

US EPA ARCHIVE DOCUMENT

This paper reflects preliminary agency thoughts and ideas and the options presented have not been thoroughly analyzed for legal defensibility

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Options on Attainment Dates for 8-hour Ozone Standard

Issue: What attainment dates should be required for nonattainment areas under the 8-hr ozone standard?

Background: The options below are based on attainment date provisions of the Clean Air Act, which differ under subparts 1 and 2. Note that attainment date options may vary depending on the way areas are classified. A separate options paper will address options for addressing transported pollution.

Approach A: Subpart 2 attainment dates

- All areas are assigned attainment dates using subpart 2 time periods
- This approach fits with classification options in which all areas are classified under subpart 2.

Approach	Deadlines*
A.	3-20 years after designation, depending upon classification: marginal – 3 years moderate – 6 years serious – 9 years severe – 15 or 17 years extreme – 20 years (no areas in this category)

** Note: The CAA requires each SIP to demonstrate attainment as expeditiously as practicable, regardless of maximum statutory periods.*

Considerations:

- Subpart 2 provides more time than subpart 1 for the most heavily polluted areas to attain.
- The graduated attainment deadlines in subpart 2 provide EPA with less discretion than subpart 1 to set longer attainment deadlines for less polluted areas (based on local circumstances or transport).

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Approach B: Hybrid

- Approach fits classification options in which some areas are classified under subpart 1 and others are classified under subpart 2 . Areas classified under subpart 1 get subpart 1 attainment dates; areas classified under subpart 2 get subpart 2 dates.

Approach	Classification of area	Deadlines* (<i>see note on p. 1</i>)
B.	For submarginal areas classified under subpart 1	up to 5 years after designation (up to 10 with justification)
	For marginal-extreme areas classified under subpart 2	3-20 years after designation, depending upon classification

Considerations

- Compared with approach A, potentially provides more discretion to EPA to provide less polluted areas with later attainment dates (if dates are “as expeditious as practicable”).
- Potential anomaly: Later attainment dates possibly allowed for submarginal areas than marginal areas. Should submarginal and marginal deadlines be harmonized at 3 years? Some submarginal and marginal areas may need to adopt additional controls to attain by 2007.

Approach C: Sequential 1-hr. and 8-hr. attainment periods

Approach	Deadlines* (<i>see note on p. 1</i>)
C.	up to 5 years (10 years with justification) after (1) designation, OR (2) the area’s attainment date for the 1-hr standard (if any) -- whichever is later

Considerations

- Ability to develop legal rationale for this approach may depend upon decisions and rationales made on other issues. This approach is based on analogy to subpart I.
- For less polluted areas (marginal-serious), EPA would have discretion to provide more time (based on local circumstances or transport) than under a subpart 2 approach.

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- The logic of Approach C may be stronger if it EPA chooses to keep the keep the one-hour standard in effect until an area's air quality meets the 1-hour standard (rather than revoking the one-hour standard at some earlier point).