

SIP Revision 04-04

(Proposed)

Effective Date: April 15, 2004

MEMORANDUM OF AGREEMENT
(MOA)

**TO ALLOW EPA TO GRANT THE SEPARATION OF THE
KENT AND QUEEN ANNE'S COUNTIES 8-HOUR OZONE
NONATTAINMENT AREA
FROM THE BALTIMORE REGION 8-HOUR OZONE
NONATTAINMENT AREA**

BETWEEN

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION III
AND
MARYLAND DEPARTMENT OF THE ENVIRONMENT**



WHEREAS, By April 15, 2004, the United States Environmental Protection Agency (EPA) is required to publish a notice in the Federal Register designating all areas in the country with respect to the 8-hour ozone standard, pursuant to section 107 of the Clean Air Act.

WHEREAS, as part of the 8-hour ozone designations, EPA is required to designate the area consisting of Kent and Queen Anne's Counties pursuant to section 107 of the Clean Air Act.

WHEREAS, in the pursuit of strategies to address both the local and regional nature of the ozone pollution problem, EPA's policy, as set forth in a March 2000 memorandum by John Seitz, Director, Office of Air Quality Planning and Standards, is to presume that the Consolidated Metropolitan Statistical Area (CMSA) or Metropolitan Statistical Area (MSA) boundaries (established by the Office of Management and Budget) define the geographical extent of an ozone nonattainment area.

WHEREAS, Queen Anne's County is part of the Baltimore Metropolitan Statistical Area and, without this Memorandum of Agreement, would be designated by EPA as part of the Baltimore 8-hour ozone nonattainment area.

WHEREAS, Kent County is not part of the Baltimore Metropolitan Statistical Area, but is intrinsically tied to Queen Anne's County via an air quality monitor and, without this Memorandum of Agreement, would be designated by EPA as part of the Baltimore 8-hour ozone nonattainment area.

WHEREAS, MDE understands and agrees that if EPA grants the request for a separate Kent and Queen Anne's County 8-hour ozone nonattainment area, that area will be classified at the same ozone classification as the Baltimore Region 8-hour ozone nonattainment area.

WHEREAS, MDE understands and agrees that if EPA grants the request for a separate Kent and Queen Anne's County 8-hour ozone nonattainment area, MDE may request redesignation to attainment for the Kent and Queen Anne's County 8-hour ozone nonattainment area, provided: (i) the Kent and Queen Anne's County nonattainment area continues to meet the same classification requirements and adopts the same control measures, or other measures resulting in equivalent emission reductions (on a percentage basis), as the Baltimore Region 8-hour ozone nonattainment area; and (ii) the Baltimore Region 8-hour ozone nonattainment area has air quality data that supports its redesignation to attainment for the 8-hour ozone standard in accordance with EPA policies and the Clean Air Act.

WHEREAS, MDE acknowledges that failure to fulfill any of the terms of this Memorandum of Agreement may result in EPA taking immediate action to place the Kent and Queen Anne's County nonattainment area into the Baltimore Region nonattainment area.

THEREFORE, EPA and MDE do agree to enter into this Memorandum of Agreement as follows:

I. GENERAL PROVISIONS

1. MDE agrees that after this Memorandum of Agreement is executed, it will do all things required to comply with State and federal law necessary for this Memorandum of Agreement to be submitted to EPA as an approvable revision to the Maryland State Implementation Plan (SIP).
2. MDE agrees to submit this Memorandum of Agreement to EPA as a revision to its SIP.
3. EPA approval of this Memorandum of Agreement as a revision to the Maryland SIP will codify the creation of the Kent and Queen Anne's County 8-hour ozone nonattainment area, which shall be geographically distinct from the Baltimore Region 8-hour ozone nonattainment area. The creation of, or the approval of, the SIP revision codifying that area will not, and is not intended to, relieve MDE and any such areas of any of requirements of the federal Clean Air Act, § 42 U.S.C. 7401, et seq., or any State or federal rules promulgated thereunder.

II. EFFECTIVE DATE

This Memorandum of Agreement between EPA and MDE will be effective on April 15, 2004 if signed by the Regional Administrator. If this Agreement is not signed by the Regional Administrator by April 15, 2004, this Agreement is null and void.

III. SIGNATURES

_____ Date:
Donald S. Welsh
Regional Administrator
U.S. Environmental Protection Agency - Region III

_____ Date:
Kendl P. Philbrick
Acting Secretary
Maryland Department of the Environment

EFFECTIVE DATE: April 15, 2004