

Ozone Advance Program

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On April 4, 2012, the United States Environmental Protection Agency (“EPA”) issued [guidance](#) announcing its Ozone Advance program. The Ozone Advance program is designed to encourage state, tribal and local governments to take early action to reduce ground-level ozone concentrations in order to continue progress toward maintaining the National Ambient Air Quality Standards (“NAAQS”) for ground-level ozone.

According to EPA, participants in the Ozone Advance program may receive preferred status when applying for federal grants and/or receive a State Implementation Plan (“SIP”) credit for reduction measures undertaken as part of the program. The SIP credit would apply if a participating area is subsequently designated nonattainment for the 2008 ozone NAAQS or any future revised ozone NAAQS. The reduction or credit would be applied to offset the emissions baseline. If emission reductions occur through the Ozone Advance program **prior** to the baseline year for the purposes of attainment demonstration, then the reductions attained through the program would be applied to lower the emissions baseline, meaning that the area would need fewer future emission reductions to demonstrate attainment or reasonable progress. If emission reductions occur **after** the baseline year, the area may take credits, meaning that fewer additional emission reductions will be needed to demonstrate attainment or reasonable progress. EPA plans to address the issue of SIP baselines in the implementation rule for the 2008 ozone NAAQS (expected spring 2012).

State, tribal or local governments have to meet the following basic eligibility criteria in order to participate in the Ozone Advance program: (1) the area is not designated for nonattainment under the 1997 8-hour or 2008 ozone NAAQS;^[1] (2) the state, tribe and/or local government must identify the areas with respect to which they are signing up for the program; (3) if possible, states, tribes or local governments should identify and be able to report on the air monitors that reflect air quality in the area; and (4) the required emissions inventory reporting must have occurred prior to participation in the program. In order to apply for participation in the Ozone Advance program, an area has to submit a sign-up letter. See [Sample Sign-Up Letter](#). EPA will review the letter to determine whether the area meets the program eligibility requirements and will indicate by e-mail or letter whether the application has been accepted. No later than one year after signing up, the area should submit a “path forward” letter describing the measures and/or programs the area will implement and provide a schedule for implementation. The guidance includes a sample implementation plan. EPA recommends that an area commit to the program for five years with an option to renew at the end of the first term. Participants may terminate their involvement in the program at any time with notice to EPA.

[1] Areas that are not yet designated nonattainment for the 2008 NAAQS at the time of sign up are eligible to participate. Once an area is already signed up, it may continue to participate in the program if the area of concern is eventually designated nonattainment and classified as Marginal. Areas that have been re-designated to attainment for the 1997 8-hour NAAQS that have an approved maintenance plan may participate. An area that is designated nonattainment under the 1997 or 2008 NAAQS, but is currently attaining the ozone NAAQS may not sign up until the area has been re-designated attainment with an approved maintenance plan.

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