

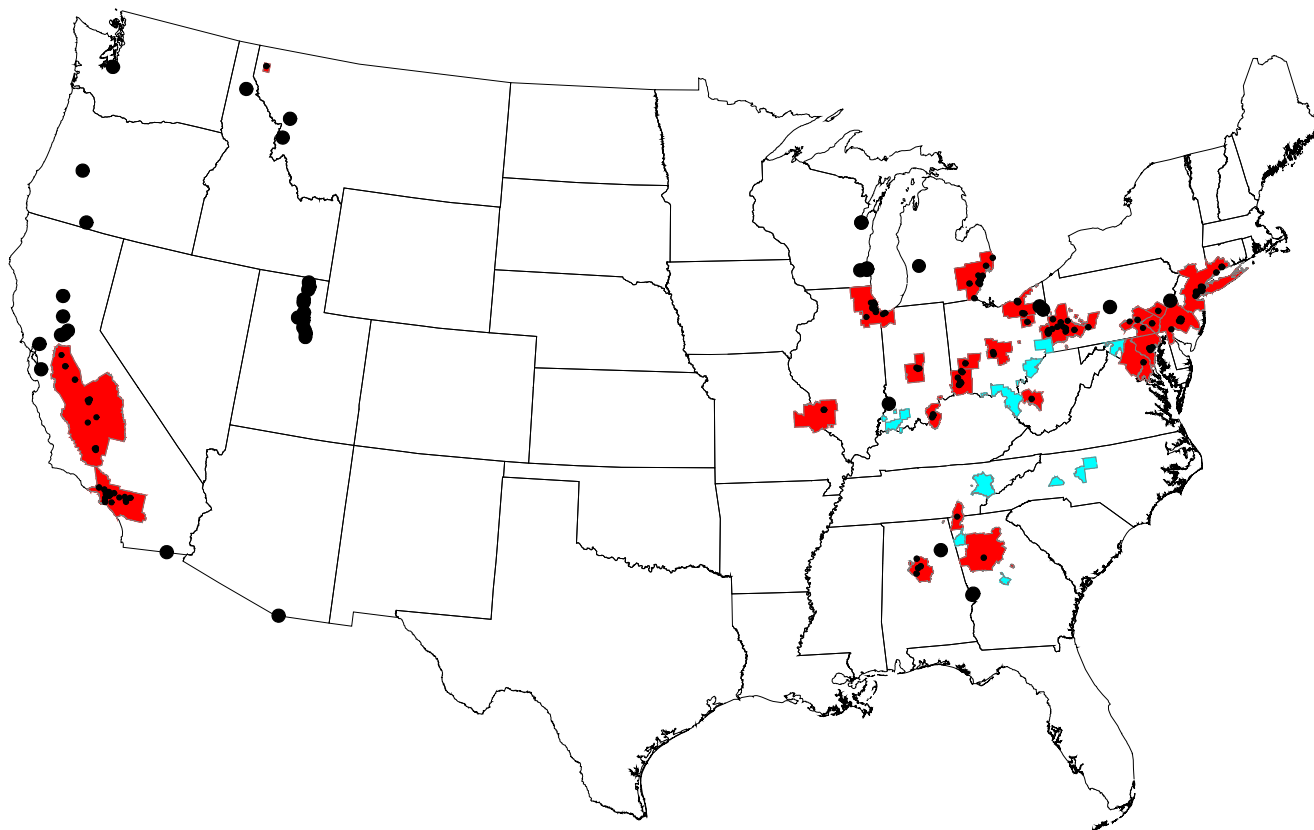
Implementation of PM 2.5, Ozone, and Pb NAAQS

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Current PM_{2.5} Nonattainment Areas and Sites Exceeding 24-Hour PM_{2.5} Standard (2004-2006 data)

- Current nonattainment area (NAA) violates new 24-hr NAAQS [29 areas]
- Current NAA meets new 24-hr NAAQS [10 areas]
- Sites in current NAA violate the new 24-hr NAAQS (131 sites)
- Sites not in a current NAA violate the new 24-hr NAAQS (48 sites)



- 48 violating sites outside of current NAA are located in 27 areas:
 - 25 CBSAs: Largest are Seattle, Sacramento, San Jose, Milwaukee, Salt Lake City.
 - 2 State-Counties (not part of a CBSA): Shoshone ID; Ravalli MT
- States make initial recommendations for 24-hr designations using 2004-2006 data but 2003-2005 and 2005-2007 also relevant.

Milestone	1997 PM_{2.5} NAAQS	2006 PM_{2.5} NAAQS
Promulgation of Standard	July 1997	September 2006
Effective Date of Standard	September 1997	December 18, 2006
State Recommendations to EPA	February 2004 (based on 2001-2003 monitoring data)	December 18, 2007 (based on 2004-2006 monitoring data)
Final Designations Signature	December 2004	No later than December 18, 2008*
Effective Date of Designations	April 2005	Typically no later than 90 days after publication in the Federal Register
SIPs Due	April 2008	3 years after effective date of designations
Attainment Date	April 2010 (based on 2007-2009 monitoring data)	No later than 5 years after effective date of designations
Attainment Date with Extension	Up to April 2015	No later than 10 years from effective date of designations

** In the event the Administrator has insufficient information to promulgate the designations by December 18, 2008, the date of final designations may be extended up to one year, but no later than December 18, 2009.*

Status of PM_{2.5} SIP Submittals

- For 39 nonattainment areas, 58 plans were due to meet the 1997 PM 2.5 standards by April 5, 2008.
- A number of States have submitted final attainment demonstrations for some of the areas.
- Regional Offices are working with their States for the remaining areas to receive complete and approvable SIPs.
- We are working with our Regional Offices to ensure consistency in reviewing and acting on SIPs especially on key issues (attainment demos, RACT/RACM, contingency measures)

Challenges to 2005 PM_{2.5} Designations

- Litigation on PM_{2.5} designations (2005)
 - Briefs received on February 5 from
 - States (NY, WV, IN)
 - Counties (Catawba, Guilford, NC; Greenville, Anderson, Spartanburg, SC; Catoosa, GA)
 - Industry (power companies, Midwest Ozone Group, etc)
 - Oakland County, MI
 - EPA briefs and Sierra Club brief are due in May
 - Reply briefs from litigants are due in June

Challenges to 2007 PM_{2.5} Implementation Rule

- Petitions for Reconsideration
 - Earthjustice (on behalf of ALA, NRDC, Sierra Club and Medical Advocates for Healthy Air)
 - Oppose CAIR=RACT/RACM presumption for certain EGUs
 - Failure to require control of condensable PM
 - “Weakening” criteria for analyzing economic feasibility for RACT
 - RFP: allowing reductions outside nonattainment area
 - National Cattlemen's Beef Association
 - Oppose definition of direct PM_{2.5} as including crustal PM

Challenges to 2007 PM_{2.5} Implementation Rule

- Litigation
 - Earthjustice
 - National Cattlemen's Beef Association
 - State of New York
 - State of New Jersey
 - National Petrochemical Refiners Association /
American Petroleum Institute
 - National Environmental Development
Association's Clean Air Project (NEDA-CAP) ⁷

Summary of Ozone SIP Status

- SIPs to meet the 1997 ozone standards were due by June 15, 2007. A number of States have submitted final attainment demonstrations, RFP SIPs and RACT SIPs for some of the areas.
- Regional Offices are working with their States for the remaining areas to receive complete and approvable SIPs.
- We are working with our Regional Offices to ensure consistency in reviewing and acting on SIPs especially related to use of “weight of evidence.”
- March 24, 2008 - EPA issued findings that 11 states missed Clean Air Act deadlines for submitting plans, or elements of plans, for implementing EPA’s national air quality standards for ozone.

Attainment Demonstrations

Of 36 State portions required for 26 nonattainment areas:

- Final attainment demonstrations submitted: 24
- Failure to submit findings sanction clocks running: 5
 - Clean data request has stayed Jefferson Co., NY sanction clock
- Other submittals:
 - Clean data determination: 2
 - Final Redesignations: 1
 - Reclassification requested instead of SIP: 4

Current Phase 1 Implementation Litigation

- DC Circuit Court partial vacatur
 - Vacated subpart 1 classification (not designations)
 - Vacated removal of certain 1-hr Ozone requirements for purposes of anti-backsliding
 - NSR applicability
 - section 185 fee programs
 - contingency measures

Next Steps on 1997 Ozone NAAQS – Phase 1 Rulemakings

- Develop proposed rules - Fall of 2008
 - Classification of subpart 1 areas & contingency measures
 - Section 185 fees for the 1-hour ozone NAAQS
 - NSR for the 1-hour ozone NAAQS
 - RFP outside the nonattainment area
- Develop final rules in the Fall of 2009

Phase 2 Rule Litigation Schedule

- Reconsiderations completed for CAIR=RACT & 2 NSR issues
- Oral argument was originally scheduled for Sept. 7, 2007, but was postponed (and not yet scheduled) due to the re-consolidation of the 3 reconsideration issues with the other 5 issues.
- Petitioner briefs were filed in mid-March, 2008.
- EPA response brief is due to be filed by May 13.
- The court will likely allow the petitioners 4 to 6 weeks for their response to the EPA brief (which would go to mid-summer).
- Although oral argument has not yet been scheduled, it will likely be in the Fall.

2008 Ozone NAAQS

- Develop proposal on transitioning from the 1997 standards to the 2008 ozone standards in Fall 2008.
- We are gathering questions to address in this proposal from States/Tribes.
- For further information or to submit questions to be addressed in the proposal, contact John Silvasi at 919-541-5666 or silvasi.john@epa.gov.

Expected Implementation Timeline for the 2008 Ozone NAAQS

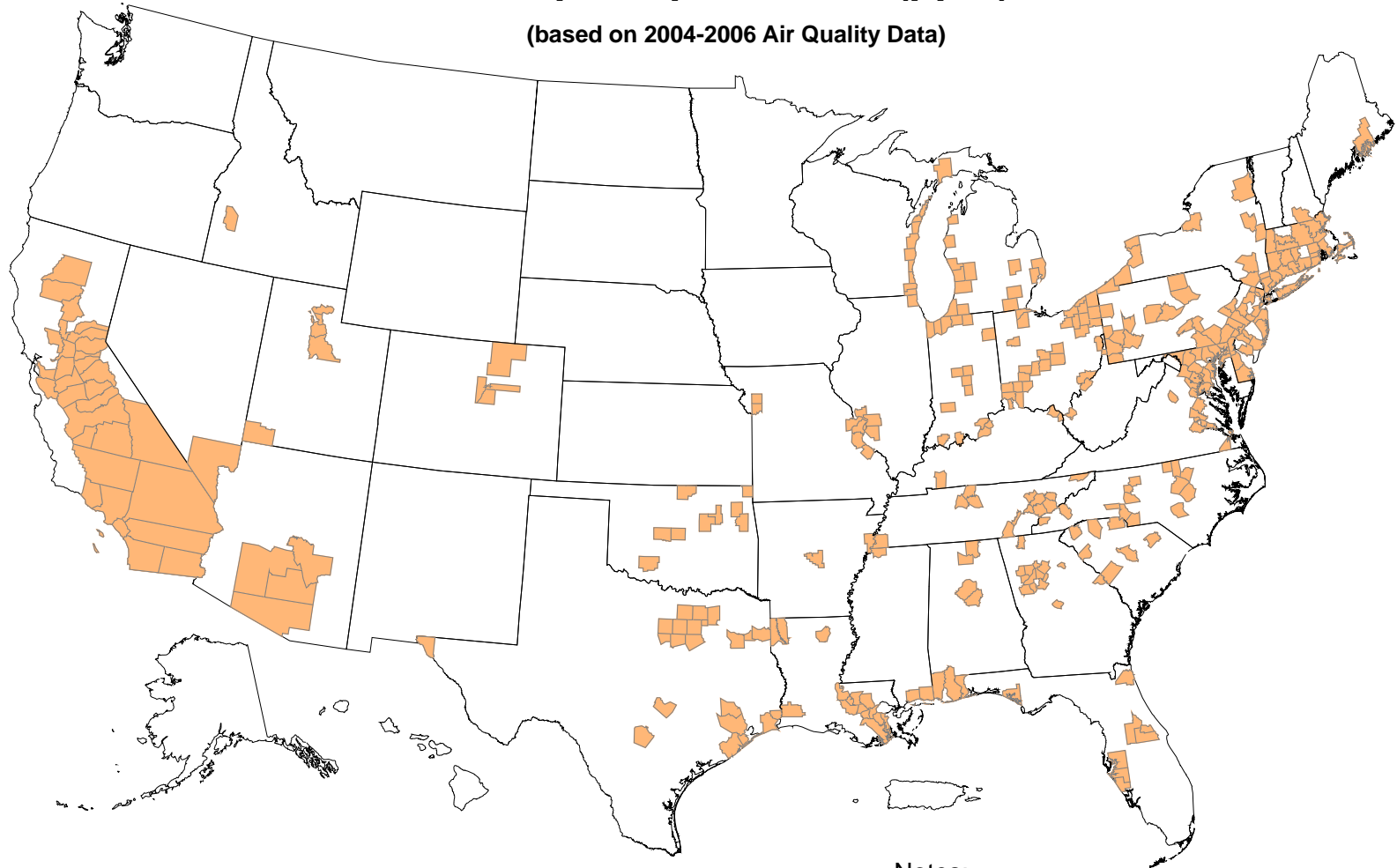
Milestone	Date
Signature—Final Rule	March 12, 2008
State Designation Recommendations to EPA	No later than March 12, 2009
Final Designations	No later than March 12, 2010*
Attainment Demonstration SIPs Due	2013*
Attainment Dates	2013-2030 (depends on severity of problem)

** In the event the Administrator has insufficient information to promulgate the designations by March 12, 2010, the date of final designations may be extended up to one year, but no later than March 12, 2011. SIPs will be due three years from final designations.*

Estimates are based on the most recent data (2004 – 2006). EPA will not designate areas as nonattainment on these data, but likely on data from 2006 – 2008 or later, which we expect to show improved air quality.

Counties with Monitors Violating the 2008 8-Hour Ozone Standard of 0.075 parts per million (ppm)

(based on 2004-2006 Air Quality Data)



Notes:

¹ 345 monitored counties violate the 2008 8-hour ozone standard of 0.075 parts per million (ppm).

² Monitored air quality data can be obtained from the AQS system at <http://www.epa.gov/ttn/airsaqs/>

110(a) Infrastructure SIPs

- In March 2004, Earth-Justice initiated a lawsuit against EPA because the agency had not taken action against the states for failure to make the required submissions.
- In a Consent Decree with Earth Justice, EPA agreed to determine by December 15, 2007, whether each state had made a "complete" submission to meet the requirements of the ozone standard by December 15, 2007.
 - This date was later extended to March 17, 2008.
- Earth Justice agreed to allow EPA to make these determinations based upon submissions up until January 7, 2008.

EPA Findings for 110(a)

- March 27, 2008, Federal Register notice published making "completeness" findings for infrastructure requirements that all states must have in their regulatory plans to attain, maintain, and enforce the National Ambient Air Quality Standards for ground-level ozone.
 - must include the basic program requirements for managing ozone air quality required in section 110(a)(2) of the Clean Air Act
 - Example includes:
 - ambient air quality monitoring and data systems,
 - programs for enforcement of control measures, and
 - adequate resources to implement the plan
- This notice identifies states that have :
 - failed to make a submission;
 - made a submission that does not meet one or more of the required elements; and
 - made a complete submission.

FIP & Approval Clocks for 110(a)

- This finding initiates a 2-year deadline for EPA to issue a Federal Implementation Plan
 - This finding **does not** initiate sanctions.
- For those states that have made submissions that address all of the elements fully or partially, EPA is making a finding that those SIPS are "complete"
 - This finding initiates a 1-year deadline for EPA to take action on the submissions pursuant to section 110(k) -- requiring EPA to approve or disapprove the documents within one year.
- Both the FIP & Approval Clocks will be tracked

Findings for 110(a)

- 13 states/territories failed to make submissions to satisfy the basic program requirements
- 21 states/district made submissions that satisfy some, but not all of the basic program requirements
- 22 States made submissions that satisfy the basic program requirements
 - 12-month clock to take a final actions

Next Findings -- PM_{2.5} 110 (a) Infrastructure SIPs

- As a part of the agreement for the 8-hr ozone extension, EPA agreed to inform States that they should submit the section 110(a)(2) SIPs for PM-2.5 by April 4, 2008.
- The Consent Decree calls for EPA to do findings for the PM-2.5 section 110(a)(2) requirements by October 5, 2008.
- While States were required to make SIP submittals by April 4, 2008, we anticipate we will receive submittals from some States to address section 110(a)(2) elements that weren't addressed in their April 4, 2008 submittal.
- We will accept submittals from States up to the date that we expect to finalize the findings notice prior to October 5, 2008.

Pb NAAQS Implementation Issues

- Proposal explicitly describes EPA's suggested implementation approach and schedule
- Key elements of the proposal for public comment include:
 - Using county boundaries as default nonattainment area boundaries. EPA will take comment on the alternative approach of using Metropolitan Statistical Area (MSA) boundaries.
 - Not establishing classifications for nonattainment areas.
 - Retaining the 1978 lead NAAQS until one year after designations for the new standard, except in current nonattainment areas where it will be retained until those areas submit and EPA approves attainment demonstrations for the new standard.
- The proposal also explains the following Clean Air Act requirements: (See next slide)

Proposed Time Line for A Possible 2008 Pb NAAQS

- Promulgation date for a new Pb NAAQS: September 15, 2008
- State recommendations to EPA: September 2009
- Final designations taking full 3 years under the Act: September 2011 (We are also taking comments on whether designations should be done in 2 years)
- Section 110(a)(2) Infrastructure SIPs due 3 years following promulgation: Due to EPA by September 2011
- Nonattainment SIPs due: Spring 2013 (i.e., 18 months after designations. This is if designations are done 3 years after promulgation of the NAAQS)
- Attainment date: Up to Fall 2016 (based on 2013-2015 air quality data)

Pb Implementation Issues Addressed

- Attainment dates
- Classifications
- SIP submittal dates
- Modeling and attainment demonstration
- Reasonable further progress (RFP)
- Nonattainment NSR and PSD
- Contingency Measures
- General Conformity
- Transitional Strategy
- RACM/RACT
 - Threshold for RACT: We are proposing for comments what the threshold for RACT should be given that the standard will be strengthened. The RACT threshold for the current standard is 5 tpy.