



NAAQS Implementation Updates

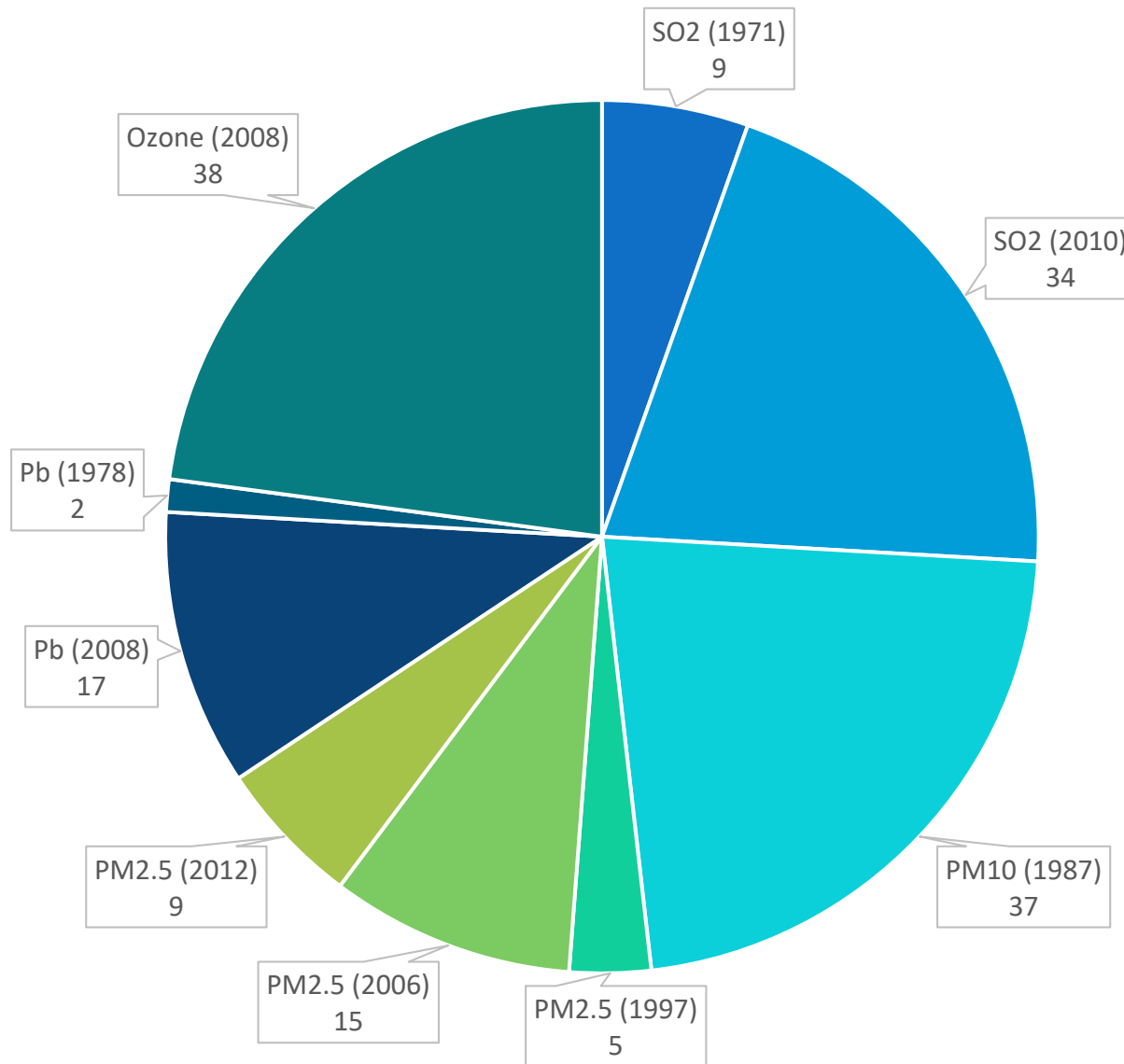
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AAPCA FALL BUSINESS MEETING, NOVEMBER 2018

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})
- Startup, Shutdown, and Malfunction (SSM) Policy
- 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 was July 20, 2015 (2012-2014 air quality data)
 - 13 Marginal areas reclassified to Moderate for failing to timely attain the NAAQS
 - Moderate area SIP revisions for reclassified areas were due January 1, 2017
- Moderate area attainment date was July 20, 2018 (2015-2017 air quality data)
- Serious area attainment date is July 20, 2021 (2018-2020 air quality data)



2008 Ozone NAAQS Implementation: Determinations of Attainment/Attainment Date Extensions/Reclassifications for Moderate Areas

- Attainment date for Moderate areas: July 20, 2018
- Statutory deadline for issuing final determinations: January 20, 2019
- NPRM signed November 7, 2018, proposes determinations of attainment/failure to attain (and reclassification to Serious), and 1-year attainment date extensions based on 2015-17 DV for 11 areas
- Proposal also includes due dates for attainment plans and RACT implementation
 - SIP for RACT needed for attainment purposes and all other SIP elements required for Serious areas:
 - Due one year from the effective date of the final rule
 - SIP for RACT independent of attainment:
 - Due August 3, 2020; alternatively, due 24 months from the effective date of the final rule
 - RACT implementation:
 - Due August 3, 2020; alternatively, due January 1, 2024



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, DE, IL, IN, ME, MD, MA, NH, NJ, PA, RI, VA, VT, and WI
 - September 6, 2018 sanction clock was stopped for all but two states.
- 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)



2015 Ozone NAAQS: Implementation-Related Rulemakings

- **Final Rule: 2015 Ozone NAAQS SIP Requirements Rule**
 - Signed November 7, 2018
 - Considers *South Coast v. EPA* (2018) decision in its final approach
 - Final rule does not address revocation of the 2008 ozone NAAQS
 - *Overview webinar for state, local and tribal air agencies scheduled for November 20, 2018*
- **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
- **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)



Progress on Ozone NAAQS Attainment

(as of September 2018)

	1997 NAAQS (2004 Designations)	2008 NAAQS (2012 Designations)	2015 NAAQS (2018 Designations)
Initial Nonattainment Areas	115	46	52
Areas Redesignated to Attainment	80 (prior to revocation)	8	0
Current Nonattainment Areas	35	38	52
Clean Data Determinations	26	18*	0

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



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 act 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.
- On October 15, 2018, the same petitioners filed a notice of intent to sue (NOI) citing:
 - EPA's alleged failure to act on 8 additional pending attainment plans for "Round 1" areas in 4 states (AZ, KY, PA, and WV); and,
 - EPA's alleged failure to issue FFS for four "Round 2" areas in 3 states (IL, MD, and MI).



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 September 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



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 September 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	10	2
Proposed Redesignations	1	0	0



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
- On October 16, 2018, EPA granted TCEQ's petition for reconsideration with respect to the Texas SIP call for certain affirmative defense provisions in Texas's SIP.



SIP Processing Improvements

- High priority continues to be reducing the SIP backlog and improving SIP processing times
- Trends in SIP processing:
 - In FY2018, EPA received 362 SIP submittals from states and acted on 356 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
- To date, states have submitted over 220 SIP revisions via SPeCS
 - Count includes draft submissions

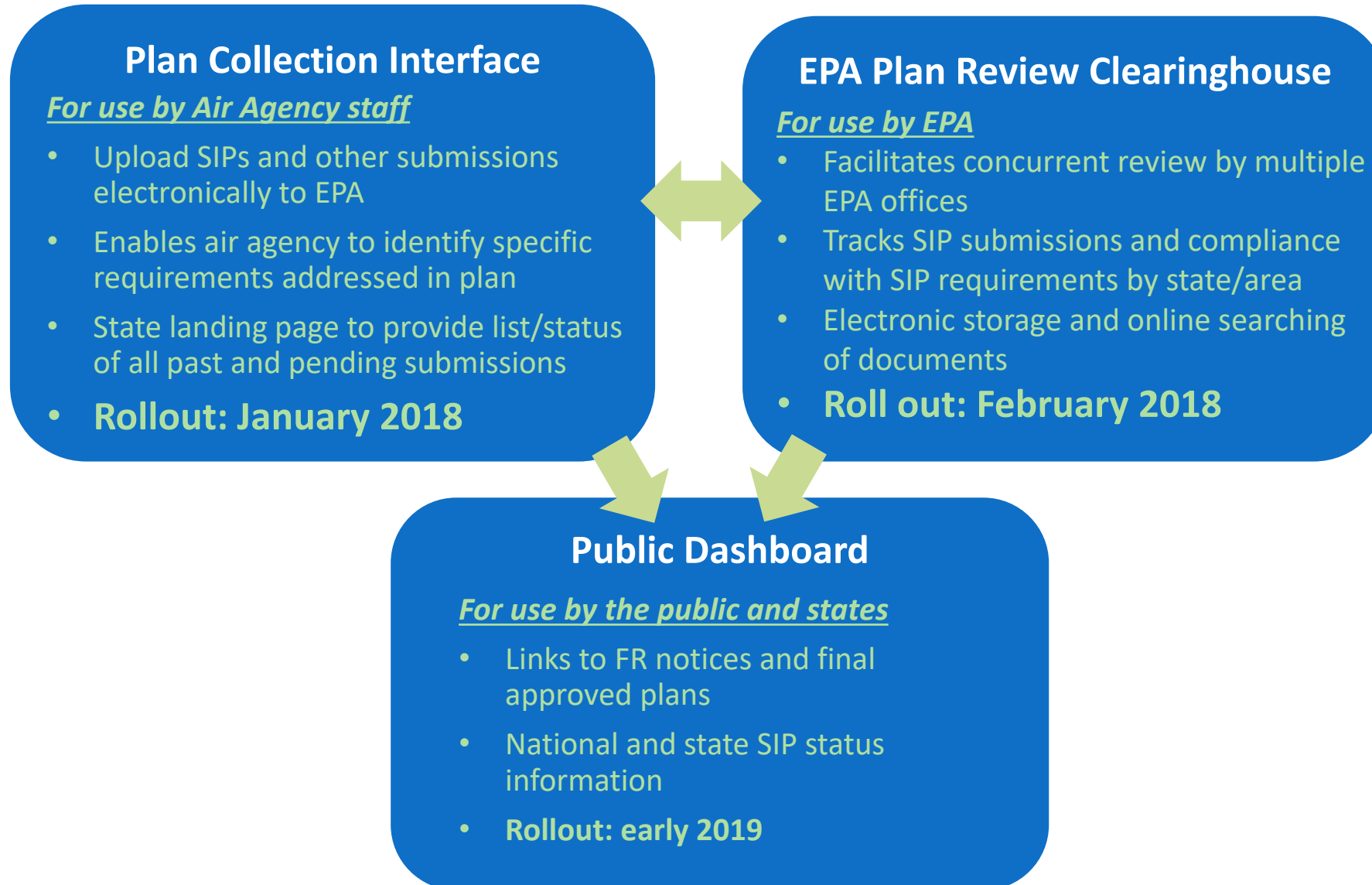


SIP Processing Improvements: State Plan Electronic Collaboration System (SPeCS) for SIPs

- Plans for 2019 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 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	Aug 2018 (most of U.S.)	Oct 2018	Aug 2021-2022 (most of U.S.)	Aug 2021-2038 (most of U.S.)

