

APPENDIX A

EPA POLICY MEMORANDUM



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

MAR 2- 1995

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Ozone Attainment Demonstrations

FROM: Mary D. Nichols *Mary D. Nichols*
Assistant Administrator for Air and Radiation

TO: Regional Administrator, Regions I-X

The purpose of this memorandum is to provide guidance on an alternative approach to provide States flexibility in their planning efforts for ozone nonattainment areas classified as serious and above. The basic principles of this approach are: 1) meeting the attainment dates in the Clean Air Act while maintaining progress, 2) ensuring enforceability of commitments to adopt additional measures needed to reach attainment, and 3) promoting market-based alternatives. The EPA will work with States to encourage the development of market-based trading programs to provide flexibility in meeting the requirements of these control measures. This guidance applies to areas significantly affected by ozone transport. In consultation with your States, you should determine whether it is appropriate to apply it to other areas as well.

Background

The 1990 Clean Air Act Amendments set forth many new requirements intended to address widespread nonattainment of the NAAQS for ozone. Although a great deal of work has been done and significant progress has been made, many States have been unable to complete these State implementation plan (SIP) requirements within the schedules prescribed in the Act due to circumstances beyond their control. This is a particularly difficult problem for areas affected by transport of ozone and ozone precursors. These areas must develop complex regulatory plans, based on photochemical grid models that in many cases must take into account upwind and downwind flow of ozone and precursors. The models, in turn, must be based on detailed emission inventories and other inputs, the development of which has been unavoidably delayed due to unforeseen difficulties in gathering the necessary data. Similarly, in many instances, the large amount of reductions likely to be needed to demonstrate attainment, and the consequent difficulties in developing control measures to achieve those reductions, has resulted in unavoidable delays in rule development by the States.

This memorandum provides States with an approach for obtaining full approval for their attainment demonstration State implementation plans by implementing a two-phased program. In addition to the other requirements set forth in this memorandum, States must fulfill all ozone nonattainment obligations due to be completed prior to November 1994 (e.g., 15 percent plans, VOC and NOx RACT) before EPA will approve ozone nonattainment plans based on this approach.

Phase I

Under the first phase, States should submit a plan to implement, by May 1999,¹ a set of specific control measures (including at least a 9 percent reduction to satisfy rate-of-progress requirements) to obtain major reductions in ozone precursors. In the Northeast ozone transport region (OTR), the measures should include: 1) all mandatory Clean Air Act measures required prior to November 1994, including: VOC and NOx RACT on major sources, enhanced I/M, reformulated gasoline (where required), rate-of-progress requirements (at least up to 1999), clean fuel fleets; 2) the regional NOx MOU (on the timetable agreed upon by the OTR); 3) LEV or a 49-State car program if one is adopted. The specific control measures required in areas outside the OTR will be determined on a case-by-case basis based on consultation between the States and the appropriate Regional Office(s). For the Lake Michigan States (Illinois, Indiana and Wisconsin) the phase I measures should include all measures necessary to meet the rate-of-progress requirements out to the attainment date (2007). At a minimum, the measures selected for all other areas should be comparable to those in the OTR and Lake Michigan area.

In addition, SIPs should include either modeling with interim assumptions about ozone transport (this modeling might not show attainment) or modeling that shows attainment based on an assumed boundary condition (to be determined in consultation with EPA). Finally, submittals should include an enforceable commitment to 1) participate in a consultative process to address regional transport, 2) adopt additional control measures as necessary to attain the ozone NAAQS, meet rate-of-progress requirements, and eliminate significant contribution to nonattainment downwind, and 3) identify any reductions that are

¹ There are two exceptions to this date. The first is where the Act specifies a different date (earlier or later). In this situation, measures should be implemented in accordance with the schedule in the Act. The second case is where States have agreed (e.g., in a memorandum of understanding) to implement specific regional controls according to a schedule outlined in the MOU. In this case, States should follow the implementation schedule agreed to in the MOU.

needed from upwind areas for the area to meet the NAAQS. The commitment should also specify a schedule for completing adoption of additional rules. An enforceable commitment is one that has been adopted into the SIP by the State and is submitted to EPA as a SIP revision. The EPA will work with States regarding the specific commitments that are needed.

States should submit, by May 1995, a letter committing to follow the approach described in this guidance, as well as a general explanation of efforts to date to complete both the attainment modeling (and the emission inventory and other inputs to the model) and the regulations necessary to achieve reductions. The letter should include a schedule for the adoption of enforceable rules needed to implement the required phase I control measures.

In order to provide lead time for phased implementation of those measures not later than May 1999, any measures not already scheduled for earlier adoption should be adopted no later than the end of 1995. If administrative scheduling, such as legislative sessions or State review procedures renders it impossible for a control agency to complete the regulatory process for certain rules by the end of 1995, the State may propose a schedule providing for the adoption of such rules during 1996. Again, the important point is that the State must adopt enforceable measures by a date that ensures adequate lead time to enable full implementation no later than May 1999. The Regions should track States' progress toward completion of the adoption process.

Phase II

The second phase of this approach begins with a 2-year process, ending at the close of 1996, to assess regional control strategies and refine local control strategies, using improvements in the modeling process (e.g., more refined emission inventories) to perform further control strategy evaluations that take into consideration potential regional control strategies. This will also give the States and EPA the opportunity to determine appropriate regional strategies to resolve transport issues. The goal of phase II is for EPA and the affected States to reach consensus on the additional regional, local and national emission reductions that are needed for the remaining rate-of-progress requirements and attainment. In the event that agreement is not reached, EPA intends, by the end of 1997, to use its authority under the Act (e.g., under sections 126 and/or 110) to work with all affected States to ensure that the required reductions are achieved.

Based on the results of the 2-year assessment, States will be expected to submit by mid-1997 the modeling and attainment plan to show attainment through local and regional controls. The

attainment plan should identify the measures that are needed for rate-of-progress and attainment. The remaining rules needed for serious areas to attain must be adopted and implemented in time for those areas to meet their attainment date of 1999.

For nonattainment areas with later attainment dates, States should adopt and implement local and regional control measures as determined to be necessary to meet the statutory attainment deadlines. States should phase-in adoption of rules to provide for implementation of measures for rate-of-progress beginning in the period immediately following 1999. These rules must be submitted to EPA no later than the end of 1999. (unless they were submitted as part of phase I), and provide for timely implementation of progress requirements.

If you have any questions during implementation of this policy, please contact me or John Seitz, Director of the Office of Air Quality Planning and Standards. The staff contact is Laurel Schultz (919-541-5511).

cc: Air Branch Chief, Regions I-X
Rob Brenner
David Doniger
Alan Eckert
William Hunt
Phil Lorang
Mary Nichols
Rich Ossias
Sally Shaver
Lydia Wegman
Richard Wilson

MEMORANDUM

SUBJECT: Credit for the 15 Percent Rate-of-Progress Plans for Reductions from the Architectural and Industrial Maintenance (AIM) Coating Rule

ORIGINAL SIGNED
BY

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

JOHN S. SEITZ

TO: Director, Air, Pesticides and Toxics
Management Division, Regions I and IV
Director, Air and Waste Management Division,
Division II
Director, Air, Radiation and Toxics Division,
Region III
Director, Air and Radiation Division,
Division V
Director, Air, Pesticides and Toxics Division,
Region VI
Director, Air and Toxics Division,
Regions VII, VIII, IX, and X

This memorandum supplements my memorandum of November 29, 1994 concerning State credit for reductions from the forthcoming Federal AIM coating rule. In response to comments received to revisit our decision to use an 80 percent rule effectiveness for this national regulation, we have decided to increase the assumed rule effectiveness to 95 percent. Five percent is assumed to be lost due to the uncertainty involved in allowing manufacturers and importers the option to pay an exceedance fee to manufacture coatings with volatile organic compound (VOC) contents above the standards. In addition, in response to industry comments about our reduction calculation procedure, we have slightly modified our calculation assumptions for reductions achieved from one of the regulated categories. This modification increases the reduction estimate slightly. The combined effect of these two changes increases the overall reduction estimate to 20 percent in unregulated areas by November 1996. Reductions in years beyond 1996 are expected, and additional guidance may be issued for these reductions in the future.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

JUN 22 1995

MEMORANDUM

SUBJECT: Regulatory Schedule for Consumer and Commercial Products under Section 183(e) of the Clean Air Act

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

TO: See Below

As you may know, Section 183(e) of the CAA as amended in 1990 requires the EPA to conduct a study of VOC emissions from consumer and commercial products (CCP) and report to Congress the results of the study. Upon submittal of the Report to Congress, the EPA is required to list for regulation those categories of products which account for at least 80 percent of all VOC emissions from CCP in ozone nonattainment areas. Furthermore, the EPA is required to place the listed categories into four groups by priority and to regulate one group every two years beginning no later than two years after publishing the list and schedule.

On March 15, 1995 the Administrator submitted the Report to Congress which documents the results of the consumer and commercial products study. The regulatory schedule for consumer and commercial products was signed by the Administrator on March 15, 1995 and published in the Federal Register on Thursday, March 23, 1995. Copies of these documents are attached for your convenience. The Report to Congress was previously distributed to the Regional Offices via POSTMAN, and the VOC regulatory contacts were notified via facsimile transmittal.

Group I of the regulatory schedule includes categories for which regulatory activities are already underway. Included in Group I is "Consumer Products (24 categories)." This entry represents an aggregation of two dozen individual household, personal care, and automotive products which are currently regulated in one or more States. They are products used in home, office, institutional, or similar settings. Development of a Federal consumer products rule is currently in progress.

As you know, by November 15, 1996, States with areas designated as moderate or above for ozone nonattainment must reduce VOC emissions in those areas by 15 percent from the 1990 baseline. In my memoranda of November 29, 1994 and March 22, 1995, I provided guidance for the amount of credit that States can take for the architectural coatings (AIM) and autobody refinishing rules. Similarly, the purpose of this memorandum is to provide guidance concerning credit that can be taken for reductions associated with the consumer products rule. In order to provide the States with creditable VOC reductions, OAQPS is committed to promulgating the national consumer and commercial products rules as soon as possible.

We plan to promulgate the traditional consumer products rule by March 1996, with an effective date of July 1996. For the 24 categories covered by this rule, we anticipate a reduction in previously unregulated areas of approximately 20 percent from the 1990 baseline by November 15, 1996. Based on our study, baseline emissions from the categories covered by the rule (i.e., a subset of all consumer products) are estimated to be approximately 3.9 pounds per capita annually. This baseline figure is based on new information and is different than the previously published emission factor. A 20 percent reduction would be approximately 0.8 pounds per capita annually.

For purposes of the completeness determinations, States that are having difficulties adopting their own rule may take credit for the 20 percent reduction without adopting or committing to backup measures. Fifteen percent rate-of-progress plans that assume a 20 percent reduction for the consumer products rule may be found complete if all other completeness criteria are met.

Please share this information with the States in your region. Should you have any questions on the status of the consumer products rule, please contact Bruce Moore of the Emission Standards Division at (919) 541-5460. For questions regarding 15 percent rate-of-progress plans, contact Kimber Scavo of the Air Quality Strategies and Standards Division at (919) 541-3354.

2 Attachments

Addressees:

Director, Air, Pesticides and Toxics
Management Division, Regions I and IV
Director, Air and Waste Management Division,
Region II
Director, Air, Radiation and Toxics Division,
Region III
Director, Air and Radiation Division,
Region V
Director, Air, Pesticides and Toxics Division,
Region VI
Director, Air and Toxics Division,
Regions VII, VIII, IX, and X

Product Categories Included in
"Consumer products (24 categories)"

- Aerosol cooking sprays
- Air fresheners
- ✓ Auto windshield washer fluids
- Bathroom and tile cleaners
- Carburetor and choke cleaners
- Charcoal lighter materials
- Dusting aids
- Engine degreasers
- Fabric protectants
- ✓ Floor waxes and polishes
- Furniture maintenance products
- ✓ General purpose cleaners
- ✓ Glass cleaners
- ✓ Hair sprays
- ✓ Hair mousses
- ✓ Hair styling gels
- ✓ Household adhesives
- Nonagricultural insecticides
- ✓ Laundry prewash treatments
- ✓ Laundry starch products
- Nail polish removers
- Oven cleaners
- ✓ Shaving creams
- ✓ Underarm antiperspirants and deodorants

From 60 FR at 15267, March 23, 1995



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

AUG 11 1995

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Rescission of November 1994 Submittal Policy

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

TO: Director, Air, Pesticides and Toxics
Management Division, Regions I and IV
Director, Air and Waste Management Division,
Region II
Director, Air, Radiation and Toxics Division,
Region III
Director, Air and Radiation Division,
Region V
Director, Air, Pesticides and Toxics Division,
Region VI
Director, Air and Toxics Division,
Regions VII, VIII, IX, and X

On September 1, 1994, I issued a memorandum titled "November 1994 Submittal Policy." This memorandum provided guidance concerning the completeness of the SIP revisions that were required for serious and above ozone nonattainment areas by November 15, 1994. I am hereby rescinding that memorandum.

cc: Air Branch Chief, Regions I-X
Rob Brenner
David Doniger
Alan Eckert
William Hunt
Phil Lorang
Mary Nichols
Rich Ossias
Sally Shaver
Lydia Wegman
Richard Wilson