



NAAQS and Other Implementation Updates

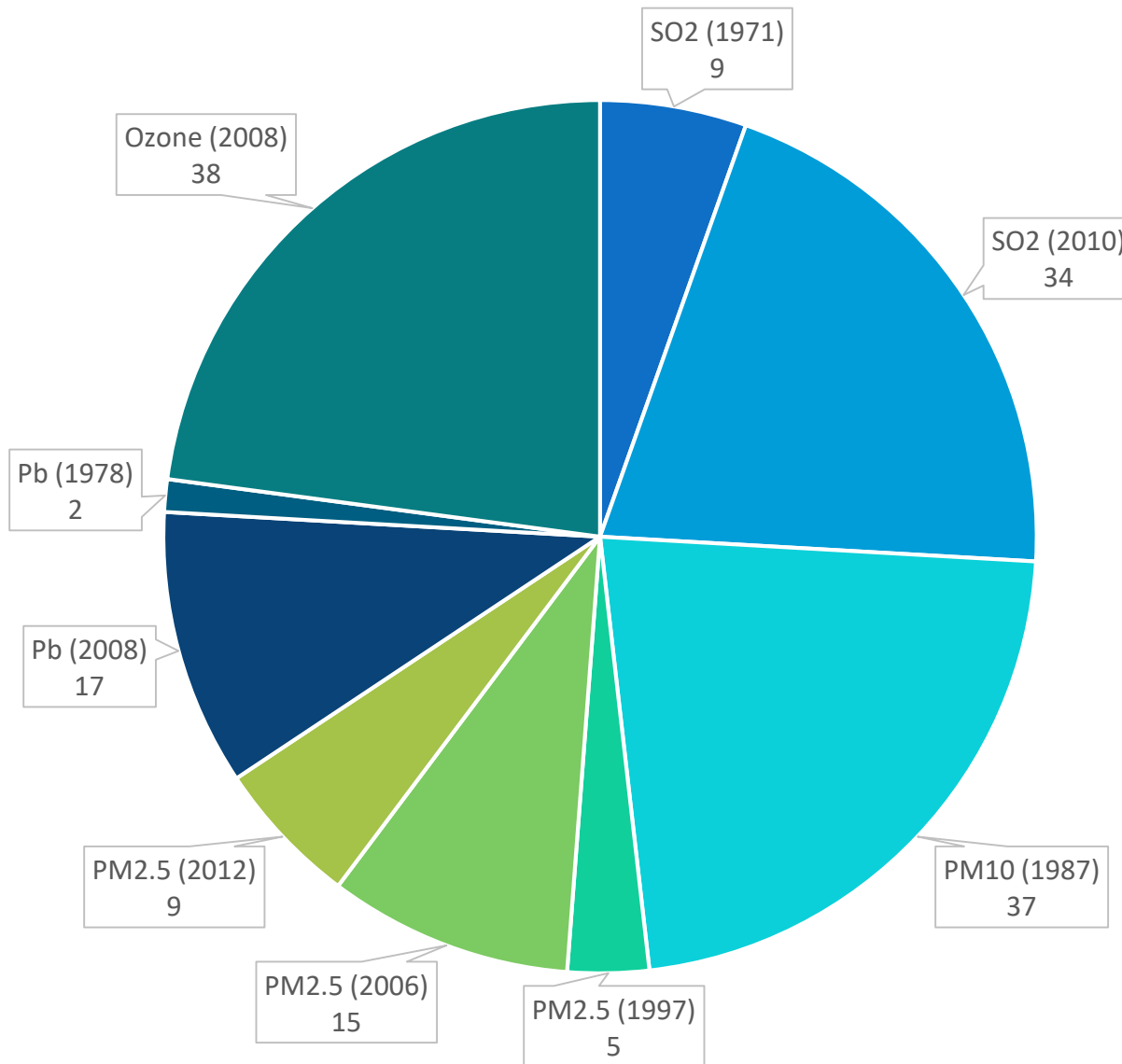
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OVERVIEW

- EPA's Clean Air Priority Goal: Reduce Number of Nonattainment Areas
- NAAQS Implementation Updates
 - Ozone
 - Sulfur Dioxide (SO₂)
 - Fine Particulate Matter (PM_{2.5})
- Transport
- Exceptional Events
- Regional Haze
- Startup, Shutdown, and Malfunction (SSM) Policy
- NSR and Title V Permitting Updates
- SIP Processing Improvements and SPeCS



Nonattainment Areas for Non-revoked NAAQS as of October 1, 2017



EPA Priority Goal: Reduce Number of Nonattainment Areas

- Work with states to prioritize redesignation 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.

To approve state's requests to redesignate nonattainment areas depends on states meeting 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.

2008 Ozone NAAQS Implementation: Nonattainment Area Key Dates

- Emissions inventories, emissions statement rules and RACT SIPs were due July 2014
- Attainment plans and demonstrations were due July 2015 (Moderate) or July 2016 (Serious and above)
- Marginal area attainment date July 20, 2015 resulted in finding that 13 Marginal areas failed to attain, resulting in reclassification to Moderate and a new SIP revision deadline of January 1, 2017
- Moderate area attainment date July 20, 2018 (2015-2017 air quality data)
 - EPA must make determinations of whether Moderate nonattainment areas attained the 2008 standard by the July 20, 2018 attainment date
 - Final action anticipated by statutory deadline of January 20, 2019, will include new SIP revision deadline for reclassified Serious areas
- Serious area attainment date July 20, 2021 (2018-2020 air quality data)



2008 Ozone NAAQS: Findings of Failure to Submit

- On January 13, 2017, in response to a complaint filed by environmental petitioners, the EPA found that 15 states and the District of Columbia failed to submit certain SIP revisions required under the 2008 ozone NAAQS (82 FR 9158; February 3, 2017; effective March 6, 2017)
 - States were: CA, CT, D.C. (Washington), DE, IL, IN, ME, MD, MA, NH, NJ, PA, RI, VA, VT and WI
- On January 19, 2017, EPA entered into a Consent Decree with environmental petitioners, which set deadlines for EPA to complete final actions on SIP submittals by various dates ranging from June 2017 to July 2018. EPA has completed all of these actions
- On November 29, 2017, in response to a complaint filed by environmental petitioners, the EPA found that 3 states failed to submit various SIP submittals required for 2008 ozone NAAQS nonattainment areas reclassified to Moderate in 2016 (82 FR 58118; December 11, 2017; effective January 10, 2018)
 - States are CA, IL, and NJ for 5 areas



2008 Ozone NAAQS Implementation: Litigation

South Coast Air Quality Management District v. EPA (2018)

- South Coast AQMD and env. petitioners (Sierra Club *et al.*) challenged various elements of the 2008 Ozone NAAQS SIP Requirements Rule (SRR), including elements related to revoking the 1997 NAAQS (effective April 6, 2015), and the associated anti-backsliding requirements
- The D.C Circuit issued its decision on February 16, 2018, upholding about half of the challenged elements and vacating several flexibilities in the SRR
- On September 14, 2018, the D.C. Circuit granted in part EPA's petition (for transportation conformity purposes) but otherwise denied all parties petitions for rehearing
 - Therefore 1997 ozone NAAQS nonattainment and maintenance areas that are attainment for the 2008 NAAQS are again subject to non-transportation conformity control measures as anti-backsliding requirements



2008 Ozone NAAQS Implementation: Litigation (cont.)

- ***South Coast Air Quality Management District v. EPA (2018): Key Decisions Include:***
 - ***UPHELD:***
 - RFP requirements including default 2011 baseline, one-time fulfillment of 15% VOC reduction, in-area restriction
 - RACT area-wide emissions averaging
 - EPA's authority to revoke a prior NAAQS with adequate anti-backsliding requirements
 - ***VACATED:***
 - Anti-backsliding approaches for bump-ups, "redesignation substitutes," and transportation conformity
 - RFP alternative baseline years
 - 1997 NAAQS maintenance area flexibilities (maintenance plans, transportation conformity)
- EPA is assessing implications for implementation of the 1997, 2008, and 2015 NAAQS



2015 Ozone NAAQS: Implementation-Related Rulemakings

- **Proposed Rule: Implementation of the 2015 NAAQS for Ozone: Nonattainment Area Classifications and State Implementation Plan (SIP) Requirements** published for public comment November 17, 2016 (81 FR 81276)
- **Final Rule: 2015 Ozone NAAQS Classifications Rule** published March 9, 2018 (83 FR 10376)
 - Final nonattainment area classification thresholds based on “percent-above-the-standard” (PATs) methodology
 - Final maximum attainment dates associated with each nonattainment area classification
- **Final Rule: 2015 Ozone NAAQS SIP Requirements Rule**
 - Target October 2018
 - EPA will consider *South Coast v. EPA* (2018) decision in its final approach
 - The draft final rule does not address revocation of the 2008 ozone NAAQS
- **Infrastructure SIPs due October 1, 2018 for 2015 Ozone NAAQS**
 - States should refer to EPA’s “Guidance on Infrastructure State Implementation Plans (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)” (issued September 13, 2013)



2015 Ozone NAAQS: Designations

- **On April 30, 2018**, the EPA finalized air quality designations for all areas of the country except the eight counties in the San Antonio, Texas metropolitan area:
 - 51 Nonattainment areas, including 2 separate areas of Indian country
 - All other areas are Attainment/Unclassifiable (except that one area in Washington was designated as Unclassifiable)
 - The effective date of these designations was **August 3, 2018**
- **On July 17, 2018**, the EPA completed area designations for the 2015 ozone NAAQS by designating eight counties in the San Antonio, Texas metropolitan area
 - The EPA designated Bexar County as Nonattainment and the remaining seven counties as Attainment/Unclassifiable
 - The effective date of these designations is **September 24, 2018**



2015 Ozone Designations Litigation/Reconsideration

- Six petitions for review have been filed challenging the EPA's 2015 ozone designations finalized on April 30, 2018
 - D.C. Circuit Court consolidated these six petitions into single case
- One petition for review has been filed by Texas challenging the EPA's 2015 ozone designations for San Antonio, Texas
 - Petitions for review of the San Antonio ozone designations are due by September 24
- One petition for reconsideration has been filed on behalf of an industry group addressing the Uintah Basin area of Utah



Progress on Ozone NAAQS Attainment

(as of August 2018)

	1997 NAAQS (2004 Designations)	2008 NAAQS (2012 Designations)	2015 NAAQS (2018 Designations)
Initial Nonattainment Areas	115	46	51***
Areas Redesignated to Attainment	80 (prior to revocation)	8	0
Current Nonattainment Areas	35**	38	51
Clean Data Determinations	26	18*	0

*Includes 15 Marginal area determinations of attainment by the attainment date and 3 Moderate area clean data determinations.

**Obligation to reclassify may be affected by South Coast II decision.

***Does not include San Antonio nonattainment designation effective on 9/24/2018.



2010 SO₂ NAAQS Implementation

- EPA revised **Primary NAAQS for Sulfur Dioxide (SO₂) standard** on June 2, 2010 to 75 ppb/1-hour (75 FR 35520)
- EPA is completing area designations in four separate rounds:
 - **Round 1** – July 25, 2013: EPA designated 29 areas as nonattainment (effective September 12, 2013)
 - Attainment plan due date: April 4, 2015
 - Attainment date: October 4, 2018
 - All areas have a submitted or approved attainment plan, redesignation, or Clean Data Determination
 - EPA remains subject to FIP obligations for 12 areas for which EPA issued a Finding of Failure to Submit (FFS) in 2016

2010 SO₂ NAAQS Implementation and Litigation

- On June 14, 2018, the Center for Biological Diversity (CBD), the Center for Environmental Health, and the Sierra Club, filed a lawsuit in the US District Court (Northern District of California) citing:
 - EPA's alleged failure to take action (FFA) on 15 pending 2010 SO₂ attainment plans for "Round 1" nonattainment areas in 8 states (FL, IA, IN, MI, MO, OH, WV, WI); and
 - EPA's alleged failure to issue findings of failure to submit (FFS) for two overdue plans for nonattainment areas in two states (AZ and NJ) for the 1971 SO₂ NAAQS.
- EPA filed its answer on August 24, 2018



2010 SO₂ NAAQS Implementation (cont'd)

- **Round 2** – July and December 2016: EPA finalized designations for 65 areas including 7 nonattainment areas, 41 unclassifiable/attainment areas, and 17 unclassifiable areas
 - Number of nonattainment areas designated on **July 12, 2016: 4**
 - Effective date of designations: **September 12, 2016**
 - Attainment plan due date: **March 12, 2018**
 - Attainment date: **September 12, 2021**
 - Number of nonattainment areas designated on **December 13, 2016: 3**
 - Effective date of designations: **January 12, 2017**
 - Attainment plan due date **July 12, 2018**
 - Attainment date: **January 12, 2022**
 - Litigation for Round 2 Designations



2010 SO₂ NAAQS Implementation and Litigation (con't)

- **Round 3** – December 21, 2017: EPA designated all remaining areas of the country except Round 4 areas
 - Included 6 nonattainment areas, 22 unclassifiable areas, and the remainder of the country in all states, territories, and tribes designated attainment/unclassifiable (except Round 4 areas)
 - The effective date of the designations is April 9, 2018
 - SIP submittal date: October 9, 2019
 - Attainment date: April 9, 2023

- **Round 4** – by December 30, 2020: EPA will designate approximately 50 remaining areas by the consent decree deadline
 - Monitoring is underway in states that timely sited monitors consistent with the SO₂ Data Requirements Rule



Progress on 2010 SO₂ NAAQS Attainment

(as of August 2018)

	Round 1	Round 2	Round 3
Initial Nonattainment Areas	29	7	6
Areas Redesignated to Attainment	2	0	0
Current Nonattainment Areas	27	7	6
Clean Data Determinations	1	0	0



PM_{2.5} NAAQS Implementation Guidance

- EPA issued **Draft PM_{2.5} Precursor Demonstration Guidance** in November 2016
 - Recommends technical approaches for precursor demonstrations to assess whether a particular precursor contributes significantly to exceedances of the NAAQS in a given area
 - EPA is considering comments and intends to finalize guidance soon
 - States have been submitting and EPA has taken or is considering action on precursor demonstrations that states have developed using the draft guidance
 - Target for final: Fall 2018



2012 PM_{2.5} NAAQS Implementation

- EPA revised the PM_{2.5} NAAQS primary annual PM_{2.5} standard to 12µg/m³ on December 14, 2012 (78 FR 3086)
 - Nine Moderate nonattainment areas were designated in April 2015
 - Moderate area attainment plan due date - October 2016
 - Moderate area attainment date - December 31, 2021
- On December 20, 2017, the Center for Biological Diversity, Center for Environmental Health and the Clean Air Council filed a complaint for EPA's alleged failure to make a finding of failure to submit attainment plan revisions for certain nonattainment areas for the 2012 PM_{2.5} NAAQS
 - On April 6, 2018, issued findings that three states failed to submit required attainment plan revisions for five nonattainment areas



Progress on PM_{2.5} NAAQS Attainment

(as of August 2018)

	1997 PM _{2.5} (2005 Designations)	2006 PM _{2.5} (2009 Designations)	2012 PM _{2.5} (2015 Designations)
Initial Nonattainment Areas	39	32	9
Areas Redesignated to Attainment	34	18	0
Current Nonattainment Areas	5	14	9
Clean Data Determinations	4	9	2
Proposed Redesignations	1	0	0



Good Neighbor Requirements: 2008 Ozone NAAQS

- On June 29, 2018, EPA proposed the **CSAPR Close-Out**, a federal notice-and-comment rulemaking, which determines that existing regulations – particularly the CSAPR Update – fully address certain eastern states' interstate ozone transport obligations for the 2008 NAAQS (83 FR 31915, 7/10/18)
 - The proposal relies on information that is newly available relative to the CSAPR Update, which was finalized in 2016
 - EPA held a public hearing on 8/1/18 and the comment period closed on 8/31/18
 - We anticipate finalizing this action by 12/6/18
- Where necessary, EPA continues to work with states to address any remaining obligations through fully-approved SIPs
 - Kentucky – On 6/28/18, EPA approved KY's full SIP ahead of a court-ordered FIP deadline of 6/30/18 (83 FR 33730, 7/17/18). This full SIP approval action mooted EPA's FIP obligation



Good Neighbor Requirements: 2015 Ozone NAAQS

- Good Neighbor SIPs for the 2015 ozone NAAQS are due in October 2018
- On March 27, 2018, EPA released a memorandum providing projected air quality modeling results for ozone in 2023, including projected ozone concentrations at potential nonattainment and maintenance sites for the 2015 ozone NAAQS and projected upwind state contribution data.
 - Attachment A of the memorandum identified a preliminary list of potential flexibilities about which EPA indicated its intent to engage with stakeholders regarding whether and how the potential flexibilities could be applied in good neighbor SIPs.
 - The memorandum and the spreadsheet containing the updated contribution metrics are available on EPA's website at: <https://www.epa.gov/airmarkets/march-2018-memo-and-supplemental-information-regarding-interstate-transport-sips-2015>.



Good Neighbor Requirements: 2015 Ozone NAAQS (con't)

- On April 12 and April 19, 2018, EPA hosted national stakeholder conference calls to discuss the 2023 modeling and contribution data and to gather feedback on the preliminary list of potential flexibilities for developing a good neighbor SIP.
- EPA held a follow-up call on July 26 to summarize the comments received and to provide our initial thoughts regarding several of the identified flexibilities for SIP development.
 - EPA posted a comment summary document and the comments received on the March memorandum.
 - On August 31, EPA released additional information regarding contribution thresholds that might be appropriate for consideration in SIP revisions. This “Analysis of Contribution Thresholds” memorandum is also posted on the interstate transport website.
- EPA encourages consistency and collaboration among states linked to a common receptor and among upwind and downwind states in developing and applying a regionally consistent analytic approach



Clean Air Act Section 126(b)

Petitioning State	Response Timeframe or Deadlines	Named EGU Sources	Ozone NAAQS Cited
CT	Final response FR pub. 4/13/18	Brunner Island, PA	2008
DE (4 petitions)	Proposed response on 5/31/18 Final response signed on 9/14/18.	1. Brunner Island, PA 2. Harrison, WV 3. Homer City, PA 4. Conemaugh, PA	2008 and 2015
MD ¹	Proposed response on 5/31/18 Final response signed on 9/14/18	36 EGUs at 19 facilities in IN, KY, OH, PA and WV	2008
NY ²	Response date is November 9, 2018.	All EGU and non-EGU sources projected to emit at least 400 tpy of NO _x in 9 upwind states (IL, IN, KY, MD, MI, OH, PA, VA, WV)	2008 and 2015

¹On September 27, 2017, MD and several environmental groups filed suit for EPA's failure to respond to MD's 126 petition. The EPA proposed to deny these petitions on May 31, 2018. On June 13, 2018, the U.S. District Court for the District of Maryland issued an order requiring the EPA to take final action on the Maryland petition by September 15, 2018.

²Petition received March 14, 2018. On May 11, 2018, EPA extended the deadline to act on the NY petition by 6-months to November 9, 2016.



Exceptional Events: News and Key Messages

- On July 20, we received a favorable decision in NRDC v. EPA, 16-1413 (D.C. Circuit), regarding the definition of a “natural event”
 - This was the only legal challenge to the 2016 Exceptional Events Rule
- We have concurred on 18 demonstrations that were submitted after revising the Exceptional Events Rule in September 2016
 - Includes six demonstrations from northeast states for ozone influences from the 2016 Fort McMurray fires in Canada
- We are focused on continuing to improve the implementation process and address stakeholder concerns
- EPA’s exceptional events webpage provides key resources 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>



Exceptional Events: Implementation Resources

EPA Resources Available Online

- Updated FAQs
- Wildfire-Ozone Guidance
- 2007-to-2016 Rule Crosswalk
- Best Practices for Multi-State Exceptional Events Demonstrations
- Mitigation Plan Checklist
- Example demonstrations and EPA responses

For resources search “EPA Exceptional Events”

Additional Resources Coming Soon

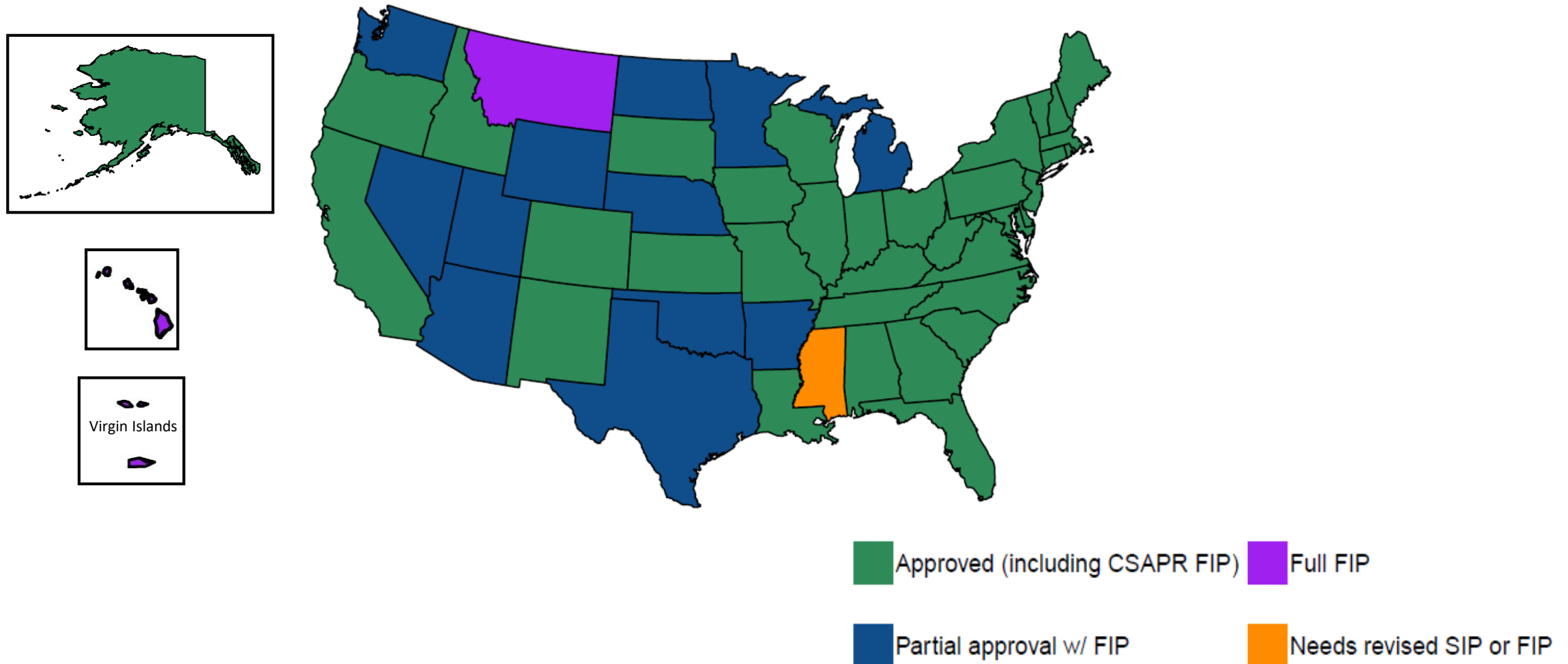
By End of 2018:

- Updated High Winds Guidance
- Stratospheric Ozone Intrusion Guidance
- Clarification Memo on Data Consideration (aka Alternate Paths)
- Webpage updates with new external resources and easier navigation
 - including great suggestions from Idaho – thanks!

In Early 2019:

- Prescribed Fire-Ozone Guidance
- Electronic

Regional Haze: Status of Actions from First Implementation Period



Regional Haze Rule and Guidance Updates

- **Rule revisions were finalized on January 10, 2017 (82 FR 3078):**
 - Petitions for review were filed in the D.C. Circuit. EPA also received petitions for reconsideration
 - The D.C. Circuit litigation is currently on hold
 - On January 17, 2018, EPA announced its decision to revisit aspects of the 2017 rule revisions
- **On July 8, 2016 (81 FR 44608), EPA released draft guidance**
 - Next steps on guidance are being determined as EPA considers the scope of the revisit of the 2017 rule revisions



Regional Haze: Second Implementation Period

- EPA is committed to working to support states for the second planning period
- Key principles for implementation of the second planning period include:
 - Ensuring that states have the information they need to develop approvable regional haze plans
 - Ensuring that states have discretion and flexibility to select sources for reasonable progress analysis and whether and how to control sources of visibility-impairing pollutants
 - Ensuring that we are on a path that enables compliance with the Clean Air Act and improved visibility in Class I areas



EPA's Roadmap for the Second Planning Period

- On September 11, 2018, Acting Administrator Wheeler signed the **Regional Haze Reform Roadmap**
 - Outlines the implementation tools and guidance products that EPA will release over the next year to help states during their 2021 SIP development
- Rulemaking: EPA will continue to explore further regulatory changes to impact future planning periods



Information Outlined in EPA's Roadmap for the Second Planning Period

- **Fall 2018** – Final recommendations on selecting the 20% most impaired days, including methods for adjusting the glidepath (Section 5 of 2016 Draft Guidance)
- **Spring 2019** – Updated, as necessary, natural visibility conditions estimates
- **Spring/Summer 2019** – Updated 2028 visibility modeling (incl. estimates of US and international source contributions for Class I Areas)
- **Spring 2019** – Final guidance on regional haze SIP development will focus on topics such as:
 - Additional information and context regarding screening sources before in-depth analysis, including relevance of previous decisions to adopt emission controls to meet other CAA requirements
 - Consideration of visibility benefits along with the four statutory factors



SSM SIP Call Under Policy Review

- Final SSM SIP Action of 2015 concerned SIP provisions for treatment of excess emissions occurring during periods of startup, shutdown and malfunction (SSM)
 - Included SSM SIP Call that applied to 36 states (45 jurisdictions)
- Judicial review of the SSM Action is pending before the D.C. Circuit, but case is currently being held in abeyance to allow for review by the new administration



NSR Improvements and Other Recent Actions

Completed Actions

- Actual-to-Projected-Actual Applicability Test Guidance Memorandum
- Project Emissions Accounting Memo
- Source Aggregation Guidance, Meadowbrook Letter, Draft Guidance on Interpreting Adjacency
- PM_{2.5} and Ozone SILs Guidance
- Once-In-Always-In Policy Change

On-Going Work

- Project Aggregation Reconsideration
- Ambient Air Guidance
- Project Emissions Accounting Rulemaking
- Rulemaking on Treatment of Biomass for Permitting



NSR Updates: Actual-to-Projected-Actual Applicability Test Guidance Memorandum

- **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 on December 7, 2017
 - Available at https://www.epa.gov/sites/production/files/2017-12/documents/policy_memo.12.7.17.pdf
 - 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 (Project Netting) Guidance Memorandum

- **Memorandum: “Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program”** was published on March 30, 2018 (83 FR 13745)
 - Available at www.gpo.gov/fdsys/pkg/FR-2018-03-30/pdf/2018-06430.pdf
 - 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
 - Interpretation is grounded in the principle that the plain language of the CAA indicates that Congress intended to apply NSR to changes that increase actual emissions and the language in the corresponding NSR regulations is consistent with that intent
- Prior EPA guidance had indicated that the relevant provisions of the NSR regulations preclude the consideration of emissions decreases at Step 1
 - For the reasons discussed in the memo, EPA will no longer apply such interpretation



Source Aggregation

- EPA defines “*stationary source*” in the permitting programs as all of the pollutant-emitting activities that are: [40 CFR 70.2 and 52.21(b)(1) and (5)]
 - located on one or more contiguous or adjacent properties *and*
 - are under common control of one person (or persons under common control), *and*
 - belong to the same major industrial grouping (2 digit SIC code)
- EPA clarified its interpretation of “common control” in an April 2018 letter to Pennsylvania DEP (the Meadowbrook Letter)
 - The Meadowbrook 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
- EPA’s interpretation of “adjacent” has evolved through source-specific determinations
 - 2016 Rulemaking clarified “adjacent” for oil and gas operations
 - Adjacent operations are limited to those within ¼ mile with shared equipment
 - EPA posted on September 5, 2018, the “**Draft Guidance: Interpretation Adjacent for New Source Review and Title V Source Determinations in All Industries other than Oil and Gas**” and will accept public comment through October 5, 2018 at www.epa.gov/nsr/forms/interpreting-adjacent-source-determinations



PM_{2.5} and Ozone SILs Guidance

- **Guidance on Significant Impact Levels (SILs) for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program** signed on April 17, 2018, by Peter Tsirigotis
- Includes both a revised PM_{2.5} SIL and new ozone SIL for permittees to use in streamlining the air dispersion modeling permitting process
- The guidance is comprised of a policy memorandum, a technical document and legal support document
 - All three will be referenced and included in any permit record where the recommended SILs are used by a permitting authority
 - The guidance is not a final agency action and is not binding for industry, permitting authorities, or the public



Once In Always In

- **2018 EPA Withdraws Once In Always In**

- On January 25, 2018, EPA issued guidance memorandum, **“Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act”**
 - 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
 - Discusses EPA’s plain language reading of the statutory terms “major source” and “area source”
 - Withdraws 1995 Seitz memo “Once In Always In” 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
 - Responds to comments received in response to E.O. 13777 and 13783 on the need to revise 1995 OIAI policy
 - EPA intends to issue a FR Notice to take comment on regulatory text to implement EPA’s plain language reading of statute as discussed in January 2018 guidance memorandum

- **Litigation**

- On March 26, 2018, coalition of environmental groups filed a petition for review in the D.C. Circuit Court

- **For More Information**

- <https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean>
- Contact: Debra Dalcher, Policy and Strategies Group, 919-627-4883 or Dalcher.debra@epa.gov



Project Aggregation Reconsideration

- 2009 Rule for Project Aggregation
 - Established “substantially related” criterion for aggregating projects, and a 3-year rebuttable presumption against aggregating
 - Did not amend the CFR text (definition of “project”), considered an interpretive rule
 - Calling it a “new interpretation” of the rule text, it only applies prospectively
- Reconsideration and Stay of the 2009 Rule
 - 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
 - In 2010, EPA proposed reconsideration with a preference to revoke 2009 Rule
- Final Reconsideration Rule under OMB review
 - Current schedule: Fall 2018



Ambient Air Guidance

- 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
- We are evaluating several key terms associated with the definition including: “general public”, “access” and “building” to determine where additional flexibility may be appropriate
- EPA anticipates releasing draft guidance for comment on the internet in fall 2018



Project Emissions Accounting (PEA) Proposed Rule

- EPA published on March 30, 2018, the **Issuance of Guidance Memorandum, “PEA Under the New Source Review Preconstruction Permitting Program”**
- As discussed in the memo, this clarification will apply to all project categories (including existing units only, new units only, and new and existing units)
 - Memo can be found at www.gpo.gov/fdsys/pkg/FR-2018-03-30/pdf/2018-06430.pdf
- A proposal will codify the considerations and interpretations reflected in the memorandum
 - Current schedule: Winter 2018



Treatment of Biogenic CO₂ Emissions in Permitting

- **On April 23, 2018, the EPA Administrator issued a policy statement on the treatment of forest biomass for energy production at stationary sources**
 - Recognizes the benefits of using managed forest biomass for energy production at stationary sources
 - Signals the Agency's intent to treat managed forest biomass biogenic CO₂ emissions from energy production at stationary sources as carbon neutral in future regulatory actions
 - https://www.epa.gov/sites/production/files/20184/documents/biomass_policy_statement_2018_04_23.pdf
- EPA considering regulatory approaches related to the treatment of biogenic CO₂ emissions from stationary sources



Title V Permitting

- Rulemakings in progress
 - **Proposed Title V Petitions Process Rulemaking** on August 15, 2016 (81 FR 57822)
- Process Improvements
 - Increased use of electronic systems
 - Central Data Exchange (CDX) for receipt of petitions
 - Beta test of permit submission system in Region 9
- Lean Kaizen Event held on March 26, 2018
 - See subsequent slide for more information



Title V Petitions

- Title V Petitions continue to be a substantial work load
- Petitions Received FY2018 – 9
- Petitions Resolved FY2018 – 34
 - 20 Orders
 - 14 Resolved by other means (petitioners agreed to withdraw, previous responses identified)
- Pacificorp Hunter – EPA will not look back at decisions made in NSR permitting process in the context of title V
 - Provided that there was an opportunity for public comment and judicial review
 - Decision being challenged in 10th Circuit (Utah) and D.C. Circuit



NSR and Title V Lean/Kaizen Efforts and Next Steps

- As part of the Agency streamlining efforts, we are taking a look at the permitting process and timelines for EPA-issued permits under both Title V and NSR
- We are applying Lean/Kaizen concepts to the permitting process with the goal of identifying actions we could take to expedite the process and make permitting more efficient
 - These events are focused on EPA-issued permits
- Lean/Kaizen Teams are currently piloting standard visual management systems to track performance against the Agency's goal of issuing permits within 6 months of an application
 - Also developing common resources such as templates and training, and staff/resource sharing to accomplish goal



SIP Processing Improvements

- High priority continues to be reducing the SIP backlog and improving SIP processing times
- Trends in SIP processing:
 - To-date, in FY2018 EPA has received 278 SIP submittals from states and has acted on 259 SIPs
- SIP management improvement efforts ongoing
 - SIP management plans continue to provide opportunities for EPA regional offices and states to engage on setting SIP action priorities and addressing backlogged SIPs
 - EPA emphasizing early engagement with air agencies
 - Continued commitment to providing timely guidance on SIP development issues
 - EPA maintaining emphasis on internal SIP processing improvements
 - Using “Lean” practices to inform opportunities for continuous improvement
 - Significant investment in IT improvements will also contribute in this area



SIP Processing Improvements: State Plan Electronic Collaboration System (SPeCS) for SIPs

- EPA has worked extensively with state air agency representatives, and partnered with E-Enterprise for the Environment and ECOS on this project over the past 2 years
 - The E-Enterprise Integrated Project Team (IPT), with 12 air agency representatives, provided input and feedback on the Plan Collection Interface (PCI) module before it was launched in January 2018
 - IPT is now focusing on Public Dashboard and Exceptional Events modules
- Since January 2018, EPA have been focusing efforts on developing the internal Clearinghouse
 - The Clearinghouse is the EPA-facing portion of the system through which EPA manages and tracks submissions
 - The Clearinghouse will replace existing EPA IT systems and databases, which contain decades' worth of SIP information
- As of August 2018, states have submitted 176 SIP revisions via SPeCS
 - 38 draft plans
 - 138 official plans

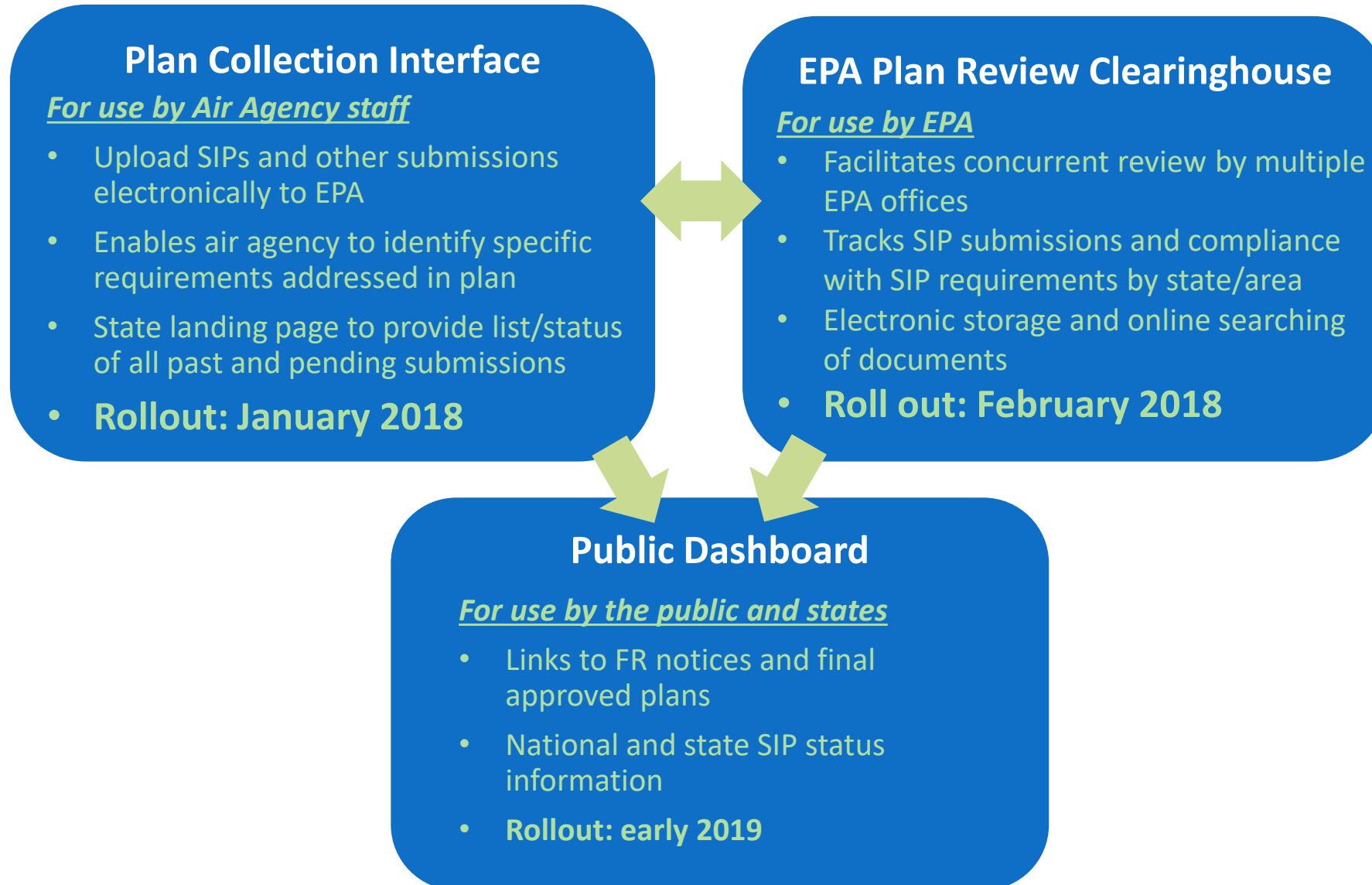


SIP Processing Improvements: State Plan Electronic Collaboration System (SPeCS) for SIPs

- Plans for 2018 and beyond include:
 - Develop Public Dashboard
 - Develop an Exceptional Events Demonstration Module
 - Coordinate SPeCS with SIP Lean Efforts
 - Continuously improve the State Plan Collection Interface and EPA Clearinghouse based on on-going user feedback



State Plan Electronic Collaboration System (SPeCS) for SIPs



Questions and Comments



APPENDIX

NAAQS Reviews: Status Update

(August 2018)

	Ozone	Lead	Primary NO ₂	Primary SO ₂	Secondary (Ecological) NO ₂ , SO ₂ , PM ¹	PM ²	CO
Last Review Completed (final rule signed)	Oct. 2015	Sept 2016	April 2018	Jun 2010	Mar 2012	Dec 2012	Aug 2011
Recent or Upcoming Major Milestone(s)	<u>Late 2018</u> IRP <u>Oct 2020</u> Final	TBD ⁴	TBD ⁴	<u>May 25, 2018</u> Proposal <u>Aug 9, 2018</u> Comment period closed <u>Jan 28, 2019</u> Final	<u>June 2018</u> 2 nd Draft ISA <u>August 2018</u> REA Planning Document	<u>Late 2018</u> 1 st draft ISA <u>Dec 2020</u> Final	TBD ⁴

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

¹ Combined secondary (ecological effects only) review of NO₂, SO₂, and PM

² Combined primary and secondary (non-ecological effects) review of PM

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

⁴ TBD = to be determined



NAAQS Implementation Milestones

(September 2018)

Pollutant	Final NAAQS Date	Nonattainment Designations Effective	Infrastructure SIP Due	Attainment Plans Due	Attainment Date
PM _{2.5} (2006)	Oct 2006	Dec 2009	Oct 2009	Dec 2014	Dec 2015 (Mod) Dec 2019 (Ser)
Pb (2008)	Oct 2008	Dec 2010-2011	Oct 2011	June 2012-2013	Dec 2015-2019
PM _{2.5} (2012)	Dec 2012	Apr 2015	Dec 2015	Oct 2016 (Mod)	Dec 2021 (Mod) Dec 2025 (Ser)
NO ₂ (2010) (primary)	Jan 2010	Feb 2012	Jan 2013	N/A	N/A
SO ₂ (2010) (primary)	June 2010	Oct 2013, Sept 2016, Dec 2017 (+1 round)	June 2013	Apr 2015, Mar 2018, Oct 2019 (+2022)	Oct 2018, Sept 2021, Apr 2023 (+2026)
Ozone (2008)	Mar 2008	July 2012	Mar 2011	Mid 2015-2016	Mid 2015-2032
Ozone (2015)	Oct 2015	July 2018	Oct 2018	Mid 2021-2022	Mid 2021-2038

