

US EPA ARCHIVE DOCUMENT

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

draft 3/1/02—This paper replaces the Feb. 26 version previously on the web site—the change is in the “Links to Other Issues” section below.

Transition from the 1-hr O3 NAAQS to the 8-hr O3 NAAQS

Issue: How will EPA transition from the 1-hr O3 NAAQS to the 8-hr O3 NAAQS?

Background/Context

- 40 CFR 50.9(b) reads: “The 1-hour standards set forth in this section will remain applicable to all areas notwithstanding the promulgation of 8-hour ozone standards under Sec. 50.10. In addition, after the 8-hour standard has become fully enforceable under part D of title I of the CAA and subject to no further legal challenge, the 1-hour standards set forth in this section will no longer apply to an area once EPA determines that the area has air quality meeting the 1-hour standard. Area designations and classifications with respect to the 1-hour standards are codified in 40 CFR part 81.”
- Section 110(l) provides that EPA may not approve a SIP revision if it interferes with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the CAA
- Section 193 of the CAA prohibits modification of an implementation plan in effect before 11/15/90 unless such a modification would ensure equivalent or greater emissions reductions, thus the term anti-backsliding

Assumptions

- Assume the 8-hour standard will be fully enforceable before we revoke the 1-hour standard
- A common issue for all of the classification options is how to prevent backsliding from 1-hr requirements
 - All of the classification options considered by EPA would incorporate “anti-backsliding” from currently-required CAA requirements.
 - SIP measures not specifically required under subpart 2 (but required for attainment) could be replaced by other measures as long as the CAA’s anti-backsliding provisions (section 110(l), section 193) are met.
 - In general, measures required under subpart 2 would continue to be required

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- within the areas that were subject to those requirements for the 1-hour standard.
- One approach for implementing anti-backsliding is to establish a regulation that relies on the CAA anti-backsliding provisions.
- The 1-hour ozone standard remains in effect until revoked.

Options

EPA has identified several possibilities for the timing of revocation of the 1-hr standard, although other criteria are also possible.

Option 1: At time of 8-hr O₃ attainment/nonattainment designation

Option 2: At time of approval of 8-hr O₃ SIPs (for 8-hr O₃ nonattainment areas)

Option 3: At time EPA determines area meets 1-hr O₃ NAAQS (after 8-hr O₃ designation)

Under Options 2 and 3, there would be designations and classifications for two standards in place at the same time for an extended period.

Link to Other Issues:

The resolution of this issue on how to transition from the 1-hr standard to the 8-hr standard has implications for several other implementation issues under consideration, including:

- Reasonable further progress requirements (e.g., how the 1-hr standard progress requirement under anti-backsliding is implemented along with a new 8-hr standard progress requirement).
- Conformity (see issue in "Transportation Planning Issues" paper).