

APPENDIX C

EAC Memorandums



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

APR 04 2003

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Early Action Compacts (EACs): The June 16, 2003 Submission and Other Clarifications

FROM: Lydia N. Wegman, Director *Lydia N. Wegman*
Air Quality Strategies and Standards Division

TO: Air Directors, Regions III, IV, VI, and VIII

This memorandum responds to questions from States and local EAC areas about what needs to be included in the milestone submittals and semiannual reports due June and December 2003. As we have stated before, completion of each of the critical milestones and schedules as described in the "Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-hour Ozone Standard" ("Protocol"), revised November 2002, and the November 14, 2002 memorandum from Jeffrey Holmstead to EPA Regional Administrators is essential if areas are to remain eligible for participation in the EAC program. To ensure that the 2003 submissions and subsequent milestones will be met, we are issuing this memorandum (1) to provide State and local air pollution control agencies some general guidelines to assist them in completing the June 16, 2003 submission; (2) to clarify what should be included in the semiannual reports due in June and December 2003; and (3) to clarify several technical requirements of the program to ensure that the attainment demonstrations being developed in conjunction with the local air quality plans are representative of current information and conditions.

1. June 16, 2003 Submission

The Protocol and the November 14, 2002 Holmstead memorandum require EAC areas to identify and describe the local control measures that will be considered during the local planning process. This June 16, 2003 milestone must be met to maintain eligibility in the EAC program. This submission can be referenced in the June 2003 progress report, as described in the Section 2 of this memorandum.

We recommend that EAC areas, based on stakeholder consultation, submit by June 16, 2003 a list of candidate local control measures that is sufficient to ensure a control strategy can be developed to achieve attainment of the 8-hour ozone standard by 2007. As provided in the Protocol, areas should describe each of the local control measures under consideration.

As EAC areas prepare and subsequently analyze the June 2003 list of local measures, we advise the participants to work with stakeholders to consider carefully each of the following components needed to develop an attainment strategy:

- Local control measures that can reasonably be implemented in each area. Among the factors to consider are the resource and political constraints of that specific area;
- Realistic implementation dates for the control measures;
- The range of potential emissions reductions that will result from each control measure based on reasonably available information. (In accordance with the Protocol, these local measures must be specific, quantified, and permanent, and that if approved by EPA, will be federally enforceable SIP revisions.) A list of resources containing emissions reduction estimates for specific measures can be found in the attachment to this memorandum; and
- The geographic area to which control measures could be applied.

Any public comments received in response to the June 16, 2003 submissions will be posted on EPA's EAC website at: <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

2. June 30, 2003 Progress Report

The Protocol requires local areas to assess and report every 6 months their progress against milestones in a regular, public process. At a minimum, the June 2003 progress report should do the following:

- Document progress in developing the stakeholder process, including the roles and responsibilities of various stakeholder groups, a list of stakeholders, and a brief summary of stakeholder meetings;
- Report progress on evaluating and selecting emission reduction measures for the local control strategy, including stakeholder involvement in the development of the initial list of control measures (The June 2003 progress report can reference the June 16, 2003 submission discussed above.);
- Describe public outreach activities (press coverage, public presentations, websites, etc.); and
- Provide an update on modeling/technical planning activities.

3. December 31, 2003 Progress Report

As part of the December 2003 progress report, EAC areas should address in detail each of the bulleted components discussed in section 1 above. This progress report will be an important element in EPA's consideration of whether or not to grant a deferral of the effective date of the nonattainment designation at the time of final designations in April 2004. More specifically, the progress report should address:

- A list of control measures still under consideration for adoption by the local area as part of the March 2004 submission;
- Likely implementation dates for the local control measures that are under consideration;
- Current assessment of the amount of emissions reductions expected to be achieved through implementation of the local control measures; and
- The geographical area in which each control measure is anticipated to apply.

4. Attainment Demonstration

As State and local agencies move forward to develop the modeling and other technical analyses in support of attainment demonstrations for EAC areas, they have asked EPA for clarification of the modeling guidance and its application to EAC areas. As modeling demonstrations will become part of the enforceable SIP, State and local agencies should do the following:

- Follow the most recent OAQPS modeling guidance ("Draft Guidance on the Use of Models and Other Analyses in Attainment Demonstrations for the 8-hour Ozone NAAQS," May 1999, EPA-454/R-99-004); see: <http://www.epa.gov/scram001/guidance/guide/drafto3.pdf> ;
- Model most current emissions inventory, preferably 2002; however, if 2002 is not available, use of a 1999 or later inventory for EAC modeling is acceptable;
- Base 2007 projections on 1999 emissions inventory or later;
- Use MOBILE6 in both the current and future inventories;
- Select episodes that are representative of the area's ozone problem;
- Use appropriate assumptions and emissions analysis techniques in quantifying emissions reductions.

Please advise your States that any deviations from the above guidance need to be reviewed by and coordinated with the EPA Regional Office. For additional clarification of these and other technical requirements, State and local agencies should refer to questions and answers related to EAC modeling issues at: <http://www.epa.gov/scram001/guidance/guide/eac-ozone.pdf>. This document, which will be updated periodically with additional questions as necessary, provides clarification of the current modeling guidance and its application to EAC areas.

I hope this information will be helpful to you and EAC areas as they move forward to meet the swiftly-approaching milestone and semiannual reports for this year.

Any questions related to EAC policy issues should be directed to David Cole at 919/541-5565, while questions related to EAC modeling and attainment demonstration issues should be directed to Ellen Baldrige at 919/541-5684.

cc: Air Directors, Regions I, II, V, VII, IX, X
Margo Oge, OTAQ
Steve Page, OAQPS
Peter Tsirigotis, OAQPS
Joe Tikvart, OAQPS
G.T. Helms, OAQPS
Jan Tierney, OGC

ATTACHMENT

Resources for Identification of Control Strategies, Emission Reduction Estimates and Emission Inventories

URL	Downloadable Document(s) and Websites
www.epa.gov/otaq/transp/costemis.pdf	"Summary Review of Costs and Emission Reductions for 24 CMAQ Projects" (September 1999)
www.epa.gov/otaq/transp/publicat/pub_volu.htm	"Quantification of Episodic Control Programs" (EPA420-R-97-0061, April 1997)
http://www.epa.gov/oms/transp/comchoic/sipguide.pdf	"Index of Transportation Measure Quantification Efforts: Methodology Matrix" (EPA420-R-98-018, September 1998)
http://www.epa.gov/oms/transp/comchoic/sipguide.pdf	"State Implementation Plan Development Guidance: Using Emission Reductions from Commuter Choice Programs to Meet Clean Air Act Requirements" (EPA420-R-98-007, December 1998)
www.epa.gov/otaq/transp/publicat/pub_tcms.htm	"Benefit Estimates for selected TCM Programs" (EPA420-R-98-002, July 1999)
www.epa.gov/otaq/transp/publicat/pub_tech.htm	Transportation and Air Quality ACM Technical Overviews. These documents provide overviews of individual TCMs, discussing their advantages, disadvantages, and issues involved in their implementation. Topics: <i>Accelerated Retirement of Vehicles, Bicycle and Pedestrian Programs, Commute Alternative Incentives, Congestion Pricing, Guaranteed Ride Home, High Occupancy Vehicle Lanes, Intelligent Transportation Systems, Parking Management, Parking Pricing, Improved Public Transit, Telecommuting, Traffic Flow Improvements, Trip Reduction Ordinances, Work Schedule Changes</i>

www.epa.gov/otaq/transp/publicat/pub_mkt.htm	"Opportunities to Improve Air Quality Through Transportation Pricing Programs" (EPA420-R-97-004, July 1997)
http://www.epa.gov/otaq/transp/publicat/pub_pedo.htm	"TDM Case Studies and Commuter Testimonials" (August, 1997) Successful transportation demand management programs are described in 19 case studies.
http://www.epa.gov/dced/pdf/comparing_methodologies.pdf	"Comparing Methodologies to Assess Transportation and Air Quality Impacts of Brownfields and Infill Development" (EPA-231-R-01-001, August 2001)
PDF file will be made available on EAC website at: http://www.epa.gov/ttn/naqs/ozone/eac/	"Methodologies for Estimating Emission and Travel Activity Effects of TCMs" (EPA-420-R-94-002, July 1994)
http://www.epa.gov/ttn/chief/	Clearinghouse for Inventories and Emission Factors, including a new draft of an update to the 1999 National Emission Inventory (March 11, 2003)
PDF file will be made available on EAC website at: http://www.epa.gov/ttn/naqs/ozone/eac/	"Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act: A Menu of Options," STAPPA/ALAPCO, September 1993.
PDF file will be made available on EAC website at: http://www.epa.gov/ttn/naqs/ozone/eac/	"Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options," STAPPA/ALAPCO, July 1994.
PDF file will be made available on EAC website at: http://www.epa.gov/ttn/naqs/ozone/eac/	"Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures," November 24, 1999.
http://www.epa.gov/otaq/voluntary.htm	EPA Website: Transportation and Air Quality Voluntary Programs, including Green Vehicle Guide, Voluntary Diesel Retrofit Program, and Commuter Choice Leadership Initiative, U.S. EPA (updated January 10, 2003)

http://www.epa.gov/otaq/transp/traqdata.htm	EPA Website: Transportation and Air Quality Planning, Clearinghouse and Databases. Includes Survey of Episodic Control Programs, Market Incentives Resource Center for Air Quality Programs, Smart Travel Resource Center, Transportation-related Grants Database, and Transportation Control Measures Program Information Directory (updated June 28, 2002)
http://www.epa.gov/otaq/transp/landguid.htm	"Improving Air Quality Through Land Use Activities." Report (EPA420-R-01-001, January 2001)
http://www.epa.gov/otaq/transp/traqtcms.htm	EPA Website on Transportation Control Measures: On-line Database; Methodologies for Estimating Emission and Travel Activity Effects of TCMs - (EPA420-R-97-004, July 1997)
http://www.trb.org	Transportation Research Board Website: Quantifying Air-quality and Other Benefits and Costs of Transportation Control Measures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 14 2002

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Schedule for 8-Hour Ozone Designations and its Effect on Early Action Compacts

FROM: Jeffrey R. Holmstead *Jeff Holmstead*
Assistant Administrator

TO: Regional Administrators, Regions I-X

The purpose of this memorandum is to inform State and local air pollution control Agencies and Tribes (States and Tribes) about the Environmental Protection Agency's (EPA's or Agency's) schedule for designating areas for the 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard) and the impact of the designation schedule on areas that are developing early action compacts (compacts). Please share this memorandum with your States and Tribes. This memorandum does not replace earlier guidance on the designation process and determining nonattainment area boundaries based on case-by-case application of air quality-related factors and presumptions. These earlier memoranda, titled "Boundary Guidance on Air Quality Designations for the 8-Hour Ozone National Ambient Air Quality Standards" dated March 28, 2000 and "Guidance on 8-Hour Ozone Designations for Indian Tribes" dated July 18, 2000, provide more detail on these issues and are located at <http://www.epa.gov/ttn/oarpg>.

Part A of this memorandum describes the schedule for designations, Part B addresses designation of Tribal areas and Part C addresses the effect of this schedule on States and Tribes that are developing compacts pursuant to the Texas "Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-Hour Ozone Standard" (protocol) endorsed by EPA on June 19, 2002. The protocol can be found at <http://www.epa.gov/eart/r6/6pd/air/pd-1/8hourozone.pdf>.

A. Schedule for Designations for the 8-Hour Ozone NAAQS

On May 30, 2002 representatives of nine environmental organizations filed a notice of citizen suit under the Clean Air Act (Act) alleging that the Administrator failed to promulgate air

quality designations by the required statutory deadline.¹ On November 13, 2002, the nine environmental groups filed their lawsuit in the U.S. District Court for the District of Columbia. The EPA and the environmental groups have agreed upon a schedule for EPA to promulgate air quality designations for the 8-hour ozone standards by April 15, 2004. This agreement is embodied in a consent decree that was lodged with the U.S. District Court for the District of Columbia on November 13, 2002. In accordance with §113(g) of the Act, prior to finalizing the consent decree, EPA will publish a notice in the Federal Register providing a 30-day period for public review. If the public review results in revisions to the consent decree, EPA will modify this guidance as appropriate.

The EPA is now requesting that each State Governor and Tribal Chief or Leader submit their updated, revised, or new designation recommendations and documentation to the Regional Administrator of the appropriate Regional Office by April 15, 2003. It should be noted that State recommendations do not apply to Indian country. The recommendations should generally be based on 2000-2002 quality assured, Federal reference or equivalent air quality monitoring data. This date will provide time for States and Tribes to quality assure the data for use in developing their recommendations and for EPA to carefully review and evaluate each recommendation prior to promulgating designations. To the extent that 2001-2003 air quality data are available and quality assured at the time of final designations, EPA will use 2001-2003 data when promulgating the designations. Therefore, EPA encourages Regional Offices, States and Tribes to prioritize and accelerate quality assurance of 2003 ozone monitoring data for use in promulgating designations. In the case where a State or Tribe does not submit a recommendation by April 15, 2003, EPA will promulgate the designation it deems appropriate.

In accordance with the Act, EPA will review the recommended designations and may make modifications as deemed necessary. If EPA determines that a modification to a recommendation is necessary, EPA will notify the State or Tribe no later than 120 days prior to promulgating the designations, which will provide an opportunity for the State or Tribe to demonstrate why EPA's modification is not appropriate. The EPA anticipates that it would provide such notification no later than October 15, 2003.

The EPA believes this timetable for promulgating designations is reasonable and appropriate and provides adequate time for States, Tribes, and local communities to develop effective ozone abatement strategies. Accordingly, EPA believes that there is no need for legislative action to alter the statutory deadline for ozone designations or related implementation

¹Section 6103 of the Transportation Equity Act for the 21st Century ("TEA-21") provided that EPA was required to designate areas for the 8-hour ozone NAAQS no later than July 18, 2000. See CAA section 107 Note. As part of Pub. L. 106-377, enacted in October 2000, Congress prohibited EPA from spending funds to designate areas for the 8-hour NAAQS until the earlier of a decision by the Supreme Court in Whitman v. American Trucking Assoc. or June 15, 2001. The Supreme Court issued its decision in Whitman v. American Trucking Assoc. on February 27, 2001.

requirements. In addition, EPA believes that it is possible to harmonize implementation of the 8-hour ozone and particulate matter NAAQS for 2.5 microns or less (PM_{2.5}) without seeking legislation because EPA will work with States to ensure that area designations for both NAAQS will occur in 2004. Indeed, the designation of areas for the PM_{2.5} standard by December 2004 is one of the Agency's highest priorities, due to the serious public health implications of PM_{2.5} exposure and the corresponding importance of initiating the air quality planning process for both the ozone and PM_{2.5} standards. This will enable States and Tribes to plan for implementation of both NAAQS at the same time. In addition, EPA intends to promulgate an implementation rule and release guidance addressing the 8-hour ozone program by the end of 2003 to aid States in planning for implementation prior to promulgation of designations.

The EPA is committed to ensuring that all stakeholders have an opportunity to participate in the designation process for the 8-hour ozone NAAQS, and that State, local and Tribal officials have ample time to comply with obligations that are triggered by designations. States are encouraged to involve their stakeholders in developing their recommendations. Regional Offices should work with States and Tribes, particularly those Tribes located in or near an area where a monitor is recording a violation of the 8-hour ozone NAAQS.

B. Designation of Tribal Areas

Tribes have raised a number of concerns and questions to EPA about the designation process in discussions held by the Tribal Designations and Implementation Work Group. For instance, many Tribes believe that consolidated metropolitan statistical area (C/MSA) boundaries should not include reservations which are often politically and economically not integrated with the surrounding or adjacent urban area. The C/MSA presumption for the recommended nonattainment area plus nearby contributing areas in EPA's guidance recognizes the need for broader nonattainment areas associated with urban areas because of transport of pollution and precursor emissions within and into urban areas, widespread poor air quality in and near urban areas and protection of health and welfare of citizens living in the area. While EPA's guidance establishes a presumption that the metropolitan area² is the initial default area, the guidance offers a method to arrive at a different conclusion other than C/MSA through case-by-case evaluation and documentation based on the factors in the guidance. Therefore, a Tribe may make a recommendation that their area not be included in a C/MSA nonattainment area and/or that a nonattainment designation is not appropriate for the area by addressing the factors in the guidance. Another concern that Tribes have raised with the designation process is that Tribes may not have the resources to do the detailed analysis necessary to prepare recommendations. Therefore, EPA offers to work with Tribes on their recommendation upon request.

Tribes are encouraged, but not required, to submit designation recommendations for their reservations, or other area under their jurisdiction, to EPA. The Tribal Authority Rule (TAR)

² "Metropolitan area" means the Metropolitan Statistical Area (MSA) or, in areas with multiple contiguous MSAs, the Consolidated Metropolitan Statistical Area (CMSA).

offers flexibility to Tribes for specific plan submittal and implementation deadlines for NAAQS-related requirements, including but not limited to such deadlines in CAA sections 110(a)(1), 172(a)(2), 182, 187, 189, and 191. However, EPA is required by the Act and the consent decree to make designations according to a timetable. Therefore, if a Tribe wishes to participate in the designation process, it must submit a recommendation in time for EPA to consider that recommendation when making a designation. In cases where Tribes do not make recommendations, the EPA, after consultation with the respective Tribe(s), will promulgate the designation it deems appropriate.

The EPA will continue to work with the Tribes to address their concerns, consistent with the TAR. Because many of the Tribal concerns about designations will be area specific, it is important for the Tribes to work with their EPA Regional Office on their recommendations. For more information on ozone designations for Tribes, see EPA's Guidance on 8-Hour Ozone Designations for Indian Tribes, available on the Office of Air and Radiation's Tribal AIR website, www.epa.gov/oar/tribal/airprogs/tribe8hd.html. The EPA plans to contact Tribes regarding consultation prior to promulgating actual designations.

C. Early Action Compacts

In this section, EPA is addressing how it anticipates the designation schedule will work for areas that develop voluntary 8-hour compacts, as provided in the protocol. The EPA endorsed this protocol on June 19, 2002. The purpose of a signed 8-hour compact is to provide a local area with flexibility to control air emissions from their sources and offer a means to achieve cleaner air faster than the Act would otherwise require. Areas that currently approach or monitor exceedances of the 8-hour ozone standard, but are designated attainment and "clean" for the 1-hour ozone standard, i.e., no monitored violations, would be eligible to qualify for the compact approach, provided the milestones and schedules discussed in the next section of this memorandum are met. Under this approach, 8-hour air quality plans would be developed consistent with a cooperative agreement between local, State or Tribe and EPA officials. These early 8-hour plans would consist of local, enforceable measures that would achieve air quality reductions earlier than otherwise would be required and that would be approved as part of the State implementation plan (SIP). In cases where a Tribe elects to participate, the local controls would be included as part of the Tribal implementation plan (TIP). For participating areas that are monitoring a violation of the 8-hour ozone standard, EPA would recognize the local area's commitment to early action by provisionally deferring the effective date of the nonattainment designation. The deferral of the effective date of the designation would be contingent upon the participating area's meeting all terms and milestones of the compact. The Agency believes that these compacts can result in early environmental progress, and we continue to support local areas' commitments to develop plans that are designed to achieve clean air faster than the Act would otherwise require.

We strongly encourage States, Tribes and local areas to begin broad-based stakeholder outreach early, and to maintain an effective and inclusive collaborative process. The early action

program is based upon, and cannot effectively operate without, broad-based support from all interests.

One of the principles of the protocol concerns deferral of the effective date of the nonattainment designation for areas that are in compliance with applicable milestones in the compact. For these areas, EPA would plan to defer the effective date of the nonattainment designation on a rolling basis such that each deferral is linked to a key milestone, as described below in the next section of this memorandum. We have included a schedule for deferrals later in this memorandum in the section entitled "Provisional Deferral of the Effective Date of Nonattainment Designation."

Key Compact Milestones and Schedules

Below EPA sets forth the key milestones, which are also outlined in the protocol, that should be included in each compact. The milestones have been supplemented as described below and in a letter dated October 18, 2002, from Gregg Cooke, EPA, to Robert Huston, Texas Commission on Environmental Quality. The Regional Offices should work closely with States, Tribes and local areas to emphasize the importance of adhering to these critical milestones and schedules, as well as the importance of implementing an effective stakeholder process.

1. December 31, 2002 - The compact must be completed, signed by local, State or Tribal and EPA officials, and submitted to EPA no later than December 31, 2002. Areas that submit compacts after that date will not qualify for the deferred effective date. These agreements represent commitments of States and local areas or Tribes that culminate in the development of the SIPs or TIPs that will achieve local reductions earlier than otherwise required, and which demonstrate attainment of the 8-hour ozone NAAQS by December 31, 2007. The compacts should follow the principles outlined in the protocol and should address the following components described in the protocol: milestones and reporting; emissions inventory; modeling; control strategies; maintenance for growth; public involvement; and local, State or Tribal and EPA commitments.

2. June 16, 2003 - The protocol requires that, after all adopted Federal and State or Tribal controls that have been or will be implemented by the attainment date of December 31, 2007 are accounted for in the modeling, the local area must adopt additional local controls, as necessary, to achieve reductions earlier than otherwise would be required, and to demonstrate attainment of the 8-hour ozone NAAQS by December 31, 2007. Therefore, by June 16, 2003, the first step in complying with this requirement, the local area will identify and describe the local control measures that are being considered during the local planning process. The June 16, 2003 deadline for describing the control measures under consideration must be met to maintain eligibility in the program. While failure to list a measure at this stage would not preclude its adoption later, it is important to develop a reasonably complete initial list of measures. We recognize that the modeling may not be complete at this stage, and that control measures may need to be modified. This milestone, therefore, will provide the public with clear information on

the measures under consideration, will help ensure that interested parties are fully aware of the level of effort and local commitment that is necessary, and will demonstrate that the local area is making progress toward meeting the critical March 31, 2004 deadline for adoption of local measures.

3. March 31, 2004 - The resulting local plan must be completed and submitted to the State or Tribal leader by March 31, 2004 for inclusion in the SIP or TIP and a copy must be provided to EPA by that date. The local plan shall include measures that are specific, quantified, and permanent, and that if approved by EPA, will be Federally enforceable as part of the SIP or TIP. The March 31, 2004 submission also must include specific implementation dates for the adopted local controls. In addition, the local plan must include detailed documentation supporting the plan and reports outlined in the protocol, as well as a modeling analysis based on local controls demonstrating attainment of the 8-hour ozone NAAQS by December 31, 2007.

4. December 31, 2004 - No later than December 31, 2004, States or Tribes will submit to EPA a SIP or TIP consisting of the local plan, including all adopted control measures, and a demonstration that the area will attain the 8-hour ozone standard by December 31, 2007. If a SIP or TIP has been submitted by that date, EPA will review it for completeness and approvability.

5. September 30, 2005 - EPA will take final action on any SIP or TIP revisions submitted by December 31, 2004, pursuant to the compact.

6. December 31, 2005 - No later than December 31, 2005, the area will implement the local control measures that have been incorporated into the SIP or TIP. The EPA strongly recommends that these local measures be implemented earlier (no later than the beginning of the local area's 2005 ozone season) to ensure that the area will have timely and sufficient air quality data (2005-2007) to show attainment by December 31, 2007.

7. June 30, 2006 progress assessment - The protocol requires 6-month progress reports. No later than June 30, 2006, the State or Tribe must submit to EPA a report attesting to the local area's progress since the December 31, 2005 milestone. To determine whether the effective date of the nonattainment designations should continue to be deferred, EPA will review the mid-2006 report to ensure that the area continues to implement its control measures, that emission reductions attributed to local measures are being achieved, and that improvements in air quality are being made. This 6-month report should contain sufficient information to ensure that EPA can make a comprehensive assessment of air quality progress in the local area.

8. December 31, 2007 - No later than December 31, 2007, the area must attain the 8-hour ozone NAAQS. If the area has attained the standard by December 31, 2007, EPA will withdraw the deferred nonattainment designation and replace it with an attainment designation. If the area fails to attain by this date, the nonattainment designation will become effective on April 15, 2008. In addition, pursuant to the terms of the compact, the State must submit a revised attainment demonstration SIP for the nonattainment area by December 31, 2008.

Provisional Deferral of the Effective Date of Nonattainment Designation

If an area meets the first two compact milestones, EPA anticipates that it will propose in October 2003 to defer the effective date of the nonattainment designation for that area until September 30, 2005, contingent upon the area's submission of local control measures by March 31, 2004, as required by the third compact milestone. If the area submits the required control measures, and after consideration of public comment, EPA intends to take final action by April 15, 2004 on the deferred effective date.

Under the terms of the protocol, EPA has committed to approve the SIP or TIP by September 30, 2005. Assuming the SIP or TIP is approvable, the Agency intends to propose, as part of the approval action, the second deferral of the effective date until December 31, 2006. This will allow the Agency time to determine if implementation of control measures has occurred by the December 31, 2005 milestone before further extending the effective date. If the June 30, 2006 progress assessment (described in the previous section) has been submitted, implementation has occurred, and air quality improvement is taking place, EPA will propose and, if appropriate, take final action on the third deferral of the effective date until April 15, 2008. By that date EPA will determine if an area has attained the 8-hour ozone NAAQS by December 31, 2007, as required by the protocol.

In the event of any missed key milestone, EPA will take action to propose and promulgate a finding of failure to meet the milestone, and to withdraw any deferred effective date of the nonattainment designation shortly after the missed milestone. The deferred effective dates will expire unless EPA determines, as part of the rulemaking actions described above, that all intervening milestones have been achieved. If any milestone is missed and EPA withdraws the deferred effective date, thereby triggering a nonattainment designation and applicable statutory requirements, a nonattainment SIP would have to be submitted to EPA within 1 year of the new effective date of the nonattainment designation. A timeline of key compact milestones and deferred effective dates is attached.

Questions on designations should be directed to Sharon Reinders at 919/541-5284.
Questions on 8-hour compacts should be directed to David Cole at 919/541-5565.

cc: Air Directors, Regions I-X
Margo Oge, OTAQ

EPA:OAR:OAQPS:AQSSD:OPSG:DCOLE\LLassiter:New Campus C545E\C539-02\1-5526
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Early Action Compact Timeline

