

CAPCOG Air Quality Program Staff 2010 Ozone Standard Implementation Proposal Summary

- In *Whitman v. ATA* and *South Coast Air Quality Management District v. EPA*, the courts have held that under the Clean Air Act, **the EPA is only required to use Part D, Subpart 2, to implement an eight-hour ozone standard in areas with design values higher than 0.09 parts per million.**
- In its implementation rule for the 1997 eight-hour ozone standard, the EPA repeatedly stated that **Subpart 1 is a more appropriate means of enforcing an eight-hour ozone NAAQS** since Subpart 2 doesn't allow EPA and states to consider transported pollution and imposes certain mandatory controls that wouldn't necessarily be effective at controlling eight-hour ozone levels.
- *Benefits of Subpart 1 to Subpart 2:*
 - **Greater Assurance of Attainment:** Since all nonattainment areas must submit attainment demonstrations, demonstrate reasonable further progress, adopt reasonably available control measures, and adopt contingency measures under Subpart 1, it helps avoid the problems associated with Marginal areas missing their attainment deadlines.
 - **Consideration of Transport and Availability of Control Measures:** Subpart 1 allows for attainment deadlines of 5 to 10 years after designation, based on availability of control measures, whereas Subpart 2 does not allow for such consideration. It also helps avoid equity issues for downwind areas like Austin.
 - **Meaningful Reasonable Further Progress Linkage:** Subpart 1 explicitly links reasonable further progress with the reductions needed for attainment, whereas Subpart 2 requires 15% VOC reductions in the first 6 years and 3% per year NO_x/VOC reductions every year thereafter, regardless of effectiveness at reducing ozone. Subpart 1 also simplifies the RFP calculations since pre-1990 controls are not required to be left out of the analysis.
 - **Avoid Necessity of Modeling Multiple Attainment Years:** Subpart 1 can greatly simplify technical planning by providing for a single attainment year to model, rather than 3 or 4 possible years.
- *CAPCOG Staff Proposal:*
 - Implement 2010 primary ozone standard under Subpart 1 for all areas with 2010 8-hour ozone design values of 90 ppb or lower and under Subpart 2 for all areas with design values of 91 ppb or higher.
 - Allow for 10 years for attainment for all areas that cannot reach attainment without reductions from outside the nonattainment area or that are downwind of nonattainment areas EPA has projected will not be attaining the standard by 2020 without additional controls (<http://www.epa.gov/glo/pdfs/CountyOzoneLevels2020primary.pdf>).
 - Translate the Subpart 2 classification table based on 50 percent of the thresholds used for the one-hour ozone standard (for example, 7.5% above the NAAQS for the marginal/moderate threshold, rather than the 15% above the NAAQS threshold listed in Subpart 2).
 - For areas designated under Subpart 1, use the classifications for purposes of new source review (NSR) offsets and major source thresholds.
 - Use the Subpart 2 reasonably available control technology rules for all ozone nonattainment areas.
 - For areas where an attainment determination for the 1997 standard has not been finalized by the time the 1997 standard is revoked, retain the existing Subpart 2 NSR and major source requirements until the area attains the 2010 standard.

- Require Reasonable Further Progress plans to demonstrate that 60% of the emission reductions required to reach attainment will occur by the beginning of the 2017 ozone season and 90% by the beginning of the 2020 ozone season.

DRAFT