

TABLE 5.—8-HOUR OZONE NAAQS IMPLEMENTATION ELEMENTS/OPTIONS GROUPED INTO FRAMEWORKS FOR PROPOSAL—Continued

[This table only summarizes the options and approaches; the full description of the approach or option in the proposed rulemaking should be consulted]

Implementation element	Framework 1	Framework 2
		AND A CADC program, which would allow a more flexible NSR program for areas that adopt CADC provisions. (Option 3)

VIII. Other Considerations

A. Will EPA Be Contemplating Incentives for Areas That Want To Take Early Action for Reducing Ozone Under the 8-Hour Standard?

This section discusses the extent to which we are providing incentives for areas that wish to voluntarily expedite the path to cleaner air by initiating early planning and control actions for reducing ground-level ozone prior to EPA's designations for the 8-hour ozone NAAQS. State, local and Tribal air pollution control agencies have continued to express a need for added flexibility in implementing the 8-hour ozone NAAQS, including incentives for taking action sooner than EPA requires for reducing ground-level ozone. We are encouraging localities to make decisions that will achieve clean air sooner than otherwise is mandated by the CAA. Early planning and early implementation of control measures that improve air quality will likely accelerate protection of public health. We issued our policy on early planning on November 14, 2002. We are not proposing action on this approach in this rulemaking and, therefore, we are not requesting comment on this issue.

1. What Are the Ozone Flex Guidelines for the 1-Hour Ozone NAAQS?

In June 2001 we announced the "Ozone Flex Guidelines" program (Ozone Flex), which supports and rewards innovative, voluntary, local strategies to reduce ground-level ozone. Ozone Flex is a framework for local communities to develop voluntary solutions for areas concerned about potential future nonattainment of the 1-hour ozone standard. Ozone Flex is intended to achieve emissions reductions and avoid future nonattainment problems in those areas designated attainment for the 1-hour standard. While this program is only available to areas to address the 1-hour ozone standard, it also recognizes that areas may secure emissions reductions and public health benefits toward attaining the 8-hour ozone standard prior to EPA's designation of areas.

These voluntary measures may be creditable to future planning efforts for the 8-hour standard, to the extent allowed by the CAA and EPA guidance or rules. Any emissions reductions targeted for a period after the base year would provide "credit" for a State, local, or Tribal area in any future plan. Emission reduction credits toward meeting RFP are discussed elsewhere in this proposed rulemaking.

2. What Is the "Early Action Compact" for Implementing the 8-Hour Ozone NAAQS?

Following EPA's issuance of the "Ozone Flex Guidelines" for continued attainment of the 1-hour standard, the Texas Commission on Environmental Quality (TCEQ) encouraged EPA to consider additional incentives for early planning towards achieving the 8-hour ozone NAAQS. On March 20, 2002, the TCEQ submitted to EPA the Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-hour Ozone Standard (Protocol). The Protocol was designed to achieve emissions reductions and clean air sooner than would otherwise be required under the CAA for implementing the 8-hour ozone NAAQS. The TCEQ proposed that the Protocol would be formalized by "Early Action Compact" agreements (Compacts) primarily developed by local, State and Federal (EPA) officials. The principles of the Compacts are the following:

- Early planning, implementation, and emissions reductions leading to expeditious attainment and maintenance of the 8-hour ozone standard;
- Local control of the measures employed, with broad-based public input;
- State support to ensure technical integrity of the early action plan;
- Formal incorporation of the early action plan into the SIP;
- Designation of all areas as attainment or nonattainment in April 2004, but, for Compact areas, deferral of the effective date of the nonattainment designation and/or designation requirements so long as all Compact

terms and milestones continue to be met; and

- Safeguards to return areas to traditional SIP attainment requirements should Compact terms be unfulfilled (e.g., if the area fails to attain in 2007), with appropriate credit given for reduction measures already implemented.

Under this approach, an early, voluntary 8-hour air quality plan would be developed through an Early Action Compact agreement for each area that approaches or monitors exceedances of the 8-hour standard and that is designated attainment for the 1-hour ozone standard. This approach would also apply to maintenance areas for the 1-hour ozone standard to the extent such areas continue to maintain that standard. One-hour ozone maintenance areas are areas that were previously designated nonattainment for the 1-hour ozone standard, but were redesignated to attainment pursuant to section 107(d)(3)(E) and subject to the requirements of section 175A of the CAA.

Under a Compact, the local area would commit to develop a SIP based on recent emission inventories and air quality modeling demonstrating attainment of the 8-hour standard by 2007. In addition, the area would identify additional local controls beyond Federal and State requirements, which would be implemented by 2005. According to the Protocol, we would recognize the local area's commitment to early, voluntary action by designating the area nonattainment in April 2004 (at the time of national designations for all areas of the country), but deferring the effective date of the nonattainment designation for participating Compact areas that are monitoring a violation of the 8-hour ozone standard, so long as all terms and milestones of the Compact continue to be met, including submission of the early action SIP revision no later than December 31, 2004.⁸⁰ We circulated the Protocol to

⁸⁰ If a Compact area had air quality meeting the 8-hour standard for the period on which