June 21, 2001

MEMORANDUM

SUBJECT: Supporting Innovative, Voluntary Strategies to Reduce Smog: Ozone Flex Program

FROM: John S. Seitz, Director /s/John S. Seitz
Office of Air Quality Planning and Standards

TO: Regional Administrators, Regions I-X

As part of the Agency's commitment to working cooperatively with State, Tribal, and local governments, I am pleased to announce the Ozone Flex program. This program will support and reward innovative, voluntary, local strategies to reduce ground-level ozone around the country. High smog levels have been linked to increases in the severity of asthma attacks and other respiratory health problems, especially for children and the elderly. By working with mayors, governors, and tribal leaders, we are encouraging localities to make decisions that will achieve cleaner air sooner.

With this memorandum, I am transmitting to you the guidelines for the Ozone Flex program and request that you and your staff work with States, Tribes, and local agencies that may wish to take advantage of this opportunity. The Ozone Flex program, originally conceived by Region VI, is a framework for local communities to develop voluntary solutions for areas concerned about potential future nonattainment of either the 1-hour or 8-hour ozone standards. The program provides a flexible approach for areas currently attaining the 1-hour ozone standard to achieve emission reductions and avoid future nonattainment. It also permits areas to secure public health benefits of the 8-hour ozone standard prior to EPA's designation of areas as "attainment" or "nonattainment" for the 8-hour standard. In addition, these voluntary measures may be creditable to future planning efforts, to the extent allowed by the Clean Air Act and EPA guidance or rules.

Under these guidelines, the State, Tribe, or local community will sign an inter-agency agreement with EPA. An important component of this program is that, for a limited period, the Ozone Flex area would remain designated attainment for the 1-hour standard, as long as the measures in the agreement are being implemented. The Ozone Flex program does not shield an area from being designated nonattainment for the 8-hour standard if the area is in violation of that standard at the time designation occurs. However, any emissions reductions that take place in advance of the designations process will provide long-term benefits for the area and may help bring it into attainment of the 8-hour standard prior to designation.

If you have any questions, you may contact Lydia Wegman of my staff at 919-541-5505.

Enclosure

cc: George Meyer, ECOS President
Thomas Skinner, ECOS Air Committee, Chair
Ralph Marquez, ECOS Air Committee, Vice-Chair
Robert E. Roberts, ECOS Executive Director
Bill Becker, STAPPA/ALAPCO
Brock Nicholson, STAPPA
John Paul, ALAPCO
Regional Air Division Directors, Regions I-X

bcc: Lydia Wegman
Jack Edwardson
Tom Helms
Bill Baker
Kevin McLean

O_3FLEX GUIDELINES

I. PURPOSE

"O_3Flex" is a voluntary local approach to ozone attainment to encourage emission reductions that will help keep an area in attainment of the 1-hour ozone standard, while also providing the health benefits envisioned under the 8-hour ozone standard. States/Tribes and local governments may at any time choose to reduce emissions, and several areas have approached EPA about programs to credit new reduction efforts. The O_3Flex program was developed to provide a structure and framework for local actions, and the guidelines are intended to assist areas looking for local solutions to air quality issues.

In addition to assisting long-term maintenance of the 1-hour ozone standard, O_3Flex may provide potential benefits in attaining the 8-hour ozone standard, or may affect classification for 8-hour nonattainment areas. EPA is just beginning to develop the implementation strategy for the 8-hour ozone National Ambient Air Quality Standards (NAAQS) and, during that process, plans to consult with stakeholders. These O_3Flex guidelines are intended to focus efforts to achieve local air quality improvements that may be helpful in meeting both the 1-hour and 8-hour ozone standards.

In developing an implementation plan for the 8-hour NAAQS, EPA intends to propose streamlined requirements for areas that have chosen on a voluntary basis to implement measures to reduce ozone levels, such as those areas that enter into O3Flex Memoranda of Agreement (MOA). Under the 1990 Clean Air Act, Congress recognized that areas that were closer to attaining the ozone NAAQS would have fewer regulatory burdens than those areas with more significant air quality problems. Similarly, EPA believes that areas' near-term efforts to improve air quality on their own initiative could be recognized in implementing the 8-hour standard. EPA is exploring possible methods to recognize these efforts for several program requirements, including establishing nonattainment area boundaries, classifying nonattainment areas, and establishing SIP submission obligations for nonattainment areas. Thus, in proposing an implementation strategy for the 8-hour standard, EPA plans to provide implementation options that recognize the efforts of areas that voluntarily achieve near-term emission reductions.

O_3Flex is implemented through an intergovernmental agreement between EPA, the State/Tribe, and the local community. By developing, signing and maintaining such an agreement, a specific area would remain designated attainment for the 1-hour ozone standard for a limited period of years, as long as the control measures in the agreement are being implemented. Areas in the O_3Flex program should commit to update or develop emission inventories, conduct air

dispersion modeling and design, and implement contingency measures that will be effective if violations should occur.

II. ELIGIBLE AREAS

O_3Flex is designed for areas that:

(1) currently are designated attainment and monitoring attainment of the 1-hour ozone standard (can include areas with maintenance plans), and
(2) currently monitor either violations or attainment of the 8-hour ozone standard .

Areas may undertake these efforts to improve air quality prior to completion of EPA's 8-hour designation process. The O_3Flex program is not intended for counties that are not exceeding the 1-hour ozone NAAQS but that are already part of a Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area (MSA/CMSA) nonattainment planning area. Such counties are encouraged to work with the State in considering strategies under the applicable State Implementation Plans (SIPs) required by the Clean Air Act (CAA). Any area interested in developing an O_3Flex Agreement should discuss its candidacy with appropriate stakeholders, State/Tribal agencies and EPA.

III. RECOMMENDED TIMING OF ACTIVITIES

December 31, 2001: Areas should submit a commitment letter or local resolutions to EPA.

Ozone season, 2002: To minimize potential exceedances, areas should evaluate voluntary and/or mandatory measures control options, and implement them to the extent possible for the 2002 ozone season.

December 31, 2002: Areas should submit an O_3Flex Memorandum of Agreement, including inventory, modeling and chosen control measures, to EPA.

IV. CREDIT FOR NEAR-TERM DISCRETIONARY EMISSION REDUCTIONS

Many States and localities wish to initiate control efforts now to accelerate protection under both the 1-hour and 8-hour ozone standards, but want to receive "credit" for these efforts at a later date when complete State/Tribal Implementation Plans (SIPs) may need to be submitted to EPA for approval. EPA intends to support flexible approaches that account for the complex nature of ozone formation, and to support communities that adopt measures for plans that may be required in the future. In addition, O_3Flex areas that are subject to transportation conformity, i.e., maintenance areas, may take credit for transportation-related measures they

adopt through these guidelines in their conformity determinations, as per the transportation conformity rule (40 CFR Parts 51 and 93).[1]

Two memoranda from John Seitz, Director of EPA's Air Quality Planning and Standards Division, dated October 12, 2000, and January 29, 2001, state that EPA will do all it can within its authority to support States/Tribes and local entities which obtain near-term, or early, emission reductions. In addition, the memos state that the Agency intends to develop future SIP planning guidance for attainment of the 8-hour standard in a manner that will address credit for local discretionary emission reduction measures adopted under an O_3Flex program. The memos are Attachment B to these guidelines.

V. AGREEMENT DEVELOPMENT PROCESS

The following steps are to assist local entities in developing an agreement to identify and obtain local emission reductions which will help prevent ozone standard exceedances and violations:

Step 1. Commitment Letter

The O_3Flex agreement process is initiated by sending a commitment letter from the local community and State/Tribal air quality agency to EPA. The letter should express the local area's commitment to develop an O_3Flex agreement and willingness to coordinate with the State/Tribe and EPA. The letter should be signed by the highest appropriate local officials. Resolutions or other official documents can be helpful in demonstrating local commitment. The more definitive the letter (i.e., the stronger the commitment expressed) the more likely resources/support can be mobilized behind the participating area's plan development. We also recommend including a realistic timeline for soliciting stakeholders' support and involvement, and for the development of the Action Plan.

Step 2 - Secure Stakeholder Participation

It is important to identify, contact, and secure the participation of all stakeholders. This is most commonly done by the formation of a local air quality committee consisting of

[1]Areas that include O_3Flex measures in their conformity determinations should work with their State and local transportation agencies to ensure that the emission reductions from these measures are not consumed by additional transportation projects. EPA recommends this course of action so that areas may reap the full benefit of the O_3Flex measures they adopt and limit the risk of violating the standard in the future.

representatives from local government, industry, and other interested parties. Stakeholders may need to be added as sources and control measures are identified.

Step 3 - Coordinate Agreement Development

The Agreement is intended to form a structure for efforts and actions to improve air quality in a well-defined geographic area, and is not a Federally enforceable document. However, the control measures an area chooses to implement may require that businesses, industries, and citizens comply with ordinances, codes, or other binding State or local regulations.

The geographic area covered by the Agreement should be based on the location and nature of sources, or other factors important to the community. However, the effectiveness of control measures in achieving air quality benefits may be reduced if important emission sources are excluded.

Several iterations may be needed to reach consensus on the content and wording of a final O_3Flex agreement. Stakeholders will have different knowledge, strengths and time constraints. Local officials can determine the best review process for their stakeholder group.

State/Tribal and EPA representatives can provide valuable technical information for local communities. Local plans should complement current or potential future State/Tribal or Federal efforts for the area. It may be helpful to have conference calls or meetings with the State/Tribal and EPA representatives to discuss specific portions of the draft proposal before a final draft is submitted for review. The EPA will review and provide comment on the Agreement and will work with local technical or policy committees.

VI. AGREEMENT COMPONENTS

Each plan should include the following elements:

B. Executive Summary

This section will include information about the area to be covered by the agreement, including a rationale for choosing the geographic boundaries. It is important to include brief information about the participating and signatory groups and agencies, and the general commitments and objectives of the agreement. This summary also includes expected agreement duration as well as the conditions for modification or early termination of the agreement.

B. Background

A summary of the background information on the air quality in the area should be included in the plan. This summary should include indications of the status of air quality in the area and the suspected or confirmed sources of pollutants which may contribute to ozone formation.

An air quality data summary includes the number and location of ozone monitors, the number and extent of ozone concentrations and standard exceedances, the types of air dispersion modeling conducted, and any observed trends in emissions or ozone concentrations.

Information on the sources and amounts of emissions should be summarized here. It is important to note the extent and availability of information about nitrogen oxide (NOx) and volatile organic compound (VOC) emissions which contribute to ozone formation in the area. Specify the types of sources of these pollutants and extent to which each type or specific source contributes to the release of the total emissions in the area.

C. Action Plan

This section describes the specific air quality planning and discretionary or mandatory control measures that local governments commit to undertake. Each measure will state how, where, when, and by whom the measure will be implemented. At a minimum, the Plan should keep ozone levels below the current 1-hour ozone standard. More stringent air quality targets can be agreed to by the signatory and interested parties. The Plan should work to achieve the target as expeditiously as practicable to provide maximum benefits.

Planning tools that will be part of the agreement include emissions inventory and air dispersion modeling. These will identify the sources of emissions in the area, and which control strategies may be effective at reducing ozone formation. Voluntary measures which may be undertaken by the general public or specific entities should be identified. The effectiveness of these measures may vary depending on the extent of participation or other circumstances. Measures that a local area elects to be mandatory will include details about the means of ensuring their implementation, such as regulations, agreed orders, and verification mechanisms.

EPA encourages the use of the latest planning assumptions and emissions model available to evaluate control measures. Using the latest planning assumptions and emissions model ensures that areas have the most up-to-date and accurate estimates of

the benefits that control measures provide. Examples of assumptions include estimates of current and future population, employment, and vehicle age and fleet mix. For mobile source emission estimations, the currently available emissions model is MOBILE5. EPA has released MOBILE6 to State and local air quality and transportation agencies for a preview period.

All measures should be new measures, not previously implemented, and above and beyond what is or will be required under State/Tribal or Federal law prior to and during the agreement period. To the extent possible, the amount of NOx and/or VOC emission reduction anticipated from each measure or combination of measures should be estimated.

Again, areas in the O_3Flex program will need to commit to update or develop emission inventories, conduct air dispersion modeling and design, and implement contingency measures that will be effective if violations of the 1-hour standard should occur. Failure to abide by the terms of the agreement could lead to redesignation to nonattainment for the 1-hour standard if a violation occurs.

Attachment A contains more detailed information about the emissions inventory, modeling, control measures and selection. A general overview follows:

1. Emissions Inventories

   Emission reductions from some types of efforts or controls should be readily quantifiable. Emission reductions from other measures may be more difficult to quantify (e.g., due to unknown levels of participation) but it may be possible to specify a somewhat realistic range of anticipated emission reductions from each or a combination of these "hard to estimate" measures. A percentage, range, or a time-adjusted sequence of total emission reductions should be included in the Agreement.

2. Modeling

   Air dispersion modeling predicts the effectiveness of a proposed control strategy or a proposed control measure in reducing local ozone concentrations. Before beginning a modeling effort, an area should contact the State or EPA for suggestions on what types of modeling needs to be conducted, and if State models for the area already exist. The results of modeling studies are a part of the Agreement.

3. Control options

Once the types and amounts of both the emissions and associated sources are generally known, a list of potential air quality improvement and/or emission control options can be developed. These options may include public awareness, notification, and participation in local programs; control devices or procedures for stationary sources; or mobile source control options. These options should be different from any required by State/Tribal or Federal law prior to or during the agreement term.

Other options may include voluntarily adopting State/Tribal or Federal measures like those designed and mandated for ozone nonattainment areas. These measures could be implemented on a voluntary basis and adapted as necessary.

New State/Tribal or Federal requirements may impact the emissions in an area during the agreement period. EPA expects O_3Flex proposals to go beyond Federal and State/Tribal requirements in place or expected during the agreement period. Consequently, local areas should become informed of requirements that will become applicable to their sources or area during the anticipated agreement period as they evaluate potential air quality control measures. Even if Federal and State controls are believed to be sufficient to bring or keep an area in attainment, local measures are needed since they may help ensure attainment is maintained by providing an extra margin of safety.

4. Selection of control measures

Emissions, modeling, source, and control information can be analyzed to select appropriate control measures to help achieve desired emission reductions and prevent high ozone levels. Specific O_3Flex plans can tailor the use, combination, and timing of specific measures to meet local needs and may contain public notification and emission reduction provisions, either as primary or contingency measures.

The timing of control measures and the period of years that EPA may defer redesignation to nonattainment for the 1-hour standard will need to be agreed upon by all parties. In general, 5 years is the maximum term.

D. Contingency Measures

The Action Plan should be sufficient to prevent violations of the 1-hour ozone standard. Nevertheless, the plan will need to contain contingency measures in case violations are measured. This will allow all parties to agree in advance on what needs to be done and know how to proceed to avoid the possibility that a violation could occur. Contingency measures describe the conditions when an additional action will be taken, a description of that action, and the time frame in which the specific measure or measures will be implemented. Areas with maintenance plans need to comply with CAA requirements as specified under Section 175A, in addition to implementing contingency measures agreed upon as part of the O_3Flex program.

E. Coordination and Public Participation

A consensus of support for the proposed control measures in all O_3Flex Action Plans is vital. Local officials can determine the best means to seek, and obtain and respond to input from groups or individuals potentially interested in or affected by the control measures proposed in the Action Plan. We recommend that the O_3Flex Action Plan be developed by a committee that includes local environmental and citizens groups, as well as representatives from local industry and government. The agreement should specify how parties to the agreement will coordinate efforts, information sharing, and data review.

Input on proposed control measures from environmental groups, citizen groups, the general public, the State/Tribe, and EPA should be given thoughtful consideration by the committee. Efforts to obtain consensus and consider all input will be part of this Section of the agreement.

F. Schedules/Reporting

A schedule of activities and milestones for each measure is to be included in the agreement so that signatory and interested parties will know when proposed measures will be implemented. Significant actions which are necessary or which may affect control measure implementation, such as required reviews/approvals, acquisition of equipment, etc., should be included in the schedule.

It is also advisable to have a semi-annual review for stakeholders about milestones and measures implemented or to be implemented, whether they are part of the action plan or a contingency program. In that way, all parties can have the latest information on issues such as control measure implementation progress; ozone monitoring data; and the need, timing, and success of contingency measures.

G. Signature Page and Date

All major contributors should sign the agreement. Signatories to the MOA will include at a minimum local community leaders, the State environmental agencies, and the EPA. During the course of O_3Flex agreement development, other parties significantly responsible for the implementation of the agreement may be added to the signatory list. The signature date of the MOA will be considered the start date of the agreement's term.

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Attachment A

O_3Flex Action Plan Components
Details of **Emissions Inventory**, **Modeling**, and **Controls**

3. Emissions inventory

One of the first steps in determining how to improve air quality in an area is to gather information on the sources and amounts of emissions. This process is known as emissions inventory development. The extent of the area inventoried will vary by community. EPA recommends evaluating the Metropolitan Statistical Area/ Consolidated Metropolitan Statistical Area (MSA/CMSA) (or the county or parish if there is no MSA) and extend the area if necessary. Local emission inventories can help an area identify, target, and obtain achievable and beneficial emission reductions to prevent ozone formation.

Emissions may come from stationary sources (industrial or commercial facilities) or from mobile sources (on and off-road vehicles, airplanes, and locomotives). Emissions of nitrogen oxides (NOx) and volatile organic compounds (VOC) contribute to ozone formation and should be the focus of emissions inventory efforts.

Information should be gathered on the number and types of emission sources in the area and the types and amounts of pollutants they emit. It is important to summarize the extent and availability of information about NOx and VOC emissions which contribute to ozone formation in the area. To the degree it is known, specify the types of sources of these pollutants and extent to which each type or specific source contributes to the release of the total emissions in the area.

The following steps outline the process:

Step 1: Determine if inventory information currently exists

The State/Tribe develops a formal emissions inventory for SIP/TIP development and may have information on the sources and emissions in the area. EPA may also have additional information. Other information sources should be identified and available information obtained.

Step 2: Determine the limit and extent of available information

The extent of available emissions inventory information for a particular area may vary. The State/Tribe or EPA should be able to provide guidance on the types of emissions inventory information that has not been collected for your area which may be beneficial to your local efforts.

Step 3: Gather additional information as necessary

In addition to specific local emission inventory data from the State/Tribe or EPA, the following information may be of use to local emission inventory development:

Stationary source data:

- VOC/NOx sources/emissions not included in the State/Tribe emissions inventory
- determination/reporting of excess facility emissions during start-up, shutdown, malfunction
- development of a 1999 emission inventory to compile and utilize the most recent data available

Mobile source data:

- mobile source information included/not included in the State/Tribe emissions inventory
- off-road vehicle types, numbers, emissions, hours/frequency of operation
- on-road vehicle types, numbers, emissions, vehicle miles traveled (possible data sources include local Metropolitan Planning Organizations and the local Department of Transportation)

4. Modeling

In addition to general or specific modeling needs or recommendations from the State/Tribe or EPA, the following factors should be considered in conducting air dispersion modeling of the area:

A. Purpose of the Modeling

Modeling can be conducted to help answer questions such as:

- Would it be more effective for the O_3Flex plan to concentrate on reductions of VOCs or NOx?
- If indications point to a combination of reductions what percentage should be VOCs or NOx?
- What kinds of reductions are necessary to make a difference in ozone concentrations?
- Is there a relationship (i.e., a ratio) between VOCs and NOx that contributes to ozone formation?
- Will a particular primary or contingency control measure be effective?

B. Data and Time Periods to be Modeled

To an extent, the purpose of the modeling will determine the emissions data that should be used, but other decisions need to be made such as:

- How many and which sources should be modeled?
- Which types of pollutants and what amounts of emissions from each source should be evaluated?
- Are the emissions inventory and other necessary data (i.e., meteorological data) available for the area?
- Should modeling be done for the whole agreement term or specific periods, such as each year?

C. An Area-Specific Growth Factor

If modeling is to be conducted over a longer term, such as a period of years, it should account for the growth in commercial/industrial development and motor vehicle use in order to provide a more accurate prediction of potential future ozone concentrations in the area. A growth factor for the specific area will need to be established to account for the anticipated growth in sources and emissions. Maintenance areas should use the growth estimates from their most recent conformity determination. As more recent information becomes available, these areas should consult with their EPA Regional Office to determine the appropriate factors to use.

D. Election/Use of an Appropriate Model

There are different models available to predict air quality impacts. It is important to consult with the State/Tribe and EPA on which model is appropriate for the purpose intended as well as the area, pollutants and sources to be evaluated.

3. Control Measures

Control measures can include public notification and emission reduction which can be either primary or contingency measures.

Notification measures include activities to inform the public of the impact of their daily activities and to encourage them to participate in efforts to improve local air quality.

Emission reduction measures are specific emission reduction commitments from specific facilities or industrial sources as well as broader measures applicable to the entire area, or which target a specific group of emission sources or category of emissions (i.e., sources with VOC emissions greater than 25 tons per year). Such measures may take the form of facility-specific commitments to install emission control devices, to shut down production units, or to change operating procedures, frequencies or time.

Control technology/measure information sources such as the Reasonably Available Control Technology/Best Available Control Technology/ Lowest Achievable Emission Rate (RACT/BACT/LAER) Clearinghouse exist and may be of further assistance to an area in gathering a list of potential air quality improvement options. Other States/Tribes or local communities, particularly those with similar sources and air quality issues, may be contacted to get information on control measures they have considered or implemented.

A list of some general categories of control measures follows. Additional information or emission control options for specific sources can be obtained by contacting the State/Tribe or EPA.

A. Public Awareness Activities

- Ozone awareness information
- Ozone action day activities and notifications

B. Commute/Transportation options

- Mass transit use incentives
- Car pooling
- Telecommuting
- Flexible work/commute hours
- HOV lanes
- Commuter choice programs
- Parking cash out

- Smart growth development
- Addition of bike lanes and bike storage

C. Stationary Sources Measures

- Vapor recovery at gasoline service stations (including marine servicing facilities)
- Discretionary implementation of measures required for nonattainment areas, such as:

    - adopting more stringent VOC/NOx control requirements than currently required
    - implementation of EPA source emission control technique guidelines (CTGs)
    - offsets for new source emissions or increases in emissions from existing sources
    - Specific emission reduction commitments from local commercial/ industrial facilities
    - Broader mandatory stationary source control measures (i.e. limits, regulations, offsets) than currently in place in the area

D. Mobile Sources Measures

- Availability, sale, and use of low Reid vapor pressure (RVP) fuels, with due consideration to the impact on fuel distribution
- Automotive inspection and maintenance (I&M) programs
- Alternative fuel vehicles/fleets
- Restrictions in off-road vehicle equipment use hours
- Retrofit of diesel engines
- "Cash for Clunkers"
- Lawn and garden equipment buy-back programs (replace with electric or manual equipment)
- Truck stop electrification

E. Other Ozone Prevention Activities

- Restricting auto refueling, lawn mowing and landscaping equipment use hours

4. Control measure selection

Factors which may be considered in selecting control measures include, but are not limited to:

A. Determination of desired emission reductions

The types and amounts of emission reductions desired may impact the selection of controls. An area with predominantly mobile sources needing NOx emission reductions to reduce ozone levels may need different control measures than an area with many large stationary sources of VOCs. Emissions inventory and modeling data may be beneficial in making this type of determination.

Considerations include:

- Is ozone formation in the area driven by NOx or VOC emissions or a combination of the two?
- To what degree do VOC or NOx emissions contribute to potential ozone exceedances?
- What are the primary types of VOC and NOx emissions sources in the area?
- Are there primarily mobile or stationary sources emitting most of the VOC or NOx in the area?
- Are there a few very large emitters of VOC or NOx, many smaller ones, or a combination?
- Are there any additional air quality improvements, such as toxic emissions reductions, that come about with the ozone controls under consideration for the O3Flex Plan, that would also benefit the community?

B. Analysis of available control measures

Even if the desired types and amounts of emission reductions are known, the availability and ease of implementation of emission control options may impact selection of a particular measure. Considerations include:

- Is an appropriate control technology/measure available?
- What is the effectiveness of achieving emission reductions?
- What are the timeframes necessary to implement the measure and see results?
- Can contingency measures provide sufficient protection from further exceedances?
- What is the cost in either dollars or resources necessary to implement the measure?
- How easy or hard will it be to “sell” the measure to specific companies, decision makers or citizens?

C. Selecting the proposed control measures

The State/Tribe and EPA can assist in evaluating data and in reviewing the modeling for control options. Cooperative discussions with other stakeholders can help determine the most appropriate control measures. Other States/Tribes or local communities, particularly those with similar sources and air quality issues, might be contacted to get additional ideas of control measures to consider.

Attachment B

Memoranda dated October 12, 2000, and January 29, 2001 on Near-Term Discretionary Emission Reductions for Ozone NAAQS

SIGNED BY HENRY THOMAS FOR JOHN SEITZ 10/12/00

MEMORANDUM

SUBJECT: Near-Term Discretionary Emission Reductions for Ozone NAAQS

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Regional Air Division Director, Region I - X

Recently, States and local communities have been involved in developing strategies for reducing ozone in order to maintain the 1-hour ozone standard and to potentially reduce 8-hour levels for the 8-hour standard. One concern they have expressed is how EPA will address these reductions in the future. This memorandum addresses that question by providing information for State and local air pollution control agencies regarding implementation of near-term discretionary reductions in emissions that would reduce 1-hour ozone levels and could address 8-hour ozone nonattainment situations in advance of formal nonattainment designations. Since EPA promulgated the 8-hour standard in July 1997, EPA has intended to implement the standard with flexible approaches that account for the complex nature of ozone formation, provide incentives for discretionary local and regional reductions, and allow communities to use these upfront measures for plans that may be required in the future.

In order to accelerate protection of public health, a number of' States and localities have approached EPA requesting our position relative to "crediting" near-term discretionary emission reductions. Many wish to initiate control efforts now to accelerate protection under both the 1-hour and 8-hour standard, but want to receive "credit" for these efforts at a later date when complete SIPs must be submitted to EPA for approval. This information memorandum commits that EPA will do all it can within the Clean Air Act and consistent with any ruling by the Supreme Court regarding the 8-hour standard to avoid undercutting States that obtain discretionary emission reductions now to reduce 1-hour and 8-hour ozone concentrations. As EPA develops any future ozone SIP planning guidance for attainment of the 8-hour NAAQS, we intend to do so in a manner, consistent with the SIP requirements of the Clean Air Act, that will provide credit to States and localities that initiate their own local near-term, discretionary abatement measures.

They EPA is not in any way beginning a process of implementing the 8-hour ozone NAAQS. However, the U.S. Court of Appeals for the DC Circuit did not find fault with the basic science behind the health effects of the 8-hour ozone NAAQS and, therefore, EPA believes that there should be no barriers to States that wish to begin exploring ways of reducing 8-hour ozone concentrations.

In addition, EPA is undertaking an effort with the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Program Officials (STAPPA/ALAPCO) to explore options to provide EPA with a range of ideas related to achieving cleaner air faster in any planning for attainment of the 8-hour standard, particularly
ideas related to transitional classification and near-term discretionary reduction initiatives.

If you have any questions, or desire additional information, please feel free to contact G.T. Helms at 919-541-5526.

EPA:OAR:OAQPS:AQSSD:OPSG:JSILVASI\LLassiter:NCM Rm 510a:(MD-15) 1-5526
File Name: I:\SEC\SILVASI\EARLRED_8.WPD October 10, 2000

SIGNED 1/29/01 BY JOHN SEITZ

MEMORANDUM

SUBJECT: Near-Term Discretionary Emission Reductions for Ozone NAAQS–Clarification

FROM: John S. Seitz, Director
Office of Air Quality Planning and Standards (MD-10)

TO: Gregg Cooke, Regional Administrator, Region VI

This responds to your memorandum that was faxed to us on December 20, 2000 in which you requested clarification concerning my memorandum of October 12, 2000, " Near-Term Discretionary Emission Reductions for Ozone NAAQS." That memo set forth guidance on the question of crediting emission reductions for State implementation plan (SIP) purposes. In response to that memo we have received a number of questions and concerns from State and local air agencies that the memorandum did not provide enough assurance to help them in their decision whether to undertake elective reductions of emissions of ozone precursors to reduce ozone concentrations. Today's memorandum is intended to provide additional assurance and clarification. Because our response to your memorandum is generally applicable to all State and local agencies, I am sending this response to all the Regional Offices.

As a matter of federal law, State and local governments may at any time–without a federal requirement to do so–elect to initiate emission reductions for a variety of reasons, including providing an additional measure of public health protection or to avoid having an area that is currently attaining the 1-hour ozone standard lapse into nonattainment. States may rest assured that EPA will allow these elective emission reductions to be credited for any future SIP that may be required. There are several ways that emission reductions could receive "credit" in the process. These are primarily through lowering the ozone concentration baseline used as a starting point in ozone attainment modeling, reducing the total amount of emission reductions needed for attainment, or in providing emission reductions needed for attainment in a SIP's attainment demonstration. These are described in more detail in Attachment A.

You specifically asked about credit for an elective vehicle inspection and maintenance (I/M) program (i.e., one that is not required under the Clean Air Act). This would be addressed as noted in Attachment A. If emission reductions from the program occur before the base year from which

projections to the future are made, those reductions would serve to lower the base year air quality design values and emission inventory, thereby making it easier to demonstrate attainment. Likewise, emission reductions slated for some year after the base year chosen would provide "credit" for a State or local area in any future plan. Finally, air quality benefits achieved from elective adoption of an I/M program could possibly eliminate the need to designate an area as nonattainment.

I trust that this memorandum provides added reassurance to State and local agencies that elect to reduce emissions in the near term to lower ozone levels and provide additional health protection to their residents and prevent future nonattainment situations. My office stands ready to work with State and local agencies in supporting their efforts to institute such elective emission reductions that will bring the health benefits of lower ozone levels to their residents.

Questions on this memorandum may be directed to G.T. Helms at 919-541-5526.

cc: Air Division Directors, Regions I-X

EPA/OAR/OAQPS/AQSSD/OPSG\JSILVASI\LLassiter/:NCM Rm 510A:(MD-15)1-5526
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ATTACHMENT A
EXAMPLES OF EMISSION REDUCTION CREDIT MECHANISMS

1. Lower ozone concentration baseline

   Except in rare instances (e.g., nitrogen oxide (NOx) disbenefit situations), reductions in ozone precursors (nitrogen oxides and/or volatile organic compounds) will reduce ambient ozone concentrations and may possibly eliminate the need to designate an area as nonattainment.

2. Lower level of emission control

   Even for an area that is ultimately designated nonattainment (e.g., of the 1-hour ozone NAAQS), a lower ozone baseline will serve to minimize the amount of additional emission controls that would be needed when the SIP is prepared for the area.

3. Credit for emission reductions in attainment demonstrations in general

   States that are required to prepare a demonstration of attainment are currently allowed (and encouraged) to account for any emission reductions that occur between the base year of their modeling analysis and the attainment date. Obviously, if emission reductions occur before the base year from which projections to the future are made, those reductions would serve to lower the base year air quality design values and the base emission inventory from which any necessary future reductions would be made to demonstrate attainment. The result would be that fewer reductions should be needed to demonstrate attainment. Likewise, emission reductions slated for some year after the base year chosen would provide "credit" for a State or local area for any future planning obligation (e.g., attainment demonstrations or maintenance plans). EPA's ordinary requirements regarding SIP credit (e.g., enforceability, permanence of reductions over the time period concerned, quantifiability) would, of course, still apply.