

MEMORANDUM OF AGREEMENT

**TO ALLOW EPA TO GRANT THE SEPARATION OF THE
FREDERICKSBURG 8-HOUR OZONE NONATTAINMENT
AREA
FROM THE WASHINGTON D.C. 8-HOUR OZONE
NONATTAINMENT AREA**

BETWEEN

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION III
AND
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

EFFECTIVE DATE: April 15, 2004

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 for 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 Stafford County, Spotsylvania County, and the City of Fredericksburg (known as the Fredericksburg nonattainment area), 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, Stafford County, Spotsylvania County and the City of Fredericksburg are part of the Washington Metropolitan Statistical Area and, without this Memorandum of Agreement, would be designated by EPA as part of the Washington D.C. 8-hour ozone nonattainment area.

WHEREAS, in a letter to EPA dated July 15, 2003, the Virginia Department of Environmental Quality (VADEQ) requested that EPA approve the Fredericksburg 8-hour ozone nonattainment area as a nonattainment area separate from the Washington D.C. 8-hour ozone nonattainment area.

WHEREAS, VADEQ understands and agrees that if EPA grants the request for a separate Fredericksburg 8-hour ozone nonattainment area, that area will be classified at the same ozone classification as the Washington D.C. 8-hour ozone nonattainment area.

WHEREAS, VADEQ understands and agrees that if EPA grants the request for a separate Fredericksburg 8-hour ozone nonattainment area, VADEQ may request redesignation to attainment for the Fredericksburg 8-hour ozone nonattainment area provided (i) the Fredericksburg 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 Washington D.C. 8-hour ozone nonattainment area and (ii) the Washington D.C. 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, VADEQ acknowledges that failure to fulfill any of the terms of this Memorandum of Agreement may result in EPA taking immediate action to place the Fredericksburg nonattainment area into the Washington D.C. nonattainment area.

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

I. GENERAL PROVISIONS

1. VADEQ 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 Virginia State Implementation Plan (SIP).
2. VADEQ 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 Virginia SIP, will codify the creation of the Fredericksburg 8-hour ozone nonattainment area, which shall be geographically distinct from the Washington D.C. 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 VADEQ 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 VADEQ 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: 2/24/04

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



Date: 2/10/04

Robert G. Burnley
Director
Virginia Department of Environmental Quality