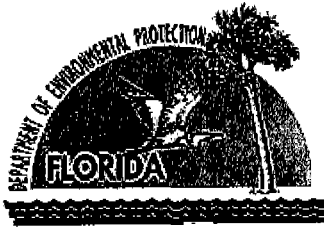


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Department of
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Division of Air Resource Management

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David B. Struhs
Secretary

April 8, 2002

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
401 M Street, Southwest
Room M-1500 (Mail Code 6102)
Washington, DC 20460

RE: Docket Number A-2001-31

To Whom It May Concern:

I am writing on behalf of the Florida Department of Environmental Protection, Division of Air Resource Management, to comment on the U.S. Environmental Protection Agency's (EPA's) Proposed 8-Hour Ozone Implementation Policy, as presented at the agency's recent public meetings. We were unable to attend any of the meetings; however, we have reviewed the related issue papers posted on the EPA website and have the following comments on each.

Options on Attainment Dates

Whichever option is selected, we urge EPA to use this opportunity to reconcile the attainment deadlines with the form of the standard (three-year average). For example, if the attainment deadline is three years after designation, we believe attainment should be demonstrated for the three-year period beginning three years after designation, not for the period ending three years after designation. The latter interpretation requires that all controls be fully implemented at the time of designation, leaving no time for post-designation SIP development and implementation.

Incentives for Early Reductions

We applaud EPA's willingness to consider incentives for early reduction of ozone-precursor emissions. If, prior to EPA designation of an area in 2004, a state commits to emission reductions that can be demonstrated to achieve attainment by 2007 or earlier, we believe the affected area should be spared nonattainment designation. To take advantage of this incentive, states should submit a State Implementation Plan (SIP) revision prior to designation of the area that demonstrates that the emission reductions are enforceable and will achieve the necessary reduction in ozone levels according to EPA attainment demonstration guidelines.

Flexibility in Mandatory Measures

Prior to the Clean Air Act Amendments of 1990, many states had difficulty adopting wide-reaching control strategies because of opposition from individual sectors. The Subpart 2

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mandatory measures helped such states adopt control measures that “spread the pain” across various stationary and mobile source categories. Now, however, we know that some of these control measures are outdated or ineffective in some areas. Therefore, we believe it is appropriate for EPA to seek legal justification for allowing states to substitute equivalent measures, including national measures, and for waiving requirements on a case-by-case basis that are not cost-effective.

Guidance for 8-Hour Attainment Demonstration

We support the idea that areas with early attainment dates not be required to do an attainment demonstration, relying instead on available national modeling assessments, but we urge EPA to give prospective “early reduction” areas the option to use their own modeling in support of their petitions. In Florida, we have been aggressively pursuing early emission reductions and conducting our own modeling studies to evaluate their effectiveness. These emission reductions are not reflected in any existing national assessments that we know of.

While not mentioned in the issue papers, we believe additional guidance is needed to address the issue of screening tests over water. While it is clear that air quality over lakes and along the near coastline should be considered in determining the relative reduction factor, it is not clear how far out over the ocean a state should go in making regulatory judgments for coastal nonattainment areas. We suggest that the logical extent would be to the limit of U.S. territorial and contiguous waters (12 nautical miles).

Classification of Nonattainment Areas for the 8-hour Standard

When Congress adopted the subpart 2 classification system and the associated subpart 2 mandatory requirements, it had knowledge of which areas of the country would end up subject to which set of requirements. We believe it is inappropriate, therefore, for EPA to now change the classification system without also considering changes to the mandatory requirements. For this reason, we oppose options 2 and 3 as set forth in the workshop materials. If option 4 is chosen, we believe all group 1 areas should be subject only to subpart 1 requirements, again avoiding the need for EPA to reinvent the classification system devised by Congress.

If EPA does decide to develop a new 8-hour design value classification system (option 2 or 3), no area should be classified as nonattainment if its design value is less than 0.085 ppm. A system based on simply ratioing the 1-hour classification system, as suggested in the workshop materials, would do just this. Because compliance with the 1-hour standard is determined by the number of exceedances and not linked to an area’s design value, the lower classification limit in table 1 of the Act is not a problem. With the 8-hour standard, however, compliance is specifically controlled by the design value, and the lower limit for the lowest classification should not be less than the standard.

Finally, if option 3 is chosen, we urge EPA to interpret “available modeling” to include acceptable state and local modeling, and “attainment 3 years after designation” to mean beginning 3 years after attainment for the reasons stated previously.

Though, as stated above, we oppose the creation of a “new” table 1, we understand that EPA

may ultimately choose that option. If so, we suggest EPA give consideration to the following scheme that resolves the lower-limit and attainment date problems, and classifies 8-hour design values based, in part, on the cutpoints currently used in the air quality index.

Area Classification	Design Value Range (ppm)	Attainment Date	No. of Cities ¹
Marginal	0.085 to 0.094	3 years after designation for areas for which existing modeling shows that necessary enforceable measures are in effect at the time of designation, otherwise compliance must be obtained for the 3-year period beginning 3 years after designation	217
Moderate	0.095 to 0.104	6 years after designation with compliance based on 3-year period beginning 6 years after designation	98
Serious	0.105 to 0.114	9 years after designation with compliance based on 3-year period beginning 9 years after designation	13
Severe	0.115 to 0.124	15 years after designation with compliance based on 3-year period beginning 15 years after designation	5
Extreme	≥ 0.125	20 years after designation with compliance based on 3-year period beginning 20 years after designation	1

Transition from 1-hour to 8-hour Ozone NAAQS

We do not have a recommendation as to when the 1-hour standard should be revoked. We do take exception, however, to the assumption that all mandatory subpart 2 measures should remain in place in the former 1-hour nonattainment areas. After the total suspended particulate (TSP) standard was replaced with the PM₁₀ standard, SIPs no longer had to address TSP in any special way. Former TSP nonattainment areas that were attainment for PM₁₀ were not required to have more stringent requirements than other PM₁₀ attainment areas. Similarly, we believe that after the 1-hour standard is revoked, whenever that occurs, only the 8-hour standard should apply. If a state can show that its control measures, including any previously adopted mandatory subpart 2 measures are not needed to ensure attainment and maintenance of the 8-hour standard, the state should be allowed to modify its SIP accordingly. Similarly, states should be relieved of the requirement to have 1-hour ozone maintenance plans.

Addressing Transport in the 8-Hour Ozone Implementation Program

We note that EPA has posed a number of good questions on this topic but no suggested options. In attempting to address this issue, we do not believe it is necessary for EPA to designate contributing areas as nonattainment areas, as long as everyone understands that states may need to control sources outside of the actual nonattainment areas. We believe that expanding the role of the existing regional haze Regional Planning Organizations to help states deal with interstate transport of ozone precursors would be more efficient than creating new multi-state organizations. Finally, we believe EPA should develop a strategy for non-contributing "rural" nonattainment areas (areas that would be attainment but for the transport of ozone from upwind

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areas) that does not subject such areas to nonattainment new source review and transportation conformity requirements.

Reasonable Further Progress Requirement

Given the better understanding we now have of the chemistry of ozone formation, the environment is clearly better served if a legal rationale can be developed for option 3, allowing states to take credit for a mix of VOC and NO_x reductions. We believe there is logic in using 2002 as the base year for setting reasonable further progress (RFP) targets since it represents the time period (presumably 2001-2003) on which the nonattainment designations are to be based. Consistent with the logic of subpart 2 of the Clean Air Act, we see no reason why federal measures adopted prior to 2002 (e.g., Tier 2 and on-road diesel standards) should not be creditable for RFP purposes.

Transportation Planning Issues

Upon revocation of the 1-hour standard, we do not believe there remains any justification for continuing the conformity process for 1-hour purposes only. As stated previously, we believe that states should be relieved of the requirement to have 1-hour maintenance plans. Without such plans, there would be no conformity budgets. Inasmuch as new legislation affecting distribution of Congestion Mitigation and Air Quality Improvement (CMAQ) funds is likely to be needed, we do not believe CMAQ considerations should drive policy decisions in this area.

Integration of Air Quality Designations and Classifications for Ozone and PM_{2.5}

We believe EPA's current policy of encouraging integration of control strategies to reduce ozone with those designed later to meet NAAQS for PM_{2.5} and reasonable progress goals for regional haze is still the most appropriate way to go. We are concerned that efforts to more formally integrate these planning processes will unnecessarily complicate and delay the SIP development process for those ozone nonattainment areas that are not greatly affected by regional transport and where the advantages of an integrated process are likely to be small.

Thank you for your consideration of these comments.

Sincerely,



Howard L. Rhodes
Director
Division of Air Resource Management

HLR/lg

cc: Allan Bedwell