

Predecisional Staff Draft
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When will EPA require 8-hour SIP submissions?

Under subpart 2 of the CAA, SIP submission deadlines for areas designated nonattainment for the 1-hour ozone standard are linked to the date of enactment of the Clean Air Act Amendments, i.e., from November 15, 1990. This date is also the date by which these areas were designated and classified by operation of law. See CAA section 107(d)(1)(C) and 181(a). Because such dates have long since passed, EPA believes that it is reasonable to tie the SIP submittal dates to the date of nonattainment designations and classifications for the 8-hour standard.¹ While all SIP requirements in subpart 2 will be tied to the date of nonattainment designations, this section of the proposed rule discusses the requirement to submit an attainment demonstration. To the extent that subpart 2 applies, the due dates for SIP requirements relative to a classification will generally be tied to the date of nonattainment designations. For ozone, the assumption that EPA is operating under is that designations will occur in the 2004 time frame.

The Tribal Authority Rule (TAR), which implements section 301(d) of the Act, give tribes the option of developing TIPs. Specifically, the TAR provides for the tribes to be treated in the same manner as a State in implementing most of the CAA. However, in the TAR EPA determined that it was inappropriate to treat tribes in a manner similar to a state with regard to schedules. Therefore, tribes are not required to submit a TIP and are not required to submit a TIP in the same time frame as the States. Where a tribe chooses to develop a TIP WPA will work with them to develop an appropriate schedule, that meets the needs of the tribe but does not interfere with the attainment of the NAAQS in other jurisdictions.

Option being proposed

This option follows the time frames specified in sections 182 and 172(b) of the CAA, but, for purposes of subpart 2, runs the time frame for SIP submission from the date an area is designated for the 8-hour standard. For example, areas classified as moderate under subpart 2 of the CAA, would be required to submit an attainment demonstration SIP no later than three years following designation. Similarly, for an area classified as serious, an attainment demonstration SIP would be due four years from when EPA designates the area. However, EPA plans to continue its policy of allowing moderate areas that are doing photochemical grid modeling to submit their attainment demonstration SIPs 4 years following designation. See 57 FR 13498 (April 16, 1992).

Under subpart 2 of the CAA, marginal areas are not required to submit an attainment demonstration, consequently areas classified as marginal for the 8-hour standard would not be

¹ Since EPA anticipates that areas will be designated and classified on the same date, we will use the term “designation” to represent the date of designation and classification.

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required to submit an attainment demonstration. However, this would not preclude areas classified as marginal from submitting a SIP for purposes of demonstrating attainment.

For areas that are classified under subpart 1 of the CAA, section 172(b) states that EPA shall establish a schedule for SIP submission which will be no later than 3 years from the date of the nonattainment designation. EPA is proposing to allow areas classified under subpart 1 to have the full three years provided under section 172(b); thus their attainment demonstration SIPs would be due no later than 3 years from designation for the 8-hour standard.

Option considered but not being proposed

EPA has looked into the option of meshing the 8-hour ozone and PM_{2.5} attainment demonstration SIP submittal dates. In order to do that the SIP submission date for either the ozone or PM_{2.5} SIP would have to be accelerated or delayed by one year. The reasons for this are twofold: the 8-hour ozone standard will generally be implemented under the time frames in subpart 2 of the CAA whereas PM_{2.5} areas will be implemented under subpart 1 of the CAA. Under subpart 1 of the CAA, EPA could require a SIP submission earlier than 3 years from designation. However, in subpart 2 the time frames for submission of an area's attainment demonstration are fixed at 3 and 4 years depending on the area's classification.

EPA discussed the integration of ozone and PM_{2.5} schedules at the three public meetings and numerous conference calls that were held with stakeholder groups. A majority of commenters were supportive of integrating the SIP schedules for ozone and PM_{2.5} because integration would: optimize control strategies, save time and planning resources, streamline deadlines, maximize cost effectiveness, etc. However, EPA has not been able to articulate a legal rationale under the CAA for coordinating the time frames for SIP submission given the constraints in subparts 1 and 2 of the CAA.