

## Comparison of 8-hour Ozone Flex Program With Prospective Ozone Advance Program (2012)

March 27, 2012

Aspect of Program	8-hour Ozone Flex Program	Ozone Advance Program
<b>Eligibility</b>	<p>The following criteria had to be met in order for states, tribes, and local communities to participate:</p> <ol style="list-style-type: none"> <li>1. Designated attainment or unclassifiable/attainment for the 1997 8-hour ozone standard;</li> <li>2. Not designated nonattainment for the 1997 1-hour standard at the time of 8-hour designations;</li> <li>3. Not a maintenance area for the 1997 1-hour standard at the time of 8-hour designations or for the 1997 8-hour standard;</li> <li>4. Current design value must show attainment for the 8-hour standard;</li> <li>5. Monitors must be in place that meet requirements of 40 CFR Part 58 Appendix A or the QA Handbook for Air Pollution Measurement System, Volume II</li> </ol>	<p>States, tribes, and/or local governments can sign up to participate with respect to areas that are not designated nonattainment for either the 1997 8-hour or the 2008 ozone NAAQS, including areas that are not yet designated nonattainment for the 2008 ozone NAAQS at the time a sign-up letter is submitted to EPA (i.e., the effective date of final designations for the 2008 ozone NAAQS has not yet arrived). In addition:</p> <ul style="list-style-type: none"> <li>--Must generally identify the area(s) with respect to which they are signing up,</li> <li>--Where possible, should identify and be able to report on the air monitor(s) that reflect the air quality in the area(s), and</li> <li>--Emissions inventory reporting requirements must have been met prior to applying for participation.</li> </ul>
<b>Maintenance Areas</b>	Not eligible	Eligible, but must continue to implement maintenance plans as approved; measures undertaken as part of Ozone Advance would be in addition to those included in the approved SIP
<b>Marginal Areas</b>	Not eligible	Not eligible to sign up once designated. However, as long as designation not finalized before the state, tribe, and/or local area submits a sign up letter to EPA, the S/L/T can sign up and continue participating post-designation. If area is eventually reclassified to a higher classification, it would no longer be able to participate. Participation would not relieve any SIP requirements (such as NSR and conformity), however it could put the area in a better position to attain the standard and get a jump on any future revised standard.
<b>Moderate Areas and Higher</b>	Not eligible	Not eligible

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<b>Timing of Enrollment in Program</b>	No requirement for enrollment by a specific date. No expiration date for enrollment.	No requirement for enrollment by a specific date, however must sign up prior to any nonattainment designation. No expiration date for enrollment.
<b>Commitment Term</b>	5 years recommended, with option to renew	Same
<b>MOA/MOU Required?</b>	Yes	No, however, to the extent that a participating state, tribe, or local government would benefit from having a more formal agreement in place, EPA would be willing to work with them to develop an MOU.
<b>Program Participation Process</b>	<ol style="list-style-type: none"> <li>1. Commitment letter</li> <li>2. Secure stakeholder participation</li> <li>3. Coordinate agreement development, including action plan, contingency measures and triggers, schedules/reporting; action plan section includes several components (described below)</li> <li>4. MOA signed by local community leaders, state environmental agencies, and the EPA, at a minimum</li> <li>5. Implement MOA action plan per schedule and submit semiannual or annual reports</li> </ol>	<ol style="list-style-type: none"> <li>1. Sign-up letter</li> <li>2. Identify available information regarding area's ozone issue</li> <li>3. Secure stakeholder participation</li> <li>4. Coordinate control strategy development</li> <li>5. Path forward letter (no later than 1 year after sign up)</li> <li>6. Implement control strategy per schedule and provide informal status updates</li> </ol>
<b>Goals of Program</b>	At a minimum, keep ozone levels below current ozone standard; more stringent targets can be agreed upon.	Help attainment areas take action in order to keep ozone levels below the level of the standard to ensure continued health protection for their citizens; better position areas to remain in attainment; efficiently direct available resources toward actions to address ozone problems quickly.

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<b>Reporting</b>	Semiannual report required; can switch to an annual report after area’s design value reaches 80 ppb or lower or if design value is decreasing. Report should include latest information on implementation of control measures, ozone monitoring data, and success of current measures.	At least once a year from the time the path forward letter is sent to EPA, a participating area should briefly and informally summarize the status of each of the area’s measures and programs undertaken under Ozone Advance (including a comparison between current status for each measure/program as compared with the schedule laid out in the path forward letter), current air quality, stakeholder meetings/events, and any other information the area would like to highlight.
<b>Regulatory Issues</b>	The program neither created nor avoided regulatory requirements. Until measures are incorporated into the SIP or imposed under state or local authorities, the program did not result in enforceable requirements on any party.	Same
<b>Consequences of Failure To Meet Program Requirements</b>	Forfeiture of participation in the program.	Same
<b>Can Participant End Participation At Any Time?</b>	Yes	Yes, with notice to EPA.
<b>What Happens if Violations of the Standard Begin To Occur?</b>	Action plans included contingency measures (and associated triggers) that would prevent violations of the standard or that would promptly bring an area back into attainment should a violation of the ozone standard occur. Contingency measures generally were not to be modified or discontinued once implemented.	The area should act quickly to supplement the measures and programs described in its path forward letter and/or action plan.

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<b>Future Nonattainment Designations</b>	<p>Program did not shield an area from being redesignated nonattainment if the area was in violation of the NAAQS. If a violation were to occur, EPA would consider the factors in Section 107(d)(3)(A) of the Clean Air Act. These include “air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate,” including time to allow the implemented control measures to work. As long as the Flex Agreement and control measures in the MOA were being fully implemented, EPA stated that it would consider that circumstance in exercising its discretion in making a decision to redesignate the area to nonattainment.</p>	<p>Same</p>
<b>Will States Receive SIP Credit for Measures Implemented As Part of the Program?</b>	<p>To the extent authorized by the Act and per established guidelines and criteria, yes.</p>	<p>Same; emission reductions achieved from measures implemented as part of the program could be accounted for in future SIP planning.</p>

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<b>Action Plan</b>	Required; included the following components: <ul style="list-style-type: none"> <li>• Description of each new measure to be undertaken, including how, where, when, and by whom the measures will be implemented, and the emission reductions anticipated</li> <li>• Description of technical tools and rationale for selection of measures (including required emissions inventory work and optional modeling)</li> <li>• Analysis of sources in area, including types and amount of emissions</li> <li>• Indication of the means by which the implementation of any selected mandatory measures would be ensured, and the means by which the effectiveness of voluntary measures would be assessed</li> <li>• Contingency measures and a mechanism for identifying triggers</li> </ul>	Recommended, but not required. Suggested components: <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Description of measures and programs to be implemented and responsible parties</li> <li>• Implementation schedule</li> <li>• Provisions for public/stakeholder involvement</li> </ul>
<b>Stakeholder Input</b>	Recommends formation of a local air quality committee consisting of representatives from local government, industry, environmental and citizens groups, and other interested parties.	Same
<b>Technical Work</b>	Emissions inventory development/updates required Modeling not required, but recommended	Emissions inventory refinement and modeling are not required, but encouraged