

US EPA ARCHIVE DOCUMENT

MEETING MINUTES

8-Hour Ozone National Ambient Air Quality Standard Implementation Public Meeting Renaissance Concourse Hotel Atlanta, Georgia March 7, 2002

INTRODUCTION

The United States Environmental Protection Agency (EPA) held a public meeting on March 7, 2002 from 9:00 a.m. until 5:00 p.m in Atlanta, Georgia. EPA held the meeting to solicit comments on various options to implement the 8-hour ozone national ambient air quality standard (NAAQS). The options contain EPA's preliminary views and were used to initiate a dialogue with the public on approaches for implementing the 8-hour ozone NAAQS. EPA is interested in hearing the views of interested stakeholders on the options and their ideas on how to best implement the 8-hour ozone NAAQS consistent with the February 2001 Supreme Court decision. Issue papers and presentation material were and still are available to the public at the website <http://www.epa.gov/ttn/rto/ozonetech/o3imp8hr/o3imp8hr.htm>.

ATTENDEES

See attached list.

DISCUSSION

Plenary Session (Tom Helms)

- Sherrill Marcus (Metropolitan Atlanta Transportation Equity Coalition): Why is EPA waiting a year after the final rule to make designations. Why can't the States, at the same time EPA is developing the final rule, determine what their recommendations for designations will be so that the designations can be made at the same time the final rule is made? Why is EPA choosing to wait till after the final rule is promulgated to make the designations?
 - Tom Helms responded that EPA is moving along with the designation process at the same time as the rule. EPA anticipates proposing the rule this summer (2002). It will take EPA a year for the rule to go final (2003), at that point EPA will get recommendations from the States on designations. Optimistically, EPA could not get the designations done till 2004. This is a very time consuming process.

Classification of Nonattainment Areas for the 8-hour Standard (John Silvasi)

- Ron Methier (Georgia Dept. of Natural Resources): Shares the American Lung Association's concern with the designation delays. Concerned with the legality of EPA making decisions using modeling. This will create additional delay.
 - ▶ John Silvasi said that EPA management believes that they will propose several alternative options. The legality of each of the options will be spelled out and will be defensible under the Clean Air Act (CAA).

- Tom Scholl (Caution Macon): Is EPA anticipating any kind of legal delay from challenges that would further prevent EPA from implementing and assigning nonattainment status? You would think that political leadership would want to prepare for the time when they will be in nonattainment officially and rectify it. Since EPA can identify counties right now that are out of attainment, shouldn't there be some kind of restrictions on these counties to prevent them from making the situation even worse by trying to grandfather sources in before they are officially designated nonattainment. Does it make sense to shower these counties with federal funds so that they can embark on transportation programs that are going to make their nonattainment status a more difficult one to deal with?
 - ▶ John Silvasi replied that Lydia Wegman stated in Alexandria that EPA will get litigated no matter what it comes up with. Since the lower court has not ruled on a number of issues related to the 8-hour ozone standard, if EPA were to go ahead and cause "costly compliance," the litigants could go back to the courts and sue EPA due to the "costly compliance."

- Dan Johnson (WESTAR): In the classification table, the single most significant difference between the options is the number of areas classified as marginal. In option 2, roughly one-half of the areas are marginal, with option 3, two-thirds of the areas are marginal. Could EPA reiterate what the mandatory measures are under marginal classification?
 - ▶ John Silvasi stated that the mandatory measures issue paper addresses this issue.

- Lee Martin (Individual Caution Macon-Bibb Co., GA): Are there any States that have enacted their own regulations that are stricter than the federal regulations and if so, which ones? Does GA have stricter regulations?
 - ▶ John Silvasi said that some States have stricter regulations (i.e., some areas in Texas and Oklahoma.) There are States that have in their constitution that they can not have regulations that are stricter than the minimum required federal regulations.
 - ▶ Ron Methier added that Georgia does not have stricter 8-hr ozone standards.

- Scott Thomas (Oklahoma DEQ): Areas in Oklahoma have set some regulations stricter than federal standards but these programs are all voluntary, not mandatory.
- Rita Kilpatrick (Georgians for Clean Energy): Will there be a discussion on baseline emissions and the updating of the inventories? Concerned about EPA's ability to follow a basic timeline. For example, in the regional NO_x SIP rulemaking for Georgia, we communicated closely with EPA offices and there was a readiness to begin rulemaking toward the end of 2000 and we kept getting word that it was held up at EPA. Is there some kind of support infrastructure that can be provided in those instances where States, such as Georgia, have chronic on-going problems? Can EPA provide assistance or encourage States to take action where a state is too slow?
 - ▶ John Silvasi said that EPA has its hands tied in terms of what it can ask States to do at this time in regards to the 8-hour standard.

Transition from 1-Hour NAAQS to the 8-hour NAAQS (John Silvasi)

- Ron Methier (Georgia Dept. of Natural Resources): Suggested revoking the 1-hour standard as soon as EPA hears from the court that the 8-hour standard is upheld.
- Michael Chang (Georgia Tech): Under Option 2 or 3, would there be any chance of designating new 1-hour nonattainment areas while EPA is waiting for the 8-hour process? There may be some areas that are not meeting the 1-hour standard now but were not previously designated nonattainment.
 - ▶ John Silvasi said that EPA has authority now to do that, but EPA is not mandated to do it now. Generally, EPA has not done this in the past, instead they have worked with States to rectify the problem on their own (i.e., through calling on States to revise their SIPs).
- Jim Manning (City of Jacksonville, Florida, Regulatory & Environmental Services; also chair of STAPPA/ALAPCO criteria pollutants committee): STAPPA/ALAPCO right now has not formed a position on the strategies yet. State opinions heard today are of the individual States, not STAPPA/ALAPCO. It is difficult for local and state agencies to be operating under two different standards. Would support a fourth option to have just one standard on the books at one time. When the new 8-hour standard is a legal standard, EPA should just have that on the books. Would also support maintaining those rules, regulations and strategies in place for the 1-hour standard until the strategies and designations for the 8-hour standard are in place. Once the 8-hour standard is in place, there will be no 1-hour standard.

Options on Attainment Dates for the 8-Hour Standard (John Silvasi)

- Tim Higgs (Intel Corporation): Under the various options that EPA proposed, is EPA assuming that some of the baggage associated with Subpart 2, such as the lower NSR thresholds for the more serious classifications, will be carried over from the 1-hour to the 8-hour standard?
 - John Silvasi stated yes, subpart 2 is all inclusive.

Integration of Air Quality Designations and Classifications for the 8-Hour Ozone and PM2.5 NAAQS (Sharon Reinders)

- Dan Johnson (WESTAR): The implications of regional haze are missing. While the map (from presentation) only shows 2 potential PM2.5 nonattainment areas in the west, consider another color for the entire west and U.S. that represents the states that will have to do regional haze planning on the timeline triggered by PM2.5. If things work out, every State is going to have to submit a regional haze SIPs for 156 class 1 areas around 2007. Some States, at the same time, will be asked to submit 8-hour ozone SIPs while some states, especially in the east, will have to submit PM2.5 SIPs. If the planning for these three programs is not implemented in an integrated way, States will be showing up at industries doorstep spending one day on ozone, the next day on PM2.5, and another day on regional haze. It is one big airshed which is impacted by three different problems. A lot of the emissions causing these problems are coming from the same group of sources. It is almost fundamental for EPA to find a way to at least integrate the planning process. The concerns with integrating are:
 - Don't know if States (few exceptions) are capable of doing all three jobs at one time.
 - Concerned that in 2007, EPA not have enough resources to process the all SIPs in a timely manner.

Optimal Controls for Ozone, PM2.5 and Regional Haze (Ellen Baldrige)

- Jim Yohn (BP): Involved with the VISTA Regional Planning Organization (RPO) (for the Southeast U.S.) which is working on regional haze issues. There are a lot of stakeholders in this arena. EPA might consider using the RPOs, which are already in place, to work on the ozone problem. However, there may be legal problems with using RPO dollars to work on ozone.
- Rita Kilpatrick (Georgians for Clean Energy): Will submit written comments. The ozone problem does need action that can bring fast results. There has been a lot of work under way by the States in preparation for the ozone, PM2.5, and regional haze activities. The last thing wanted is a lot of delay simply in the name of putting this all together (harmonization). Been through this before with the Metro Atlanta nonattainment problem, and have been making the same kind of recommendations for some years.

Addressing the ozone issue is something that should not be seen as problematic (EPA should be working on a very fast track).

- Ron Methier (Georgia Dept. of Natural Resources): Shares WESTAR's concerns about the resources it will take stakeholder organizations to fulfill all the requirements. What would really help are the strongest possible federal controls that State and Local agencies can really rely on.

Addressing Transport in the 8-Hour Ozone Implementation Program (Sharon Reinders)

- Sherrill Marcus (Metropolitan Atlanta Transportation Equity Coalition): Concerned about delay and attainment dates being pushed back. Encourages EPA to implement the 8-hour standard quickly (around 2003) to get cleaner air to the public.
- Ulla-Britt Reeves (Southern Alliance for Clean Energy): Commented on large nonattainment areas (Question 1 of presentation slide). Large nonattainment areas, especially when dealing with an metropolitan statistical areas (MSAs), are great ideas because they include the contributing areas.
- Rita Kilpatrick (Georgians for Clean Energy): Asked EPA to clarify the question of nonattainment area size.
 - Tom Helms responded with a definition of a nonattainment area. It includes those areas that are violating or contributing to the violation. In the past, EPA designated about 49 C/MSAs. EPA will determine the appropriate size for a nonattainment area.
- Colleen Kiernan (Sierra Club): Echoes Sherrill Marcus's concerns that there has already been too much delay. The transport issue and delay resulted in finger pointing (i.e. experience with this in Georgia). The more guidance from EPA the better. Increased monitoring requirements would be helpful for States.
- ???: Will EPA consider extending the attainment dates for the 8-hour standard?
 - Tom Helms responded that there is no Plan B if EPA's current attainment date extension policy is overturned in court.

Tribal Issues (Sharon Reinders)

- Scott Thomas (Oklahoma DEQ): In Oklahoma, there are no Indian reservations. Small areas of Tribal land are scattered all over the State. This will present a problem with the future designations.
- Tammy Klein (representing Lyondell Chemical Co.): Is it possible for areas described as the "doughnut hole" to be designated under Subpart 1? Those areas and EPA would have

more flexibility to work with Tribes, and the Tribes would have more flexibility to institute any measures needed to address the situation.

Guidance for 8-Hour Attainment Demonstrations (Ellen Baldrige)

- Lynn Garthwright (Alabama Dept. of Environmental Management): When referring to EPA national modeling, is this modeling yet to come for the 8-hour ozone standard? Will the modeling currently used by EPA be used to demonstrate a State's attainment? As a State agency with limited resources, national modeling is good enough.
 - ▶ Ellen Baldrige stated that EPA will be using any national modeling that evaluates how the percent controls will impact the area.
- Richard Bright (Morehouse School of Medicine) asked for an explanation of the Clear Skies Program.
 - ▶ Tom Helms remarked that the Clean Skies program is an Administration proposal to reduce for NO_x SO_x, and mercury. It moves toward mandated controls. EPA hopes that it will be enacted into law and implemented.
- Rita Kilpatrick (Georgians for Clean Energy): Can EPA speak to how the national modeling and the state modeling that exists captures the current emissions levels that exist in the real world. What kind of requirement is EPA looking at for updated information? Could EPA provide a frame of reference on some dates or baseline inventories that are currently used?
- Richard Bright (Morehouse School of Medicine): Concerned about micro areas within larger geographical areas for which there is little data. It is known that there is a greater preponderance of various diseases in certain areas, and the traditional modeling has not taken that into consideration because of focusing on larger areas. Interested in looking at multiple groups in micro areas as well as larger areas. Last summer (2001) there was a pilot study looking at ozone levels in the Atlanta metro area. Placed monitors (passive monitors) into 15 different areas. Saw that there are some micro areas with higher levels of ozone within a larger geographical area, along with some areas that have higher levels of disease. The technology is available to do this and would like to see greater predictability from such a large effort that EPA is proposing. Also suggest looking at multiple pollutants.
 - ▶ Ellen Baldrige suggested that this may be a point source problem.
 - ▶ Tom Helms said there is no canned answer because ozone modeling is done on a large scale.
- Dan Johnson (WESTAR): Regional scale modeling makes a lot of sense in the eastern U.S. but less sense in the west. Cautions that what works in the East may not work in the West.

Will EPA be Contemplating Incentives for Areas that Want to Take Early Action for Reducing Ozone Under the 8-Hour Standard? (David Cole)

- Michael Chang (Georgia Tech): Does EPA plan to provide resources (such as cash assistance) to areas that want to do early reductions? Will EPA provide real resources and not just a paper incentive?
 - Tom Helms said that there is no Federal grant program. Resources will come from local and multi-group agreements.
- Ron Methier (Georgia Dept. of Natural Resources): Commented that there is a reluctance to do more local measures until more national measures are done. There needs to be more thought about timing and more assurance that local measures will in fact work. NOx SIP Call dates conflict with early reductions.
- George ?? (Public Citizen): On the subject of transport, EPA might have to come up with modeling since the States and regions do not appear to be doing anything. The ozone monitoring project mentioned by Richard Bright will be done again this summer (2002). EPA should use the data collected from this project to embellish the data that EPA uses in its work to improve air quality. Also, EPA must come up with a strategy to deal with transport.
- Tom Scholl (Caution Macon): In Bibb Co. this week, the political leadership of the county has said that they don't know how to deal with the ozone situation. Would EPA be willing to sit down with counties to help get them started?
 - Kay Prince responded that she will be happy help the county work within the state's policies.
- Lee Martin (Individual Caution Macon-Bibb Co., Ga): Have heard a lot about the lack of resources. State will not get the resources unless they ask.
- Tammy Klein (representing Lyondell Chemical Co.): What is the feasibility, considering the presented options, of giving SIP credit bonus points for employing measures, such as the ones in Subpart 2 to potential submarginal or moderate areas.

Transportation Planning Issues Associated with the 8-Hour Ozone Standard (Kay Prince EPA Region 4)

- No comments

Flexibility in Mandatory Measures in Subpart 2 (John Silvasi)

- Tom Scholl (Caution Macon): Commenting on the CAA requirements in subpart 2, he noted that many of the requirements don't make sense 12 years later. Who would go through the trouble and the expensive of suing EPA to apply a different standard if the VOC requirement is done infrequently and it makes air quality sense?
- Ron Methier (Georgia Dept. of Natural Resources): It seems that so far in the implementation of Subpart 2 there has been no flexibility. Assumed EPA did this because that is what the law says. Uncertain, given the Supreme Courts ruling, how viable options 2 and 3 really are. Is there a better way to interpret Subpart 2 twelve or 13 years later? EPA should not make case-by-case decisions - that is asking for trouble. The point of Subpart 2 is to have no flexibility.
 - John Silvasi stated that if a waiver or flexibility is allowed that is easily challenged there will be further delay. The approach must be legally defensible.
- Tim Higgs (Intel Corporation): From an industry perspective, the focus of Subpart 2 on defining thresholds for NSR may not be a real effective policy option, especially in areas where the air quality issues are driven by vehicle emissions. Option 1 may not be feasible because at the very least some numbers and dates will need to be changed in Subpart 2.
 - John Silvasi said that subpart 2 is clear. The Supreme Court recognized the dates had passed and the conflict with the design values. EPA attorneys did not see an ability to change other areas of subpart 2 because it is not the subject of law suits.
- Lynn Garthwright (Alabama Dept. of Environmental Management): The Southeast has a greater biogenic problem as far as VOCs. Common sense must prevail. Stage II vapor recovery, for example, is going to be virtually obsolete by 2006 and EPA predicts that 97% of the fleet will already have onboard refueling vapor recovery. This is a much more passive system, much cheaper, versus thousands of dollars being spent on nozzles at the service station. Look at each mandatory measure and then look at the current technology out there that could be substituted. Subpart 2 and the science is now old.

Reasonable Further Progress (RFP) Requirement Under the 8-Hour Ozone Standard
(David Sanders)

- Jim Yohn (BP): There are a lot of practical solutions. However, the requirements of the Clean Air Act and Subpart 2 will not allow those solutions.
- Ron Methier (Georgia Department of Natural Resources): Subpart 2 RFP requirements are very prescriptive because of a lack of progress and Congress wanting to force progress. For an area under Subpart 1, the more flexibility the better. More polluted areas may need some structured way to make sure that they are making progress. When talking about the 15% VOC RFP, there is an option of using a 9% plan because the Clean Air Act already provided for the 15%. Where would this apply? If an area already

did the 15% for 1-hour ozone then isn't that what option 2 really is? If there is a brand new area that has never done the reduction would that area jump over the 15% to 9%?

- Al Hendler (URS Corporation): Will EPA assure States, such as Texas, that are contemplating early reductions be credited?
 - ▶ Tom Helms stated that EPA will not penalize any area for early reductions.

Final Remarks

- Lee Martin (Individual Caution Macon-Bibb Co., GA): Suggestion for the Phoenix, Arizona public meeting is to reach out to the medical profession and or those respiratory handicapped people who are affected by these issues to get input from these folks, such as the Centers for Disease Control (CDC).