



# NAAQS Implementation and Other Updates

EPA Region 4  
Fall Air Director's Meeting  
October 2019

Scott Mathias, Acting Director, Air Quality Policy Division  
Office of Air Quality Planning and Standards

## Overview

- NAAQS Review Update
- EPA Strategic Plan Priority Goals
  - Nonattainment Areas
  - SIP Process Improvements
- NAAQS Implementation Updates
  - Ozone
  - Sulfur Dioxide (SO<sub>2</sub>)
- Exceptional Events
- Regional Haze
- Permitting



## NAAQS Review Status

(October 2019)

	Ozone	Lead	Primary NO <sub>2</sub>	Primary SO <sub>2</sub>	Secondary (Ecological) NO <sub>2</sub> , SO <sub>2</sub> , PM <sup>1</sup>	PM <sup>2</sup>	CO
<b>Last Review Completed</b> (final rule signed)	Oct. 2015	Sept 2016	April 2018	Feb 2019	Mar 2012	Dec 2012	Aug 2011
<b>Recent or Upcoming Major Milestone(s)</b>	<u>Sept/Oct 2019</u> Draft ISA and Draft PA <sup>3</sup>  <u>Early 2020</u> Proposal  <u>Late 2020</u> Final	TBD <sup>4</sup>	TBD	TBD	<u>Timing of next steps is TBD</u> Final ISA; draft REA/PA	<u>Sept 5, 2019</u> Draft PA released to CASAC and public  <u>Early 2020</u> Proposal  <u>Late 2020</u> Final	TBD

Additional information regarding current and previous NAAQS reviews is available at: <http://www.epa.gov/ttn/naaqs/>

<sup>1</sup> Combined secondary (ecological effects only) review of NO<sub>2</sub>, SO<sub>2</sub>, and PM

<sup>2</sup> Combined primary and secondary (non-ecological effects) review of PM

<sup>3</sup> IRP – Integrated Review Plan; ISA – Integrated Science Assessment; REA – Risk and Exposure Assessment; PA – Policy Assessment

<sup>4</sup> TBD = To be determined



---

## EPA Strategic Plan Foundation

4



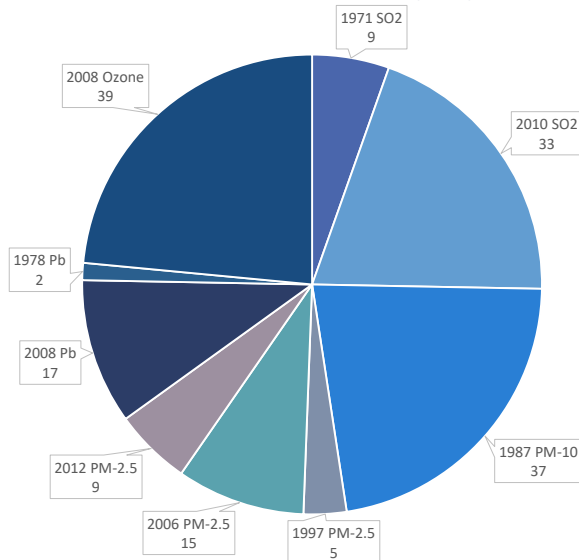
**Goal 1: A Cleaner, Healthier Environment.** Deliver a cleaner, safer and healthier environment for all Americans and future generations by carrying out the agency's core mission.

**Goal 2:** Provide certainty to states, localities, tribal nations and the regulated community in carrying out shared responsibilities and communicating results to all Americans.

**Goal 3:** Increase certainty, compliance and effectiveness by applying the rule of law to achieve more efficient and effective agency operations, service delivery and regulatory relief.



### Nonattainment Areas for Non-revoked NAAQS as of October 1, 2017 (166)

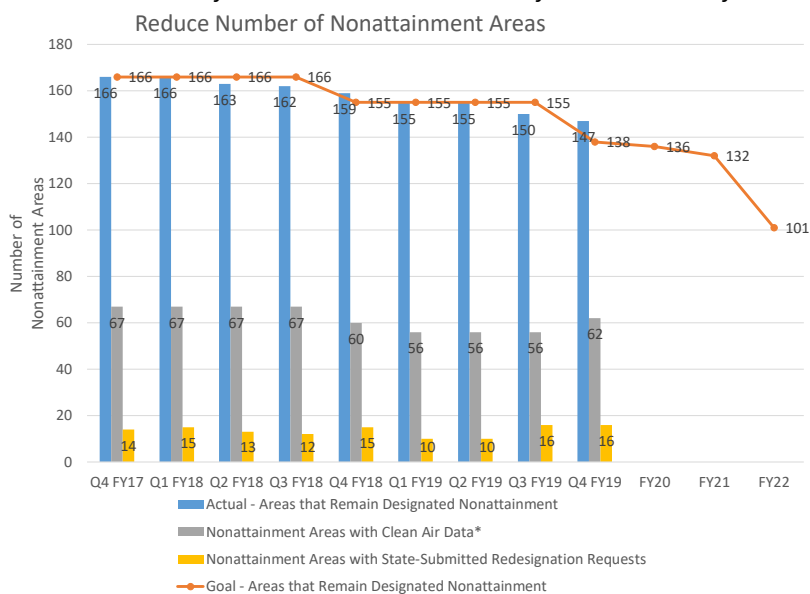


### EPA Priority Goal: Reduce Number of Nonattainment Areas

- Work with states to prioritize redesignation request submissions.
- Ensure states have necessary rules, guidance, and tools.
- Improve the efficiency and effectiveness of the SIP/TIP process, including EPA's review process, to maximize timely processing of requested SIP/TIP actions.
- Take federal oversight actions, where necessary.
- For EPA to approve a state's requests to redesignate a nonattainment area, the request must meet the minimum Clean Air Act requirements, which include:
  - A demonstration that the area has air quality that is attaining the NAAQS;
  - Establishing that pollution reductions are due to implementing permanent and enforceable measures;
  - A 10-year maintenance plan that includes contingency measures to be triggered in the event of a re-violation of the NAAQS; and,
  - Satisfying any other applicable and outstanding attainment planning and emissions control requirements.

**Agency Priority Goal:** *By September 30, 2022, EPA, in close collaboration with states, will reduce the number of nonattainment areas to 101 from a baseline of 166.*

6



*Clean air data is a key step to redesignation to attainment, which can occur once an area's air quality attains the federal standard.*



---

---

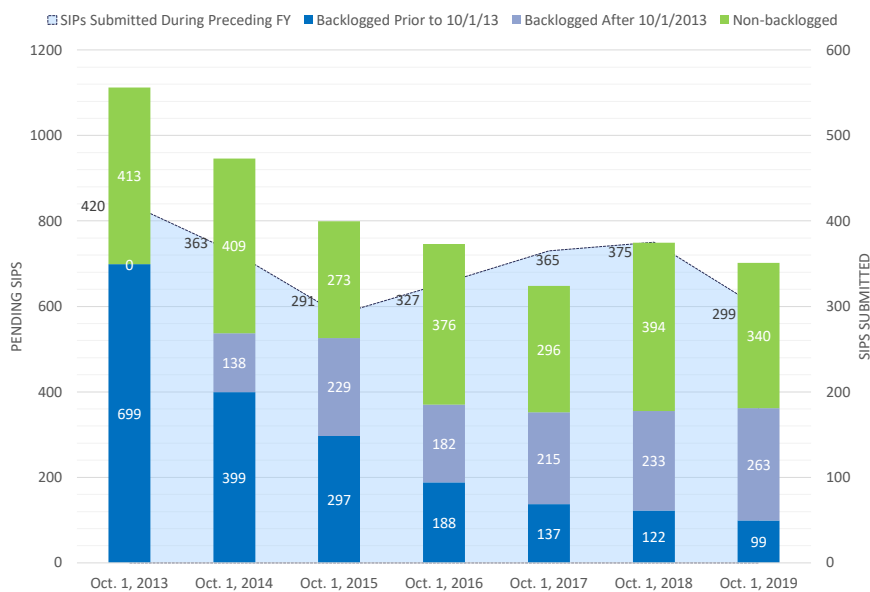
# Improving State Implementation Plan Reviews

---

---

## SIPs Pending EPA Review – 2013 to October 1, 2019

8





## SESARM State SIP Backlog Report

(as of 10/8/2019)

Region 4		Region 3	
<u>State</u>	<u>Backlogged SIPs</u>	<u>State</u>	<u>Backlogged SIPs</u>
Alabama	1	Virginia	2
Florida	4	West Virginia	3
Georgia	4		
Kentucky	8		
Mississippi	2		
North Carolina	8		
South Carolina	11		
Tennessee	4		
<i>Total</i>	<i>42</i>	<i>Total</i>	<i>5</i>

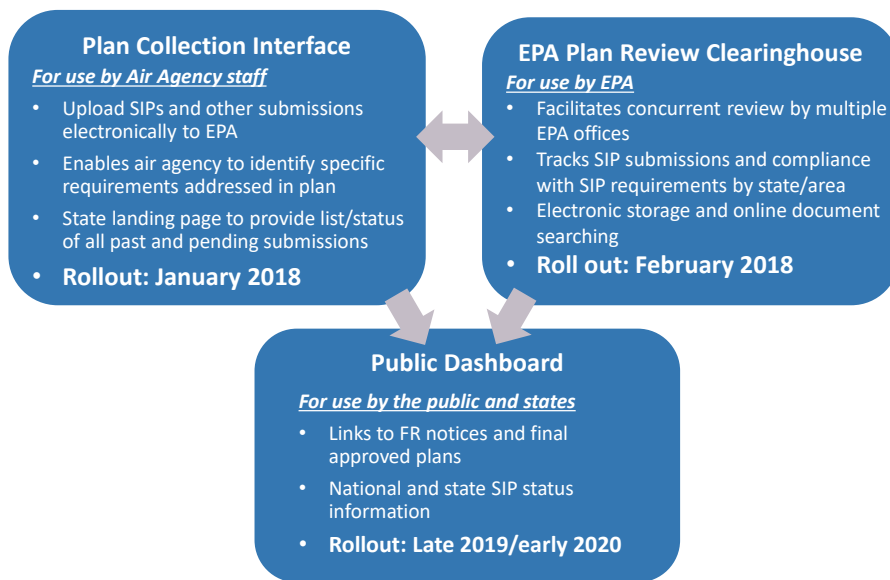


## SIP Process Improvements

- Early engagement during SIP development
- 2015 Ozone NAAQS “Quick Start Guide”
- Upcoming activities:
  - Consider key backlog reduction techniques for the most difficult SIPs including withdrawal and disapproval
  - SIP Lean Guide
  - Update external-facing “SIP streamlining” website
  - Develop internal New Process Standard Operating Procedure
  - Further develop State Plan Electronic Collaboration System (SPeCS)



## State Plan Electronic Collaboration System (SPeCS) for SIPs



---

## SPeCS for SIPs (cont.)

- Since January 2018, states have submitted more than 500 submissions
  - > 448 official submissions and ~71 draft submissions
- Plans for 2019 and Beyond
  - Complete Public Dashboard
  - Develop the Administrator Module
  - Develop the Regional Haze Module
  - Develop an Exceptional Events Demonstration Module
  - Integrate SIP Lean Efforts into SPeCS
  - Continuously improve the State Plan Collection Interface and EPA Clearinghouse based on on-going user feedback



---

---

# Pollutant-Specific Implementation Updates

---

---

Ozone and SO<sub>2</sub>

## 2015 Ozone NAAQS Implementation Update

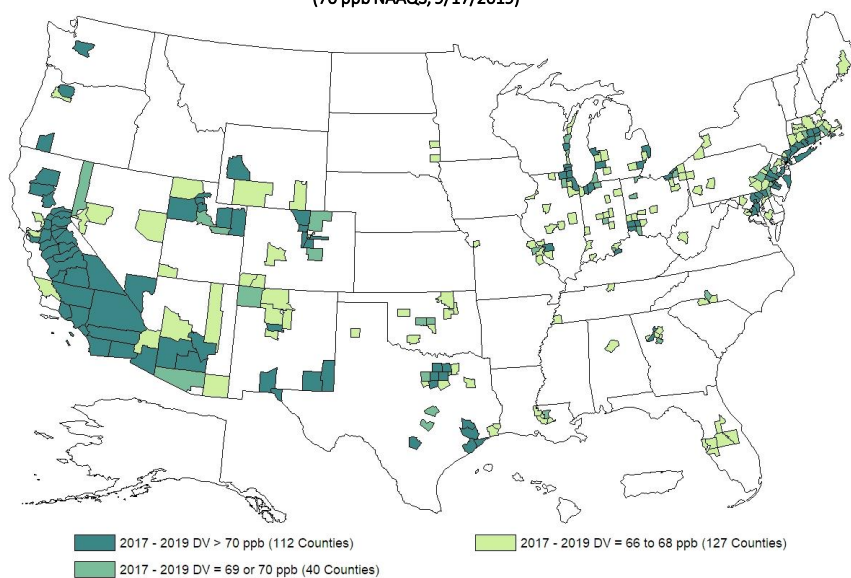
- 52 areas initially designated nonattainment:
  - 51 areas (excluding San Antonio) effective August 3, 2018 (83 FR 25776; 6/04/18)
  - San Antonio, Texas area effective September 24, 2018 (83 FR 35136; 7/25/18)

Classification	Number of Areas	Attainment Deadline (years)	Attainment Date
Marginal	39	3	August 3, 2021* (2018-2020 DV)
Moderate	5	6	August 3, 2024
Serious	2	9	August 3, 2027
Severe-15	2	15	August 3, 2033
Extreme	2	20	August 3, 2038
Rural Transport (Marginal)	2	N/A	---
TOTAL	52		
* Sep 24, 2021 for San Antonio, TX area			

- Columbus, OH area redesignated to attainment (84 FR 43508; 8/21/19)
- Initial SIP submittals due August 3, 2020
  - Marginal areas: Emissions inv./statements
  - Moderate and above areas: Emissions inv./statements and RACT SIPs



**Preliminary 2017-2019 Design Values for 2015 Ozone**  
(70 ppb NAAQS, 9/17/2019)



---

## 2015 Ozone NAAQS Implementation Update (cont.)

- Infrastructure SIP update
  - SIPs were due October 1, 2018
  - As of October 2, 2019, EPA has received 35 full submittals and 7 partial submittals
- Litigation on 2015 Ozone NAAQS SIP Requirements Rule
  - Final rule published December 6, 2018 (83 FR 62998)
  - Petitioners' brief filed July 22, 2019:
    - NNSR interprecursor trading
    - RFP requirements: milestone compliance demonstrations
    - RFP requirements: alternative baseline year
    - Early implemented contingency measures
  - EPA's reply brief due November 1, 2019; oral arguments timing TBD





---

## 2015 Ozone NAAQS Interstate Transport

- EPA is actively reviewing submitted 2015 ozone NAAQS transport SIPs
  - As of October 9, 2019, have received 40 of 56 states/jurisdictions
  - Finalized approval action on 2 state SIPs
  - Proposed approval on an additional 4 SIPs
- Notice of Intent (NOI) to file mandatory duty deadline suit to make Findings of Failure to Submit (FFS) outstanding interstate transport SIPs that were due October 1, 2018
  - On September 5, 2019, EPA announced its intent to make findings that certain states have failed to submit interstate transport SIPs for the 2015 ozone NAAQS. (see <https://www.epa.gov/airmarkets/interstate-air-pollution-transport>)
  - EPA intends to issue FFS on November 22, 2018
  - SIPs need to be “complete” to be excluded from the FFS



---

## 2008 Ozone NAAQS Implementation Update

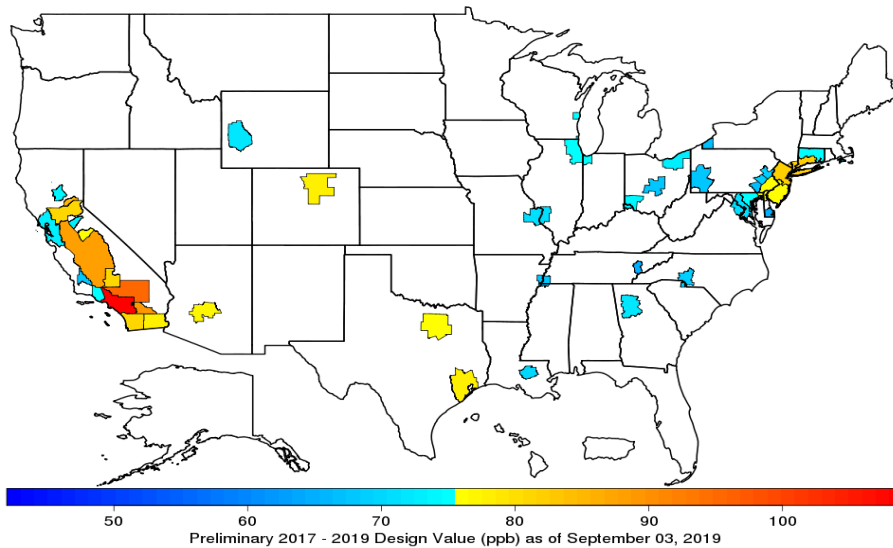
- Moderate area update
  - Moderate area Determinations of Attainment by the Attainment Date for 11 areas published August 23, 2019 (84 FR 44238), effective September 23, 2019
  - The action establishes new SIP submittal and RACT implementation deadlines for newly-reclassified Serious areas
  - 1-year attainment date extension for Sheboygan County, WI to July 2019
  - Separate related actions for Denver, CO; Phoenix, AZ; Imperial County, CA; and Kern County, CA
- 2008 Ozone NAAQS Interstate Transport
  - CSAPR Update – September 13, 2019, D.C. Circuit decision on Wisconsin v. EPA ruled for EPA on a number of issues but concluded that EPA's interpretation of the Good Neighbor Provision was unreasonable with regard to the timing of upwind emissions reductions. The court remanded the CSAPR Update without vacatur. EPA is currently reviewing the decision and discussing options.
  - CSAPR Closeout - On October 1, 2019, the D.C. Circuit on New York v. EPA vacated and remanded the CSAPR Closeout to EPA citing the Wisconsin decision.



**Preliminary 2017-2019 Design Values for  
2008 Ozone Nonattainment Areas**

(75 ppb NAAQS; as of 9/3/19)

19



---

## 1997 Ozone NAAQS Implementation Update

- The February 2018 *South Coast II* ruling upheld EPA's general authority to revoke a prior NAAQS with adequate antibacksliding protections ("controls") but reversed several key antibacksliding approaches for the revoked 1997 ozone NAAQS, including:
  - duty to reclassify areas upon failure to timely attain; and
  - "redesignation substitute" mechanisms to terminate antibacksliding controls
  - 2<sup>nd</sup> 10-year maintenance plans
- The ruling held that to remove antibacksliding requirements, areas that were designated nonattainment for the 1997 NAAQS at time of revocation needed to meet all redesignation requirements under CAA section 107(d)(3). Recent related proposed approvals include:
  - Houston-Galveston-Brazoria, TX area (84 FR 22093; 5/16/19)
  - Dallas-Fort Worth, TX area (84 FR 29471; 6/24/19)
- EPA provided "Resource Document" to assist states with preparing second 175A maintenance plans, including "limited maintenance plans." <https://www.epa.gov/ground-level-ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment>



---

## 2010 SO<sub>2</sub> NAAQS Implementation Update

- **Approved attainment plans:** Currently, 18 SIPs for the initial 29 Round 1 nonattainment areas have been approved. HQ is working with affected Regional Offices and states on addressing approvability issues for the remaining SIPs.
- **Mandatory duty deadline lawsuit:**
  - The Center for Biological Diversity, Center for Environmental Health and the Sierra Club (CBD) filed suit on June 14, 2018 (amended on December 17, 2018) to compel EPA to act on several SIPs submitted for Round 1 areas. The lawsuit also sought to compel EPA to issue findings of failure to submit (FFS) for several nonattainment areas designated in Round 2 or for the 1971 SO<sub>2</sub> NAAQS.
  - Draft consent decree (CD): On September 4, 2019, EPA published in the Federal Register a proposal notice under CAA section 113(g) for 30-day public comment:
    - › Take action on 12 submitted Round 1 SIPs by October 2020 (including one by April 2020).
    - › Issue FFS, which EPA has already completed on September 9, 2019 (two areas).
- **Interstate transport:** EPA continues to make good progress approving submitting SO<sub>2</sub> interstate transport SIPs and continues to work with states to submit approvable SIPs addressing the good neighbor provision.



## Round 4 SO<sub>2</sub> NAAQS Area Designations

- EPA must designate all remaining portions of the U.S. by December 31, 2020.
- Round 4 Process Guidance Memo issued September 5, 2019.

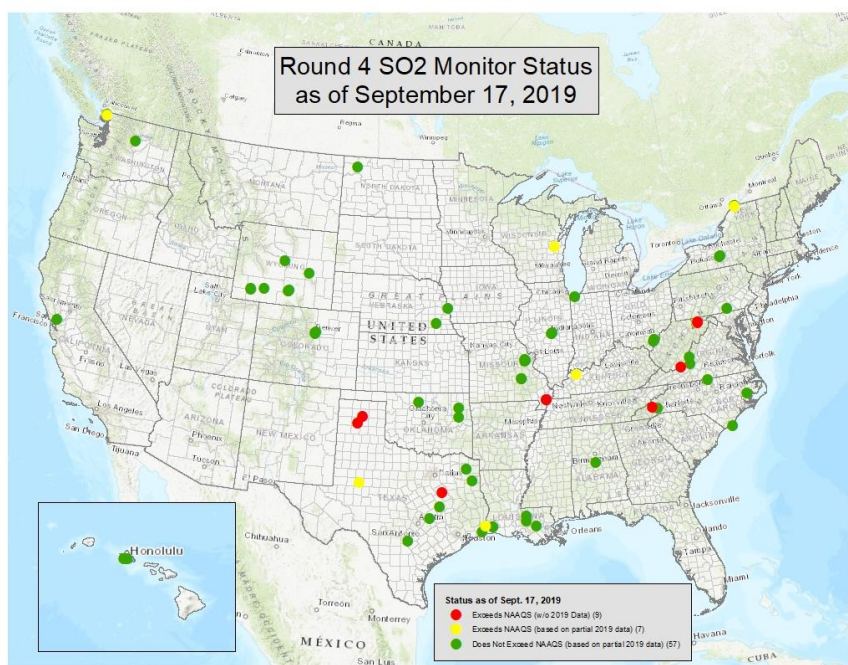
Timeline for 2010 Primary SO<sub>2</sub> NAAQS Designations Process – Round 4  
Areas Associated with December 31, 2020, Court Ordered Deadline

22

Milestone	Date
States and tribes certify 2019 SO <sub>2</sub> monitoring data	No later than May 1, 2020
States and tribes may submit updated recommendations and supporting information for area designations to EPA*	No later than May 1, 2020
States submit exceptional events demonstrations for event-influenced SO <sub>2</sub> monitoring data from 2017-2019	No later than May 1, 2020
EPA notifies states and tribes concerning any intended modifications to their recommendations (120-day letters)	On or about August 13, 2020
EPA publishes public notice of state and tribal recommendations and EPA's intended modifications, initiating a 30-day public comment period	On or about August 26, 2020 (No later than 120 days prior to final designations)
End of 30-day public comment period	On or about September 25, 2020
In response to EPA's intended designations, states and tribes submit additional information, if desired, to demonstrate why EPA's proposed modification in the 120-day letter to the state's recommended designation or boundary is inappropriate	No later than October 16, 2020
EPA signs notice promulgating final SO <sub>2</sub> area designations for Round 4	On or about December 17, 2020 (No later than December 31, 2020)

\* For any remaining undesignated area (i.e., those areas that installed and began operating EPA-approved SO<sub>2</sub> monitoring networks pursuant to the DRR and that have not been previously designated).





---

## Exceptional Events Update

- EPA has concurred on 30 state demonstrations that were submitted since EPA revised the Exceptional Events Rule in September 2016
- We continue developing new guidance documents to help right-size demonstrations and facilitate the exceptional events process – Thank you for feedback on drafts!
  - **Stratospheric Ozone Intrusion Guidance – Released November 2018**
  - **Updated High Wind Dust Event Guidance – Released April 4, 2019**
  - **Clarification Memo on Data Modification – Released April 4, 2019**
  - **Prescribed Fire Guidance – Released August 9, 2019**
- EPA's exceptional events webpage provides key resources, including example demonstrations for Ozone and PM, and will continue to be updated as new materials become available

<https://www.epa.gov/air-quality-analysis/treatment-air-quality-data-influenced-exceptional-events>





# ADVANCE

25

[www.epa.gov/advance](http://www.epa.gov/advance)

- A collaborative effort by EPA, states, tribes and local governments to achieve ongoing emission reductions in areas designated as attainment/maintenance for ozone or PM<sub>2.5</sub>
- Our current partners are located in 36 areas in 20 states and 9 of the 10 EPA Regions
  - Region 4 states have 7 of the 36 current Advance areas:
    - KY – Jefferson County (Louisville)
    - GA – Middle Georgia (Macon)
    - SC – Entire State + Catawba Indian Nation (within York County)
    - NC – Entire State + Cumberland County (Fayetteville) + Mecklenburg County (Charlotte)
  - Based on 2018 design values, about 250 counties nationwide are approaching the level of the NAAQS and may be good candidates for Advance
- Management of the Advance program within OAQPS is shifting from the Outreach and Information Division to the Air Quality Policy Division



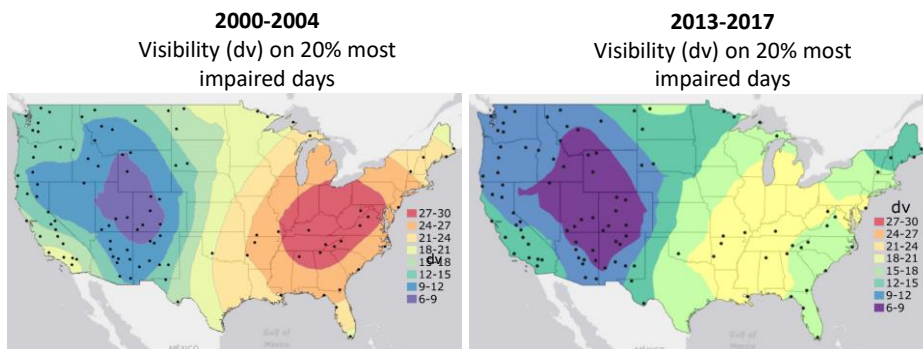
---

## Regional Haze Program

- “Regional haze” is defined at 40 CFR 51.301 as “visibility impairment that is caused by the emission of air pollutants from numerous anthropogenic sources located over a wide geographic area.”
- The Regional Haze Rule (RHR or Rule) requires states to submit a series of State Implementation Plans (SIPs) to protect visibility in Class I areas, and governs states’ obligations and EPA’s review of periodic SIPs developed for the second and subsequent implementation periods.
- In January 2017, EPA issued a final rule updating the regional haze program, including revising portions of the visibility protection rule promulgated in 1980 and the Regional Haze Rule promulgated in 1999.



## First Planning Period: Visibility is Improving



- The National Park Service estimates that as of mid-2014, emission controls established under the first planning period led to approximately 500,000 tons/year of SO<sub>2</sub> and 300,000 tons/year of NO<sub>x</sub> reductions
- EPA estimates that visibility has improved significantly with the average visual range increased by 20 – 30 miles in Class I areas



---

## Regional Haze: Ongoing Work

- Moving forward as described in the September 11, 2018, Regional Haze Reform Roadmap and supporting states for the second and future implementation periods:
  - 2018 Technical Guidance on Tracking Visibility Progress (completed Dec. 2018)
  - Guidance on Regional Haze State Implementation Plans for the Second Implementation Period (completed August 2019)
  - 2028 Modeling including estimates of U.S. and international source contributions for Class I Areas (completed September 2019)
- Second planning period SIPs due by July 31, 2021
- EPA remains engaged in SIP development
  - Some states plan to submit in 2019
  - We encourage early engagement on all SIPs; Regional Offices are available for questions or preliminary feedback
  - We are participating in the CenSARA Regional Haze National Meeting, October 28-30 in St. Louis, MO



---

---

## Permitting Related Updates

---

---

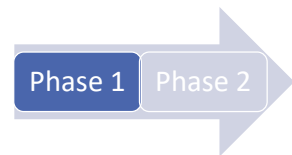
---

## Stakeholder Input and EPA Air Permitting Priorities

- Stakeholder Input
  - Presidential Memorandum: “Streamlining Permitting and Reducing Regulatory Burdens for Domestic Manufacturing”
  - E.O. 13777: “Enforcing the Regulatory Reform Agenda”
  - General Themes
    - Permit Processing: Reduce timelines; allow more activities to proceed prior to receipt of permit
    - NSR Applicability: Streamline applicability determination process; provide flexibility and reduce number of projects subject to burdensome requirements
    - Control Technology: Simplify BACT determination process
    - Air Quality Impacts: Improve models; reduce conservatism; address ambient air issues
    - Emission Offsets: Provide more flexibility to expand offset availability
- Consistent with Stakeholder Input and Administration priorities, EPA is taking steps to clarify, revise, and streamline the NSR permitting program



## Phase 1 NSR Actions



- Actual-to-Projected-Actual Applicability Test Memo
- Project Emissions Accounting (Guidance, Rule)
- Source Aggregation Guidance (Common Control, Adjacency)
- PM<sub>2.5</sub> and Ozone SILs Guidance
- Project Aggregation Reconsideration Final Action
- Ambient Air Guidance
- Affordable Clean Energy Rule NSR Applicability Test
- Treatment of Biogenic CO<sub>2</sub> from Biomass Combustion



---

## Actual-to-Projected-Actual Applicability Test Memo

- **Memorandum: “New Source Review Preconstruction Permitting Requirements: Enforceability and Use of the Actual-to-Projected-Actual Applicability Test in Determining Major Modification Applicability”**
  - Signed by Administrator Pruitt December 7, 2017
  - Where a source projects an insignificant emissions increase, the level of actual emissions after the project governs applicability
  - Projections may reflect the intent to actively manage post-project operations in order to prevent a significant emissions increase from occurring
  - EPA will not second guess NSR applicability analyses that comply with the procedural requirements of the regulations





---

## Project Emissions Accounting

- **Memorandum: “Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program”**
  - Signed by Administrator Pruitt on 3/13/18 (83 FR 13745; 3/30/18)
  - Memo Communicates EPA’s interpretation that the current NSR regulations provide that emissions decreases as well as increases are to be considered at Step 1 of the NSR applicability process, i.e., determining whether a project will result in a significant emissions increase
- **Proposed Rule (84 FR 39244, 8/9/19)**
  - Proposing revisions to the NSR regulations to fully clarify that both increases and decreases resulting from a project are to be accounted for under Step 1 of the applicability process for all project categories
  - Although the existing language in the NSR regulations supports this interpretation, rulemaking proposal is intended to clarify that and eliminate any uncertainty



## Source Aggregation

- **Common Control – Meadowbrook Letter**

- 4/30/18 letter to PA DEP clarified EPA's interpretation of "common control"
- Letter explains EPA's view that control means the power or authority of one entity to dictate decisions of the other that could affect the applicability of, or compliance with, relevant air pollution regulatory requirements

- **Common Control – Ameresco Letter**

- 10/16/18 letter to WI DNR further clarified EPA's interpretation of "common control"
- In a situation where two entities each exercise some level of control of a single, limited aspect of otherwise separate operations, it is reasonable to conclude that they are separate sources
- Shared activities should be allocated to a single source to avoid unworkable outcomes

- **Adjacency**

- 2016 Rulemaking clarified "adjacent" for oil and gas operations (within ¼ mile + shared equipment)
- **9/5/18: "Draft Guidance: Interpreting Adjacent for New Source Review and Title V Source Determinations in All Industries other than Oil and Gas"**
  - EPA interprets "adjacent" to mean physical proximity; No bright line or fixed distance
  - For operations not in physical proximity, the existence of functional interrelationship shall not be invoked to establish adjacency



## PM<sub>2.5</sub> and Ozone SILs Guidance

- **Guidance on Significant Impact Levels (SILs) for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program**
  - Signed April 17, 2018 (Peter Tsirigotis, OAQPS)
  - Revised PM<sub>2.5</sub> SILs/new ozone SILs:
    - Based on new technical approach and legal rationale
    - Streamline the air dispersion modeling process for PSD
  - Guidance comprised of (1) Policy memorandum; (2) Technical document and (3) Legal support document
    - Where SILs are used, reference all three and include in any permit record
    - Not final agency action; not binding for industry, permitting authorities, or the public



---

## Project Aggregation Reconsideration

- Background:
  - 2009 “Interpretive Rule” for Project Aggregation Established “substantially related” criterion for aggregating projects, and a 3-year rebuttable presumption against aggregating
  - NRDC petitioned for reconsideration and sued EPA on the 2009 Rule
  - EPA granted reconsideration and stayed the effectiveness of the 2009 Rule pending completion of the reconsideration or litigation
- **Final Action--Reconsideration Final Rule** (83 FR 57324; 11/15/18):
  - Retains the 2009 Rule without amending the rule text or the 2009 interpretation
  - Addresses notice and comment deficiencies and responds to other issues raised by NRDC
  - Lifts the stay of the 2009 Rule, making the rule effective



## Ambient Air Policy

- EPA defines “*ambient air*” as “that portion of the atmosphere, external to buildings, to which the general public has access” (40 CFR 50.1(e))
  - EPA’s longstanding policy for implementing ambient air for PSD purposes was stated in a 1980 Costle letter, “*the atmosphere over land that is owned or controlled by the source and to which public access is precluded by a fence or other physical barriers*”
  - Subsequent guidance provided over the years by EPA to recommend how to apply 1980 policy statement for specific situations
- Draft policy “Revised Policy on Exclusions from Ambient Air” issued 11/9/18
  - Limited change to the way EPA applies regulatory definition of ambient air
  - Change would replace specific concept of a fence or other physical barriers with *measures, which may include physical barriers, that are effective in deterring or precluding access to the land by the general public*



---

## ACE Rule EGU Hourly Emissions Test

- As part of the ACE proposed rule, EPA proposed to incorporate an hourly emissions test for NSR modification applicability for EGUs
- Three options proposed
- Hourly test would be a tool for states to implement the ACE rule; adoption would not be mandatory
- NSR rulemaking severed from June 19 final ACE rule
- We're working on it



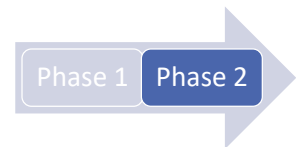
---

## Treatment of Biogenic CO<sub>2</sub> in Air Permitting

- FY2017, FY2018 and FY2019 Consolidated Appropriations Act outlines how EPA and other agencies are to establish consistent policies regarding the use of forest biomass for energy production including policies that reflect the carbon-neutrality of forest bioenergy
- April 2018 EPA policy statement: Forthcoming regulatory actions will treat biogenic CO<sub>2</sub> resulting from the combustion of biomass from managed forests at stationary sources for energy production as carbon neutral
- We're working on it



## Phase 2 NSR Actions



- Tribal NSR Oil & Gas FIP
- NSR Error Corrections Rule
- Plantwide Applicability Limit Guidance
- NSR Actual-to-Projected-Actual Applicability Test Guidance
- Begin Actual Construction Guidance
- NSR Rule Reconsiderations





---

## Phase 2 NSR Actions (cont.)

- Tribal NSR Oil & Gas FIP
  - Proposed rule Part I Registration Form streamlining amendment, (84 FR 33715, 7/15/2019); comment period closed 9/13/19
- NSR Error Corrections Rule
  - Stand-alone rule to correct errors in NSR regulation
- Plantwide Applicability Limit (PAL) Guidance
  - PAL regulations were established as part of 2002 NSR reform
  - Guidance would address elements of the PAL regulations that stakeholders have identified as sources of perceived risk/disincentive
- NSR Actual-to-Projected-Actual Applicability Test Guidance
  - Guidance would address certain elements of the 2002 NSR reform rule applicability regulations



---

## Phase 2 NSR Actions (cont.)

- Begin Actual Construction Guidance
  - Sources cannot legally “begin actual construction” of a major source or major modification without first obtaining a major NSR permit
  - Guidance would explore potential flexibilities under the existing regulatory language to allow certain non-emitting activities to be undertaken prior to obtaining a permit
- NSR Rule Reconsiderations (in progress)
  - Reasonable Possibility Rule
  - Fugitive Emissions Rule
  - Ethanol Rule



---

## Other Permitting Actions and Updates

- MACT Once In Always In Policy (Guidance, Rule)
- Title V Petitions & Petitions Process Rule
- Title V Petitions: NSR Interface
- Permitting Process Improvements
- E-Guidance Compendium
- Training



## MACT Once In Always In Policy

44

- **Memorandum: “Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act” (“MM2A memo”)**
  - Signed by AA Bill Wehrum 1/25/18
  - Memo addresses when a major source subject to a maximum achievable control technology (MACT) standard, under section 112 of the Clean Air Act (CAA), may be reclassified as an area source and no longer subject to MACT requirements
  - Withdraws 1995 Seitz memo “Once In Always In” (OIAI) policy, which required major sources to limit potential to emit to below the major source threshold by the first compliance date to be treated as an area source
  - *Major source becomes area source at such time that source takes an enforceable limit on its potential to emit HAP below the major source thresholds (10 tons per year [tpy] of a single hazardous air pollutant or 25 tpy of any combination of HAP)*
- **2019 MM2A Proposal (84 FR 36304, 7/26/2019)**
  - Addresses questions received after 2018 MM2A Memorandum issued
    - Reclassification process; Criteria for establishing effective PTE HAP limitations
  - Supersedes and replaces 2007 NPRM NESHAP: General Provision Amendments; addresses reclassification issues covered in 2007 NPRM
    - Timing for compliance with applicable NESHAP standards; Notification requirements; Recordkeeping requirements; Interaction with enforcement actions



## Title V Petitions & Petitions Process Rulemaking

- Title V Petitions continue to be a substantial work load

	<u>FY 2018</u>	<u>FY2019 (thru Sept.)</u>
Petitions Received	11	12
Petitions Resolved	34	21

- Trends: Increased focus on wood pellet manufacturing

- Title V Petitions Process Rulemaking**

- Proposed rule August 15, 2016 (81 FR 57822); Final expected Fall 2019
- Proposal included changes in 3 key areas: method of petition submittals, required content/format of petitions; administrative record requirements for states.



---

## Title V Petitions – NSR Interface

- PacifiCorp Hunter Order (10/16/2017) – EPA will not look back at decisions made in NSR permitting process in the context of Title V
  - Permitting agencies and EPA need not reevaluate- in the context of title V permitting, oversight, or petition responses- previously issued final preconstruction permits, especially those that have already been subject to public notice and comment and an opportunity for judicial review
  - Concerns with these final preconstruction permits should instead be handled under the authorities found in title I of the Act (e.g., enforcement actions under CAA § 113 or 167, state court appeals of preconstruction permits, or citizen enforcement actions under CAA § 304)
  - Where a final preconstruction permit has been issued, whether it is a major or minor NSR permit, the terms and conditions of that permit should be incorporated as "applicable requirements"
- Big River Steel Order (10/31/2017) – Applies same interpretation to fact set involving merged NSR/Title V program



---

## Permitting Process Improvements

- Increased use of electronic systems
  - Central Data Exchange (CDX) for receipt of Title V petitions
  - Electronic Permitting System (EPS)
    - Working with 35 state and local programs to develop system that will allow electronic submittal of state-issued NSR, Title V, and other permits for EPA review
    - Also electronic processing of EPA-issued NSR and title V permits
  - Replacing and modernizing RACT/BACT/LAER Clearinghouse
- EPA Permit Oversight Policy & Framework
  - Goal is to develop a national approach to oversight of permits and permitting programs that is consistent and standardized
  - Would apply to the following EPA & state permit programs: NSR, Title V, NPDES, Underground Injection Control (UIC), and RCRA



---

## Permitting References/Training

- E-Guidance Compendium
  - Enhancement to current NSR website
  - Organizing current guidance documents in NSR index by topic
- Training





## Questions and Comments



## NAAQS Implementation Milestones (October 2019)

Pollutant	Final NAAQS Signature	Nonattainment Designations Effective	Infrastructure SIP Due	Attainment Plans Due	Attainment Date
PM <sub>2.5</sub> (2006)	Oct 2006	Dec 2009	Oct 2009	Dec 2014	Dec 2015 (Moderate) Dec 2019 (Serious)
Pb (2008)	Oct 2008	Dec 2010-2011	Oct 2011	June 2012-2013	Dec 2015-2019
PM <sub>2.5</sub> (2012)	Dec 2012	Apr 2015	Dec 2015	Oct 2016 (Moderate)	Dec 2021 (Moderate) Dec 2025 (Serious)
NO <sub>2</sub> (2010) (primary)	Jan 2010	Feb 2012	Jan 2013	N/A	N/A
SO <sub>2</sub> (2010) (primary)	June 2010	Oct 2013, Sept 2016, Apr 2018 (early 2021)	June 2013	Apr 2015, Mar 2018, Oct 2019 (mid 2022)	Oct 2018, Sept 2021, Apr 2023 (early 2026)
Ozone (2008)	Mar 2008	July 2012	Mar 2011	July 2015-2016*	July 2021-2032
Ozone (2015)	Oct 2015	Aug 3, 2018 (Sep 24, 2018 for San Antonio, TX)	Oct 2018	Aug 2021-2022	Aug 2021-2038

\* January 2017 for areas reclassified from Marginal to Moderate. August 2020 for areas reclassified from Moderate to Serious.

