EPA the authority to classify nonattainment areas for the purposes of applying attainment dates (section 172(a)(2)(A)). In exercising this authority, EPA may consider such factors as the severity of the nonattainment problem or the availability and feasibility of the pollution control measures. Based upon the classification, EPA may set later attainment dates for areas with more severe air quality problems (section 172(a)(2)(A)).

At the present time, EPA does not intend to establish a classification scheme for areas which violate the new 5-minute SO<sub>2</sub> NAAQS. Currently the SO<sub>2</sub> program does not have a classification scheme since, typically, within the SO<sub>2</sub> program the severity of the SO<sub>2</sub> ambient air quality is not a factor in attaining the NAAQS once the needed control measures are put in place. The EPA believes that in most of the areas designated nonattainment for the new 5-minute NAAQS, the cause of the high SO<sub>2</sub> concentrations (usually a single source) will be obvious. While the method of controlling these emissions may not be as obvious, the control measure should result, in most cases, in a single step correction of any future violations. Consequently, EPA does not believe a classification scheme is necessary or appropriate.

## 3. Nonattainment Plan Provision—Section 172(c)

Section 172(c) lists the requirements to be met by a nonattainment SIP. Some of those requirements are discussed below in the context of a SIP submittal for a SO<sub>2</sub> NAAQS nonattainment area.

a. Statutory and Existing Regulatory Requirements. As previously indicated, regulations for the preparation, adoption, and submission of SIP's were initially published November 25, 1971 and codified as 40 CFR part 51. The 40 CFR part 51 has been modified from time to time since then. However, the most current guidance on how EPA intends to interpret the 1990 Amendments is found in the General Preamble (57 FR 13498, April 16, 1992).

The 1990 Amendments added section 172(c) which prescribes the nonattainment SIP requirements. To the extent that the existing SIP regulations that have been codified in 40 CFR parts 51 and 52 do not conflict with section 172(c), EPA will rely on them to carry out the requirements of section 172(c).