
OAR Box 1951

Prepped by Ollie Stewart

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MEETING WITH STAPPA/ALAPCO
ON 8-HOUR OZONE IMPLEMENTATION ACTIVITIES
February 5, 2002 - 12:30 - 3:00 p.m.
Call in 800/321-7001, access code 834059

Introduction; agreement on goals of meeting

Time line

Letter of January 16, 2002 (similar letter to other governmental and tribal organizations)

- options on classification
- transition from 1-hour to 8-hour standard

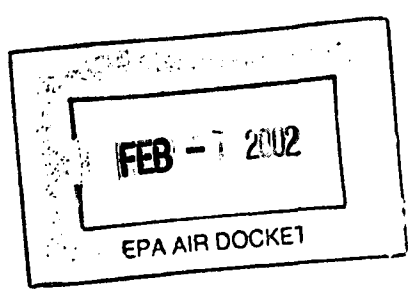
STAPPA/ALAPCO feedback on options and other items

Public meetings (March 5/Washington, D.C. & March 7/Atlanta)

-format of meeting - four sessions

1. Classification & attain. dates
2. Designations
3. NSR, conformity & growth
4. Other SIP issues

Issue group updates



Potential Schedule for Implementing the 8-Hour Ozone NAAQS and Related Actions

Under Subpart 1	Under Subpart 2	Action
2003	Same	Final rule on implementation of 8-hour ozone NAAQS
2004	Same	Designation of 8-hour nonattainment areas Reinstate the NOx SIP call with respect to the 8-hour ozone NAAQS
2005	Same	Complete new modeling for additional "coarse grid" states. Make additional SIP calls as results dictate.
2007	2007/2008	8-hour ozone NAAQS SIP attainment demonstration submission date
2007-2008	Same	Compliance with full NOx SIP call budgets for 19 States (assumes EGU at 0.15 lbs/mm BTU) EGU compliance for any "newly added coarse grid" States
2007	Same	Assess impact of reductions from NOx SIP Call
	2007*	Part D/Subpart 2 attainment date - marginal areas (3 years after designation)**
2009*		Part D/Subpart 1 default attainment date**
	2010*	Part D/Subpart 2 attainment date - moderate areas (6 years after designation)**
	2013*	Part D/Subpart 2 attainment date - serious areas (9 years after designation)**
2014*		Potential 5-year attainment date extension**,***
	2019-2021*	Part D/Subpart 2 attainment date - severe areas (15-17 years after designation)**

* Two, 1-year extensions are possible.

**All potential attainment dates are "as expeditiously as practicable, but no later than" the dates presented.

***Based on severity of nonattainment & feasibility of pollution control measures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

JAN 16 2002

Mr. William Becker
Executive Director
STAPPA/ALAPCO
444 North Capitol Street, N.W.
Washington, DC 20001

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

Dear Mr. Becker: *Bill*

As we discussed previously, I am enclosing three draft options for classifying areas for purposes of implementing the 8-hour national ambient air quality standard for ozone. These options also address ways in which areas would transition from the 1-hour standard to the 8-hour standard. These options have been developed to initiate dialogue with you and other stakeholder groups as we develop a proposal on 8-hour ozone implementation. We offer these options as our preliminary views and are interested in hearing other approaches you may suggest. Although we have discussed these concepts with you orally, you had requested a written version of them. We will set up a conference call or meeting with you to discuss these in detail.

We are continuing to work with you to develop options on other elements on State implementation plans for the 8-hour ozone standard and will be seeking your input on them in the near future. For your information, we have set up an official docket (#A-2001-31) for 8-hour ozone implementation. You should note that any relevant material that we generate will be placed in the docket. In addition, any material that you or other stakeholder groups submit to us will be placed in the docket. We have also placed information that we've generated or received in an electronic format on the web site: www.epa.gov/ttn/rto/ozonetech/03imp8hr/03imp8hr.htm.

I look forward to talking with you soon.

Sincerely,

Lydia N. Wegman
Director
Air Quality Strategies
and Standards Division

Attachment

**PRELIMINARY OPTIONS FOR 8-HOUR O3 NAAQS
IMPLEMENTATION STRATEGY (1/11/02)**

BACKGROUND

- In July 1997, EPA revised the ozone NAAQS
- EPA initially indicated it would implement the 8-hour NAAQS under the more flexible requirements of the Clean Air Act (Subpart 1) rather than more prescriptive requirements (Subpart 2) and issued a public review draft guidance document in November 1998
- EPA was sued in U.S. Court of Appeals for the DC Circuit over the standard itself and its implementation approach
- In May 1999, the Appeals Court ruled on unconstitutional delegation of authority and improper implementation approach
- EPA appealed to the U.S. Supreme Court
- In February 2001, the U.S. Supreme Court upheld constitutionality of air quality standard setting but held that EPA could not ignore subpart 2 when implementing the 8-hour standard
- EPA is considering optional approaches for resolving both classifying nonattainment areas, transitioning from 1-hour ozone NAAQS and inconsistency between subparts 1 and 2
- EPA reaching out to stakeholders to obtain input and concerns on an overall approach to implement the 8-hour standard (States and local agencies, tribes, industry, environmental organizations, governmental organizations)
- Public meetings will be held to obtain stakeholder input

3 OPTIONS FOR CLASSIFICATION UNDER SUBPARTS 1 & 2

Summary of Options

- **Option 1**—Classify 8-hr O3 nonattainment areas under subpart 2, table 1 and, as appropriate, under subpart 1, *based on 1-hr O3 design values*.
- **Option 2**—Classify 8-hr nonattainment areas *based on 8-hr O3 design values* (would require regulatory change of Table 1 to reflect 8-hr DV's for existing classifications)
- **Option 3**—Classify *based on 8-hr O3 design values and available modeling information indicating when an area would attain the 8-hr O3 standard, e.g., an area would be classified as marginal if available modeling projects attainment 3 years after designation*

(would also require regulatory change of Table 1 to reflect 8-hr DV's for existing classifications)

Further Description of Option 3

- Incentive feature: An area that is classified moderate or above, but that submits an approvable SIP within a limited time after designation/classification, may be reclassified to a lower classification consistent with the attainment date in their SIP.
- Tracking: Areas classified based on modeled attainment (i.e., based on the areas's modeled attainment SIP or EPA-modeled future design values) would have to demonstrate that their SIP provides for adoption and continued implementation of any measures assumed in the modeling. They also would have to ensure over time that post-designation and post-attainment-date emissions levels are consistent with the modeling (as would all nonattainment areas).
- Rationale: The rationale for reliance on modeled results is based on analogy to Congressional intent regarding the linkage between control obligations and the time necessary to attain in the 1990 CAA Amendments.

IMPLICATIONS OF CLASSIFICATION

- Subpart 1 requirements (e.g., NSR & conformity) apply to all non-attainment areas
- Subpart 2 requirements for each classification would apply, unless EPA meets difficult legal tests for saying particular requirements do not apply,
 - Some subpart 2 provisions call for VOC measures that may have limited effectiveness in areas that primarily need NOx reductions (e.g., 15% VOC rate of progress plans, lower thresholds for VOC RACT and NSR)

3 OPTIONS FOR TRANSITION FROM 1-HR TO 8-HR O3 STANDARD

The 1-hour ozone standard remains in effect until revoked. Three options for timing of revocation:

- At time of 8-hr O3 designation
- At time of approval of 8-hr O3 SIPs (for 8-hr O3 nonattainment areas)
- 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.

**8-HOUR O3 NAAQS IMPLEMENTATION STRATEGY
BRIEFING FOR JEFF HOLMSTEAD & ROB BRENNER
January 22, 2002 - 10:00 - 10:45 a.m.**

PURPOSE OF BRIEFING

- Obtain management approval to proceed with stakeholder discussion of straw options on classification options and other 8-hr. ozone implementation issues
- Set process and schedule for proposing implementation strategy
-

SUMMARY OF BRIEFING TOPICS

- 3 straw options for resolving subparts 1 and 2 conflict for classifications
- Approach for addressing anti-backsliding
- Revised options for transition from 1-hr to 8-hr O3 NAAQS
- Rulemaking schedule & process for stakeholder interaction
- Next steps

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FURTHER DESCRIPTION OF OPTION 3

Option 3-

- **Incentive feature:** An area that is classified moderate or above, but that submits an approvable SIP within a limited time after designation/classification, may be reclassified to a lower classification consistent with the attainment date in their SIP.
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- **Rationale:** The rationale for reliance on modeled results is based on analogy to Congressional intent regarding the linkage between control obligations and the time necessary to attain in the 1990 CAA Amendments.

IMPLICATIONS OF CLASSIFICATION

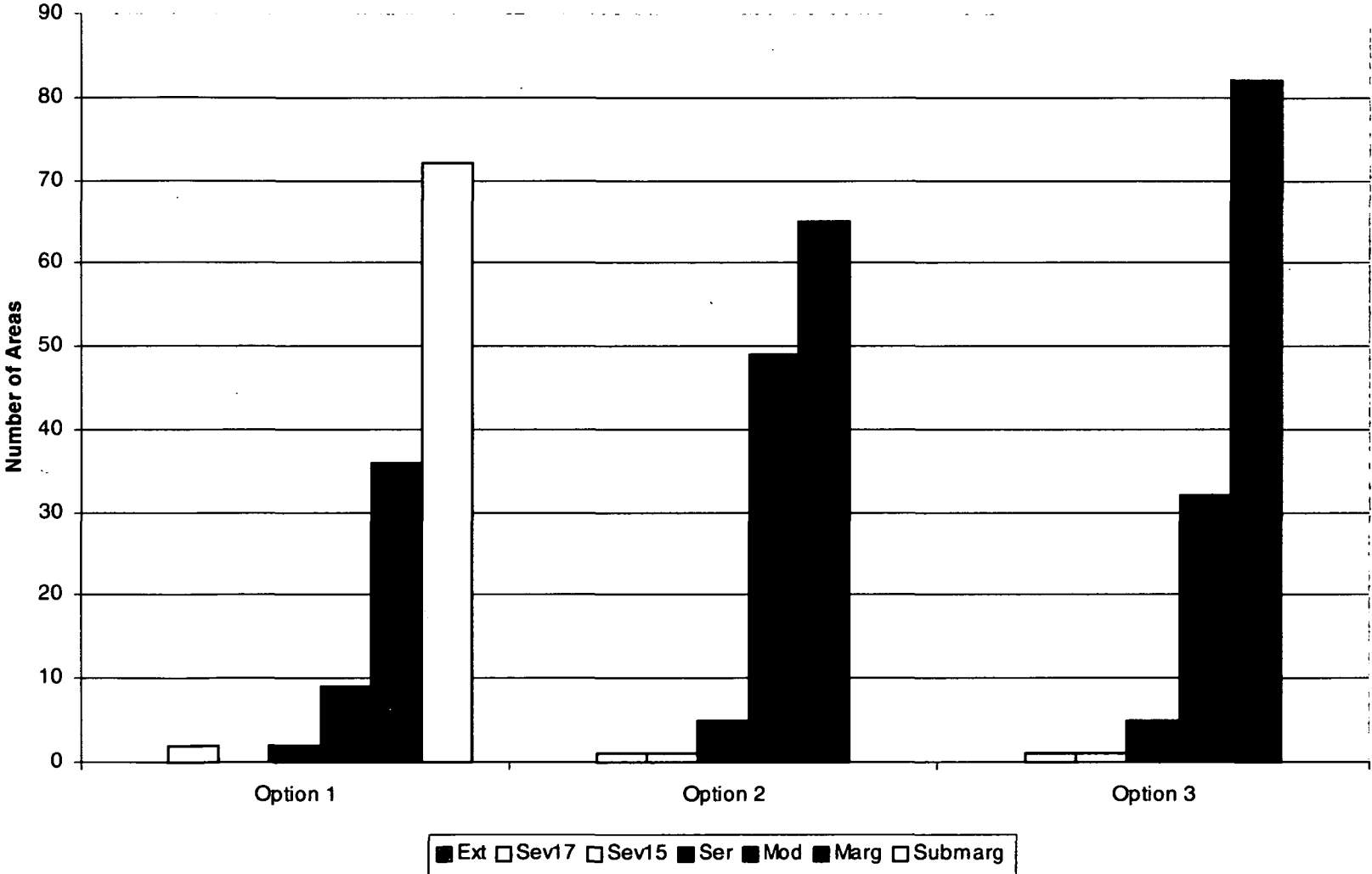
- Subpart 1 requirements (e.g., NSR & conformity) apply to all non-attainment areas
- Subpart 2 requirements for each classification would apply, unless EPA meets difficult legal tests for saying particular requirements do not apply,
 - Some subpart 2 provisions call for VOC measures that may have limited effectiveness in areas that primarily need NOx reductions (e.g., 15% VOC rate of progress plans, lower thresholds for VOC RACT and NSR).

COMPARISON OF AREAS AFFECTED

TABLE 1

COUNTS OF NONATTAINMENT AREAS										
	Ext	Sev17	Sev15	Ser	Mod	Marg	Other *	Submarg	Rest	Total
Current 1-hr Classifications										
Nonattainment	1	5	4	14	10	21	20			75
Maintenance					21	22	16			59
The above areas are not the same as the rest of the table in certain situations.										
New 8-hr vs. existing 1-hr Areas										
Areas NAA and Maint	1	5	3	11	20	31	6			77
Areas NAA	1	5	3	11	4	14	3			41
Areas Maintenance					16	17	3			36
Areas Rest (new 8-hr areas)									44	44
Total										121
8-hr Classificaion Options										
Option 1 (1-hr DV)	0	2	0	2	9	36		72		121
Option 2 (8-hr DV)	0	1	1	5	49	65		0		121
Option 3 (8-hr DV, but marginal if area projected to attain in 2007)	0	1	1	5	32	82		0		121

8-hr O3 Classification Options (11/17/01)



APPROACH FOR ADDRESSING ANTI-BACKSLIDING

A common issue for all of the above classification options is how to prevent backsliding from 1-hr requirements.

- All of the above classification options 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 within the areas that were subject to those requirements for the 1-hour standard. Details of this concept would be tailored to nonattainment areas not meeting the 1-hr. standard, non-attainment areas meeting the 1-hr. standard and attainment areas.

The recommended approach for implementing anti-backsliding is to establish an anti-backsliding requirement (via regulation) and also rely on CAA anti-backsliding provisions.

3 OPTIONS FOR TRANSITION FROM 1-HR TO 8-HR O3 STANDARD

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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. Figures 3 and 4 demonstrate the possible timing.

PROCESS AND SCHEDULE – TENTATIVE PLANS

- Scope of 8-hr. implementation strategy:
 - subpart 1/2 issues (transition from 1-hr. to 8-hr. standard, classification, mandatory measures, SIP submittal dates, attainment dates)
 - other key implementation issues
 - will be part rule and part guidance
- July target for proposing implementation strategy
- Anticipated course is to lay out options for public comment

- Process for consulting with state and stakeholder groups prior to proposal
 - Develop (written) straw options for discussion
 - Continue ongoing consultation process with STAPPA/ALAPCO
 - Hold two or three all-day public meetings with stakeholders early in 2002 (perhaps D.C., Chicago/San Francisco), with format allowing for meaningful discussions
 - Hold separate meetings with key state and stakeholder groups seeking input (e.g., ECOS, NGA, environmental organizations, industry)

- Working schedule
 - Stakeholder meetings and discussions -- December through March
 - Staged briefings for management on individual issues -- February-April 2002
 - Complete proposal and send to OMB -- April 2002

- Internal process on additional implementation issues
 - EPA subgroups are developing options on more than a dozen additional implementation issues not addressed by this briefing
 - Issues will be elevated to DAA/AA as necessary; other issues could be taken directly to stakeholders

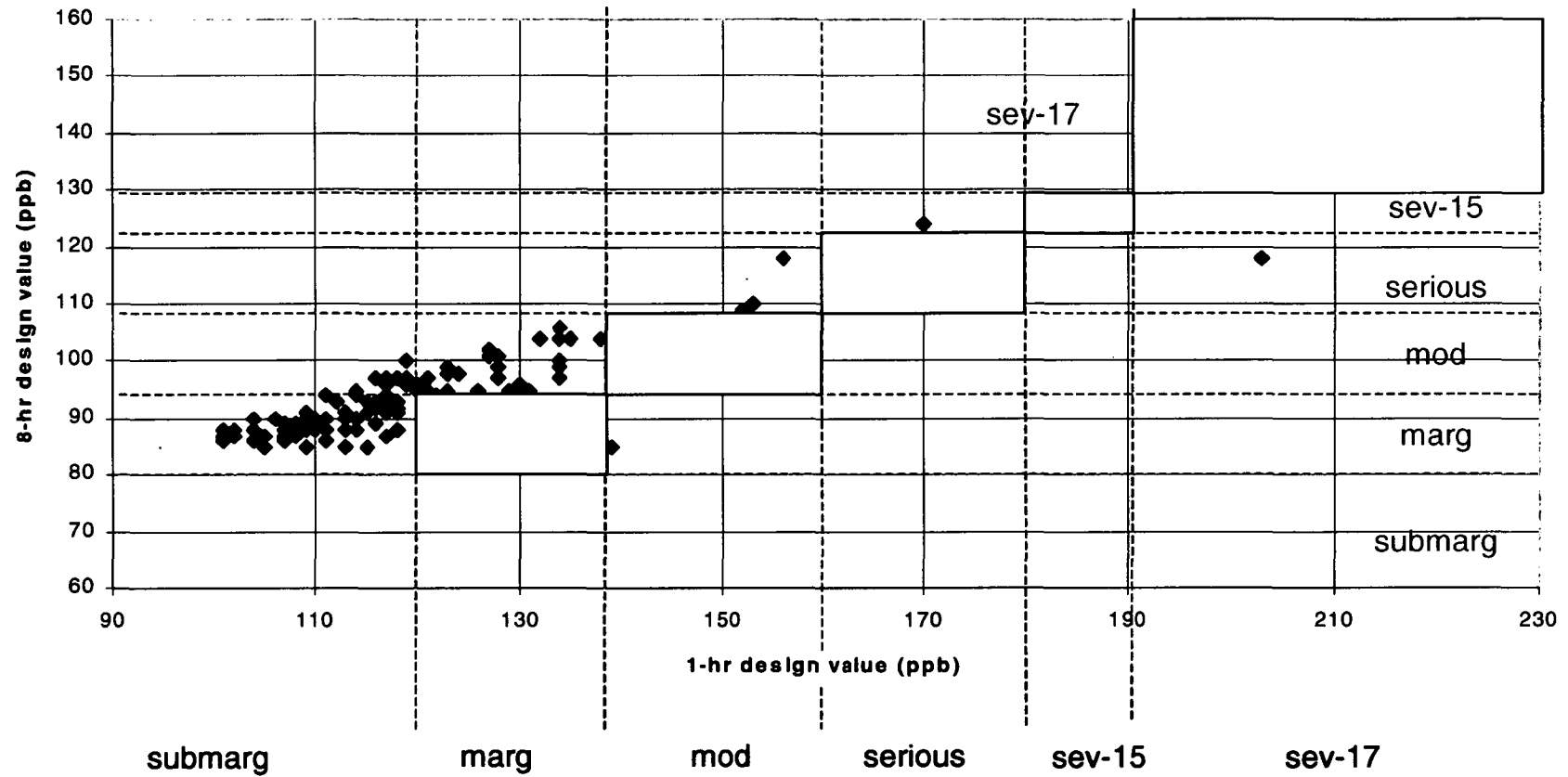
- Suggested posture on whether EPA will consider legislative changes
 - "EPA at this point is focusing on the best ways to address the Supreme Court decision and implement the 8-hour ozone standard without legislative changes. We will assess whether legislation is needed as we proceed."

NEXT STEPS

- Discuss options with RO's, STAPPA/ALAPCO, (December 19)
- Public meetings (latter part of January 2002/early February)
- Develop straw options for additional issues (e.g., timing issues--SIP submittal dates, attainment dates)

Figure 2

8-hr vs. 1-hr design values

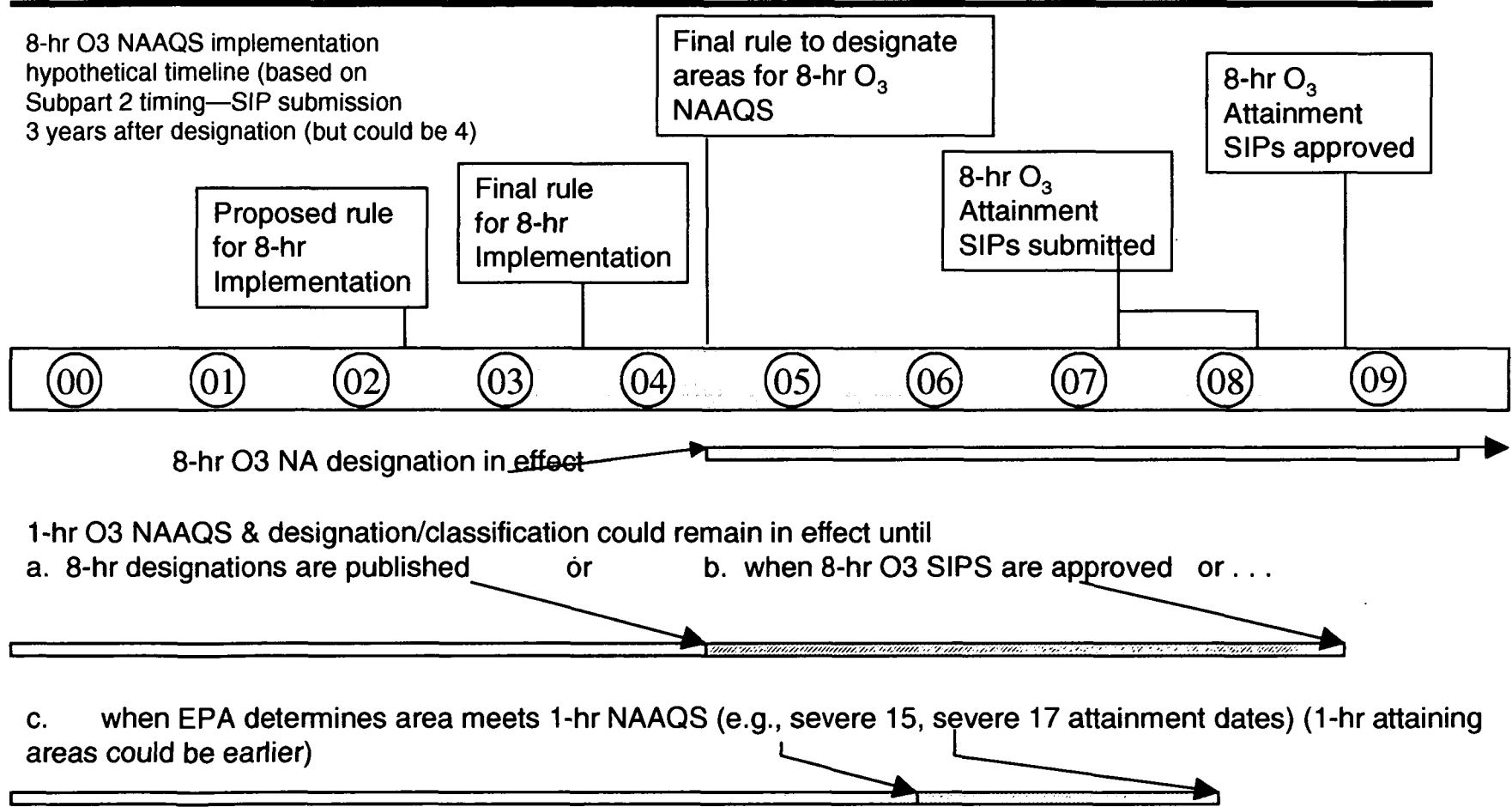


Note: location of threshold lines are approximate
 Red—1-hr design value cutpoints from Table 1
 Blue—8-hr design value cutpoints from translated Table 1
 [] Indicates 1hr class = 8-hr class

1-hr to 8-hr Standard Transition

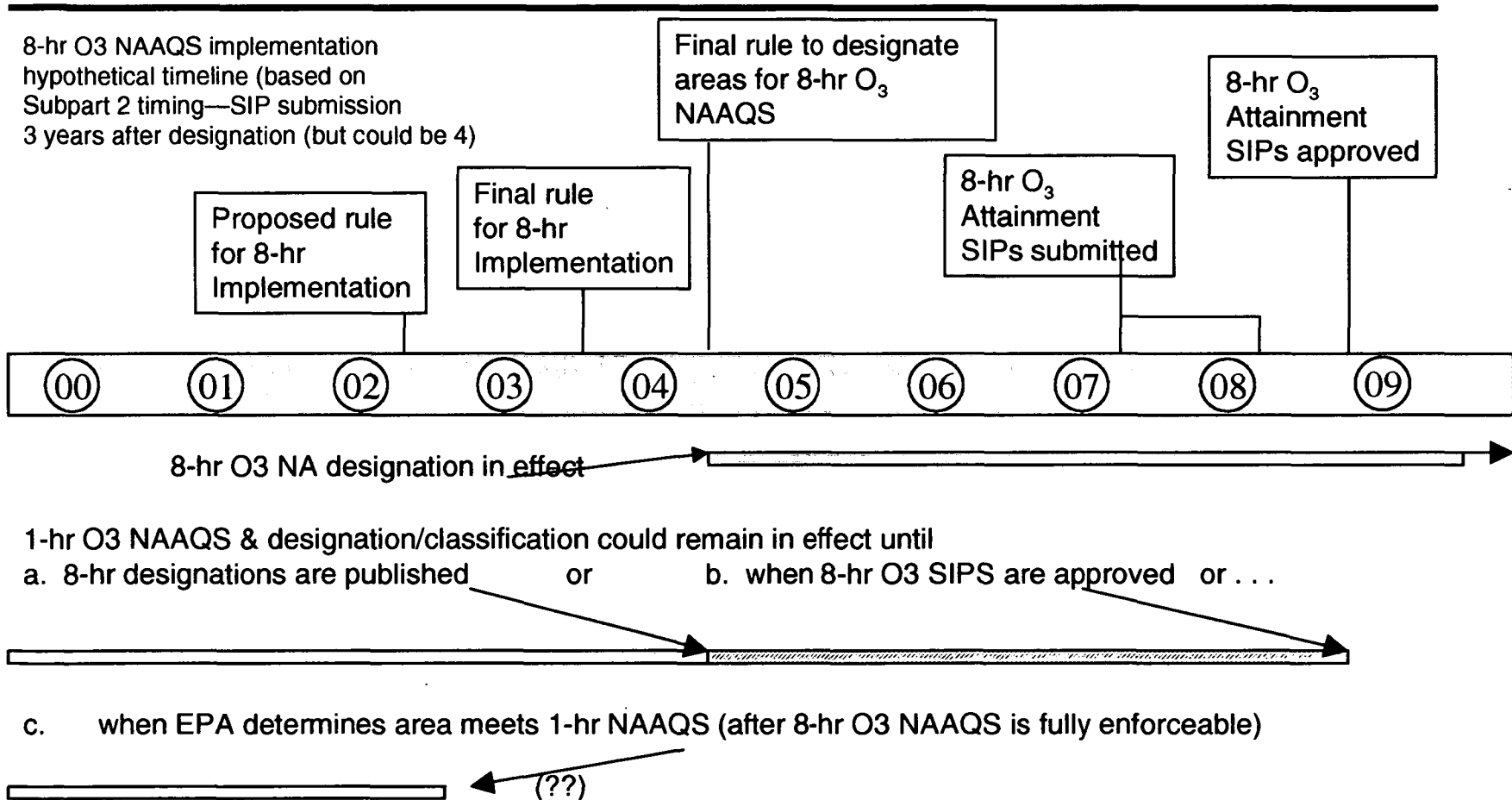
Hypothetical Timing Options for *Current 1-hr NA Areas*

(Note that 2 standards & their separate designations & classifications could be in effect for a period of time)



1-hr to 8-hr Standard Transition

Hypothetical Timing Options for *Current 1-hr Attainment Areas*
 (Note that 2 standards & their separate designations & classifications could be in effect for a period of time)



Status of 8-hour implementation guidance

January 2002

STATUS OF IMPLEMENTATION OF 8-HOUR O3 NAAQS

Introduction

- **In July 1997, EPA revised the ozone NAAQS**
- **EPA initially indicated implementation under more flexible requirements ("subpart 1") rather than more prescriptive requirements ("subpart 2") and issued a public review draft guidance document (November 1998)**
- **EPA sued in U.S. Court of Appeals for the DC Circuit over the standard itself and its implementation approach**
- **May 1999—Appeals Court ruled on unconstitutional delegation of authority and improper implementation approach**
- **EPA appealed to Supreme Court**
- **February 2001—Supreme Court upheld constitutionality of air quality standard setting but held that EPA could not ignore subpart 2 when implementing the 8-hour standard**

STATUS OF IMPLEMENTATION OF 8-HOUR O3 NAAQS **(continued)**

Status of Planning

- **EPA considering optional approaches for resolving both transition from 1-hr ozone NAAQS and inconsistency between subparts 1 and 2**
- **EPA working closely with STAPPA/ALAPCO to develop approaches**
- **EPA reaching out to stakeholders to obtain input and concerns (industry, environmental organizations, governmental organizations)**

STATUS OF IMPLEMENTATION OF 8-HOUR O₃ NAAQS
(continued)

Key issues

- Subpart 1 or 2 preference
- Relevance/desirability of mandatory subpart 2 requirements
- Classification method for Table 1 of subpart 2
- Timing (SIP submission, attainment dates)
- Geographic coverage differences

12/5/01

8-HR O3 NAAQS IMPLEMENTATION ISSUE TOPICS-TEAM MEMBERS

ISSUE	ISSUE LEAD	MEMBERS
1. How will EPA reconcile Subpart 1 and 2 options?	John Silvasi	Complete HQ team
2. How will EPA transition from the 1-hour to the 8-hour standard?	John Silvasi	Complete HQ team
3. How will EPA address geographic coverage differences that apply in existing 1-hr NA areas vs. larger 8-hr NA areas that encompass the pre-existing 1-hr NA or maintenance areas?	Sharon Reinders?	John Filippelli John Summerhays Cindy Rosenberg Barry Gilbert Rich Damberg Larry Wallace
4. Will EPA classify areas for the 8-hour standard? If so, what will the classification scheme look like?	John Silvasi	Complete HQ team
5. What is the role of mandatory measures for the 8-hour standard, i.e., under Subpart 2?	John Silvasi	Complete HQ team
6. What is the timing of 8-hour designations/classifications? What is the relation in timing for the 8-hr O3 NAAQS compared to the PM2.5 NAAQS? Other designation issues?	Sharon Reinders	see #3
7. What will the 8-hour attainment dates be (under subpart 1 or subpart 2)?	Jim Ketcham-Colwill	Jan Tierney John Silvasi Steve Rothblatt Dave Conroy Robert Judge
8. When will EPA require an 8-hour SIP submission? How will this mesh with the mid-course review and any other SIP actions required under the 1-hr O3 NAAQS?	Denise Gerth	Steve Rothblatt Jeanne Schulze Celia Bloomfield John Filippelli Jim Ketcham-Colwill
9. What additional guidance will be needed on attainment demonstrations, including the impact of transport?	Ellen Baldrige	
10. What should be the requirements for reasonable further progress?	Annie Nikbakht and David Sanders	Kay Prince Rose Quinto

ISSUE	ISSUE LEAD	MEMBERS
11. What should be the requirements for conformity? (there should be coordination between the policies on transportation and general conformity)		
transportation conformity, including: --in transport cases? --different offset ratios for different parts of 1-hr/8-hr O3 nonattainment areas?	Laura Berry	
general conformity	Dave Stonefield, Annie Nikbakht	Doris Lo Patricia Morris Robert Moyer
12. What should be the requirements for new source review requirements? --in transport cases? --different offset ratios for different parts of 1-hr/8-hr O3 nonattainment areas?	Mark Sendzik and Todd Hawes,	
13. Will EPA be contemplating further flexibility with regard to early reductions?	David Cole	Carla Oldham Manisha Patel Michael Morton Ruben Casso
14. What safeguards will be evaluated to ensure that ozone controls won't preclude optimal controls of PM2.5 and regional haze?	Doug Grano	
15. Does the section 110 infrastructure SIP still need to be submitted?	Denise Gerth	
16. Will EPA incorporate policies into a rule?	John Silvasi	Complete HQ Team
17. How will MOBILE6 affect SIPs under the 8-hour standard?	Meg Patulski	
18. What should be the requirements for emissions inventories	Bill Kuykendal	
19. Definition of design values for classification & other DV-related issues	Barry Gilbert/ James Hemby	[no others]
20. What guidance should be provided that is specific to tribes?	Annie Nikbakht/ Julie McClintock	