



Update on EPA Air Programs

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Topics Covered Last Year (Apr 13, 2017)



- **Status of Various GHG Regulations**
 - Clean Power Plan
 - Carbon Pollution Standards for Modified and New Power Plants
 - Oil and Natural Gas Industry
 - Final GHG Standards for Medium- and Heavy-Duty Engines and Vehicles
- **Air Quality**
 - Implementation of 2008 Ozone NAAQS
 - Implementation of 2015 Ozone NAAQS
 - Regional Haze
 - 1-Hr SO₂ NAAQS Implementation
 - MSW Landfill Regulations



Presentation Overview

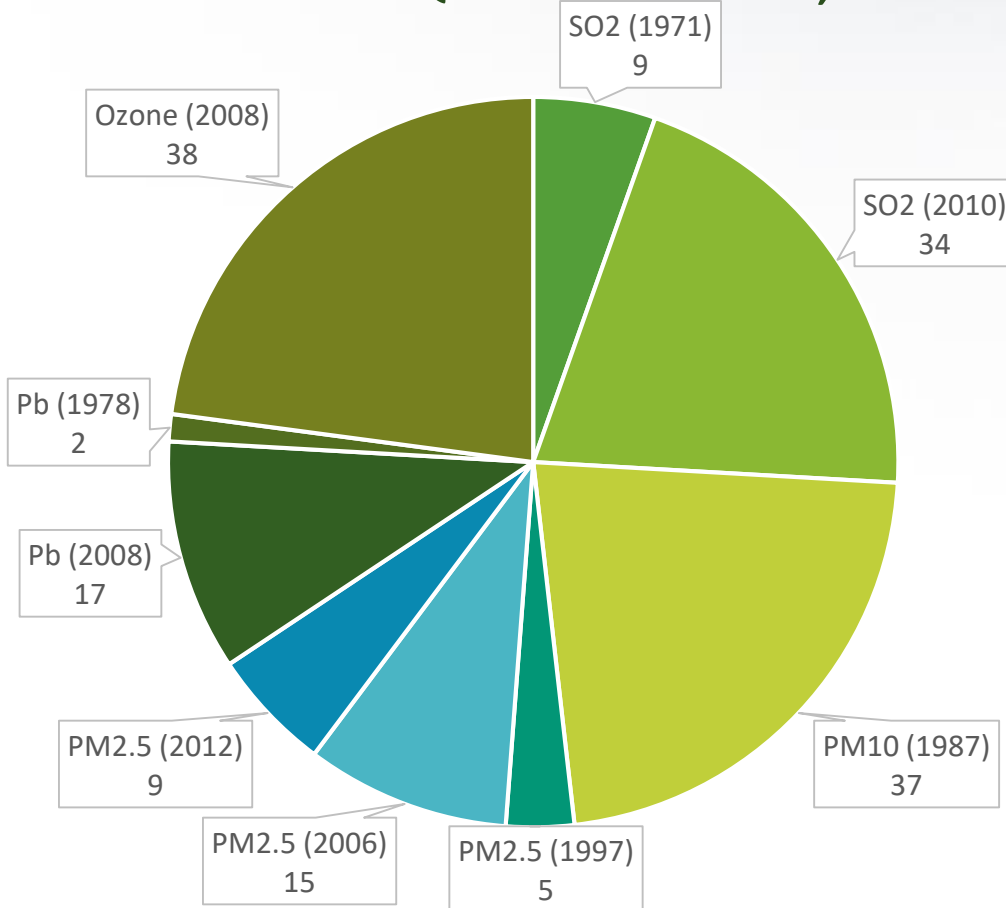


- EPA's Clean Air Priority Goal: Reduce Number of Nonattainment Areas
- NAAQS Implementation Updates
 - Ozone
 - Sulfur Dioxide (SO₂)
 - Fine Particulate Matter (PM_{2.5})
- Regional Haze
- NSR Permitting Updates
- Clean Power Plan
- Municipal Solid Waste Landfills

EPA's Clean Air Priority Goal: Reduce Number of Nonattainment Areas



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.

Approving state requests to redesignate non-attainment 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.

EPA's Clean Air Priority Goal FY2018-2022: Reduce Number of Nonattainment Areas



FISCAL YEAR	GOAL (from 166 areas)*	ACTUAL (thru April 2018)
FY2018	155	163
FY2019	146	
FY2020	144	
FY2021	140	
FY2022	101	

* The baseline of 166 is the number of areas designated nonattainment for non-revoked standards as of 10/1/2017 (start of 1st quarter of FY 2018).



Ozone - Outline



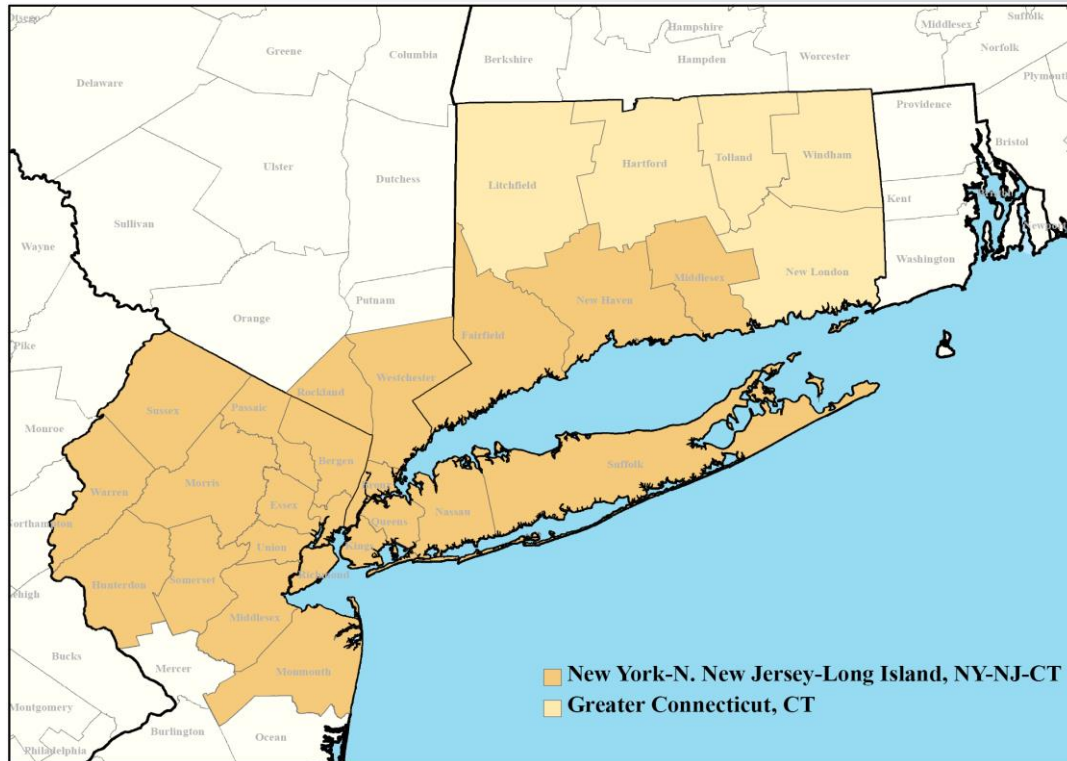
- Exceptional Event Demonstrations in New England
- Implementation of 2008 Ozone NAAQS (75 ppb)
 - Connecticut Ozone SIP
 - Findings of Failure to Submit
 - Litigation
- 2015 Ozone NAAQS (70 ppb)
 - Implementation-Related Rulemakings
 - Designations
- Interstate Transport
 - 2008 Good Neighbor SIPs
 - 2015 Good Neighbor SIPs
 - Section 176A Petition
 - Section 126 Petitions

Exceptional Event (EE) Demonstrations



- In Sept 2016, EPA finalized revisions to the 2007 Exceptional Events Rule, and issued ***Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations****
- MassDEP, CT DEEP, and RI DEM all submitted EE demonstrations to show that elevated ozone conc. on May 25-25, 2016 were influenced from smoke from a wildfire in Canada.
 - EE Demos received from CT (May 23, 2017), MA (May 25, 2017), and RI (June 20, 2017)
 - EPA concurred on EE Demos from CT on July 31, 2017, and on MA and RI on Sept 19, 2017
 - EE Demo from CT changed 2014-2016 ozone DV for the NYC area from 85 ppb to 83 ppb (i.e., from not meeting 1997 NAAQS to meeting NAAQS). *[Prelim DV for 2015-2017 still at 83 ppb.]*

Connecticut Nonattainment Areas for 2008 NAAQS



- Both areas originally classified as marginal nonattainment in July 2012
- Attain. Date - July 20, 2015
- Marginal Area & OTR required SIPs:
 - Emission Inventory (*due July 2014*)
 - Emission Statements certification (*due July 2014*)
 - Nonattainment NSR rules (*due July 2015*)
 - VOC and NO_x RACT (*due July 2014*)

• EPA Actions

- EPA reclassified CT's two areas from Marginal to Moderate on April 11, 2016; requires submission of attainment and RFP plans by Jan 1, 2017; new attainment date July 20, 2018
- Findings of failure to submit Nonattainment NSR rules issued to CT on Jan 17, 2017. *Started sanctions clock.*

Attainment Planning: 2008 Ozone Standard (75 ppb) – con't



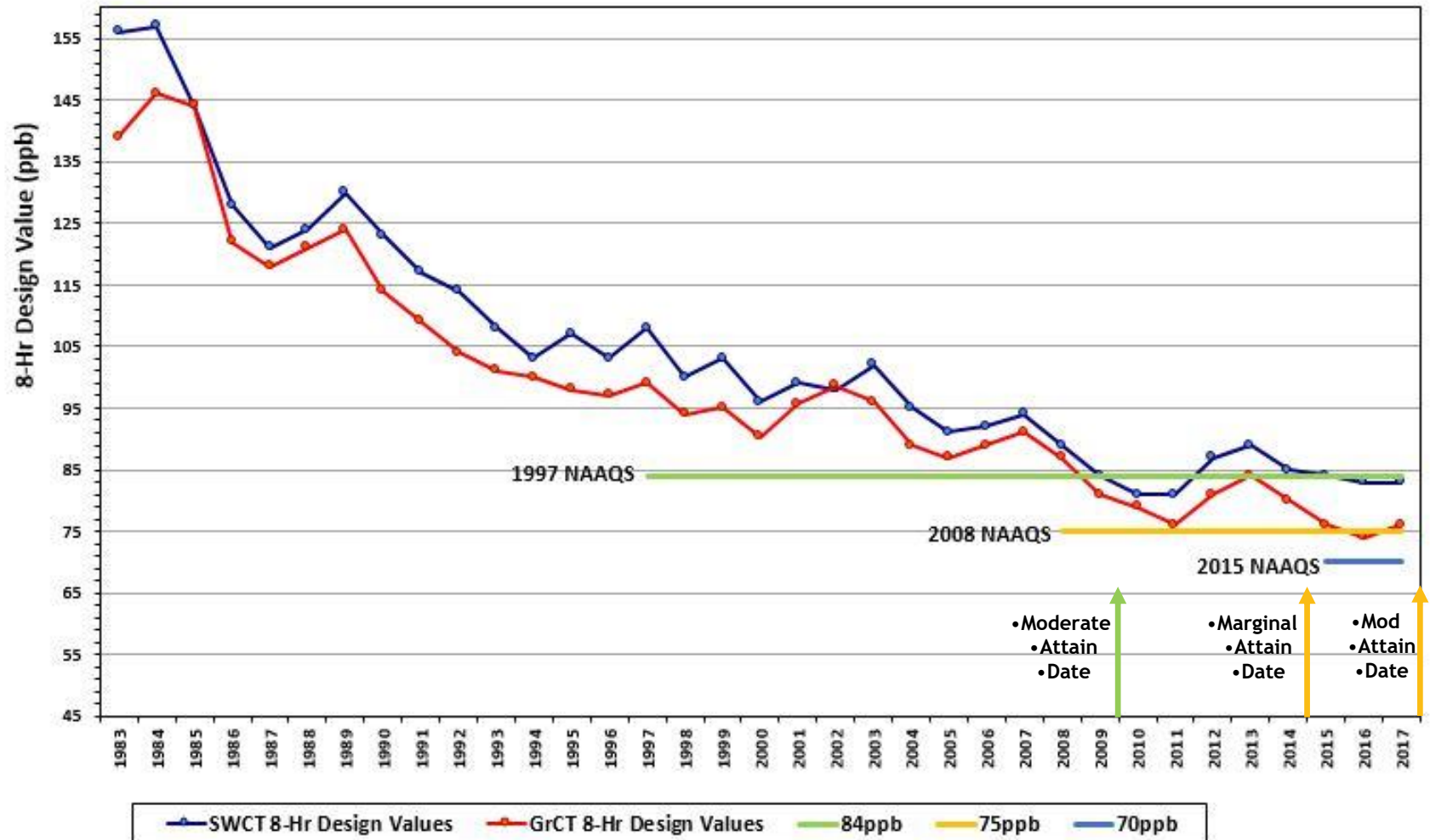
- **Connecticut Submittals**

- 2011 Emission Inventory – *submitted March 9, 2016*
- RACT SIP – *submitted July 17, 2014; Sept 16, 2016; Jan 24, 2017; approved by EPA on July 31, 2017 (82 FR 35454)*
- Nonattainment NSR certification – *submitted March 9, 2017; sanction clock stopped April 19, 2017; approved by EPA on Feb 16, 2018 (83 FR 6968)*
- Attainment Plan: Greater CT Area – *submitted Jan 17, 2017; MVEBs deemed adequate Mar 20, 2017*
- Emission Statement Certification – *submitted Sept 5, 2017*
- Attainment Plan: CT portion of NYC Area – *submitted Aug 8, 2017; included attainment plan for both 1997 O₃ NAAQS and 2008 O₃ NAAQS*

Trends in CT Ozone Design Values



Connecticut Maximum 8-Hour Ozone Design Value Trends



Next steps for CT Ozone SIPs

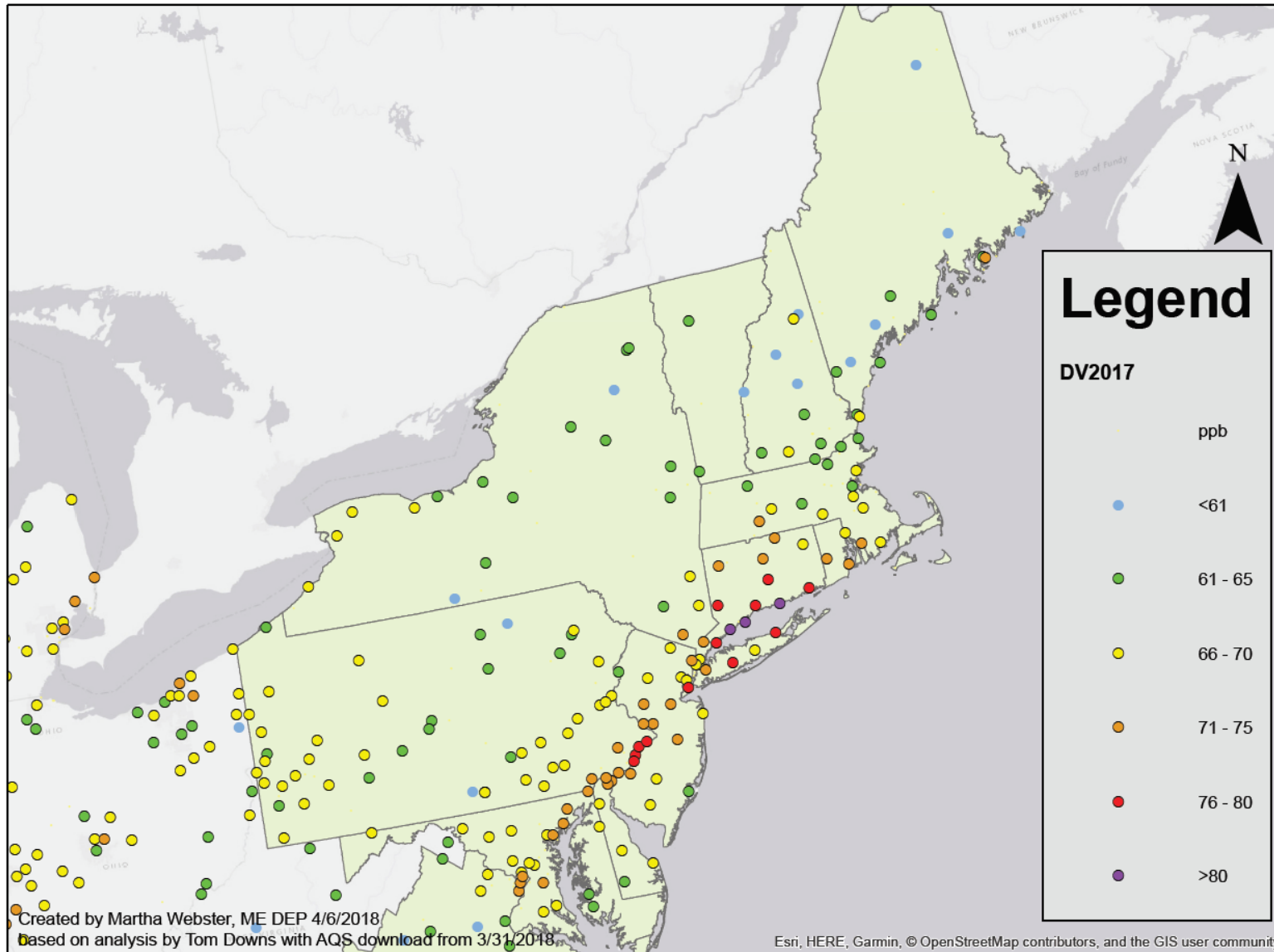


- EPA working on proposal for SW CT Attainment Demo for the 1997 Ozone NAAQS (original submitted 2/1/08, updated as part of 8/8/17 submittal)
 - Proposed for approval on May 25, 2018 (83 FR 24259). Comment period closes on June 25, 2018.
- EPA working on proposal for 2011 Ozone Inventory (3/9/16), Emission Statement Certification (9/5/17), portions of Greater CT Attainment Demo for 2008 NAAQS (1/17/17) and portions SW CT Attainment Demo for 2008 NAAQS (8/8/17)
 - Action will be on RFP, RACM, MVEBs, and Contingency Measures, not attainment demonstration
- Through a national notice, EPA to make determinations of whether Moderate nonattainment areas attained the 2008 standard by the July 20, 2018 attainment date
 - Will be based on 2015-2017 air quality data
 - Final action must be completed by January 20, 2019

Preliminary Design Values (2015-2017)



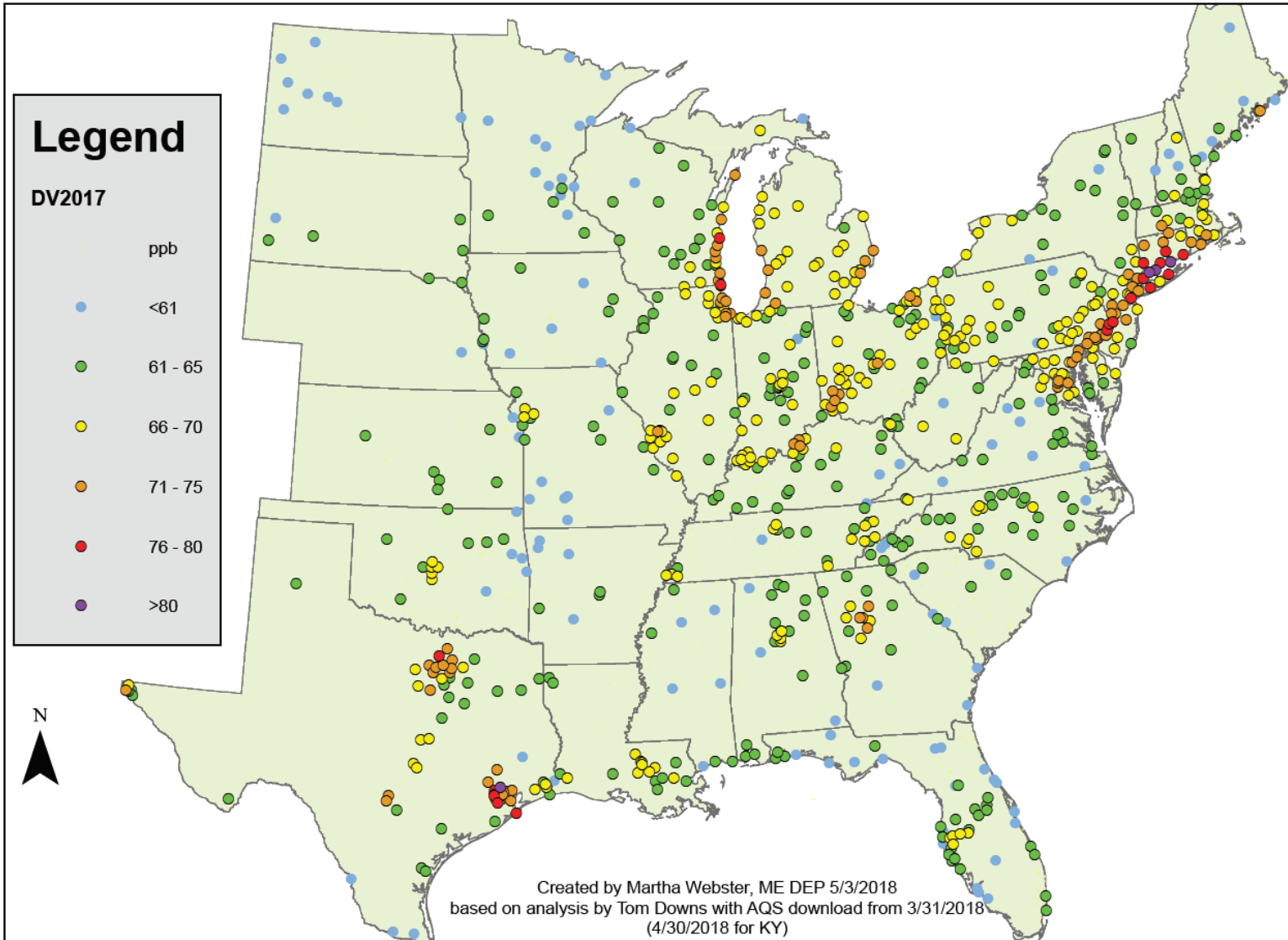
2017 Preliminary Ozone Design Value



Preliminary DVs (2015-2017) – Other Eastern Areas



2017 Preliminary Ozone Design Value



Other Ozone-Related SIP Actions in Connecticut



- **SIP - Decommissioning of Stage II Systems**
 - SIP requires decommissioning of Stage II vapor recovery systems at gasoline service stations. Also includes revisions that strengthen Stage I rules.
 - Final approval published in *Federal Register* on Dec 15, 2017 (82 FR 59519).
- **SIP - Revision of the Low Emission Vehicles Program**
 - Proposed approval published in *Federal Register* on Jan 16, 2018 (83 FR 2097), with comment period ending Feb 15, 2018.
- **SIP – Revisions to Consumer Products and AIM Rules**
 - Proposed approval published in *Federal Register* on June 4, 2018 (83 FR 25615), with comment period ending July 5, 2018.

2008 Ozone NAAQS: Findings of Failure to Submit



- On Jan 13, 2017, in response to a complaint filed by environmental petitioners, the EPA found that 15 states and Wash DC failed to submit certain SIP revisions required under the 2008 ozone NAAQS for NA and OTR areas (*82 FR 9158; Feb 3, 2017; effective March 6, 2017*)
 - States named were: CA, CT, Wash D.C., DE, IL, IN, ME, MD, MA, NH, NJ, PA, RI, VA, VT and WI.
 - FFS action effective date: March 6, 2017; First Sanction: Sept 6, 2018
 - CT and MA submitted necessary NSR certification SIPs
 - ME, MA, NH, RI and VT still working on making necessary RACT submissions in response to the FFS in order to avoid sanctions.
- On Nov 29, 2017, also 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; Dec 11, 2017; effective Jan 10, 2018*)
 - States were CA, IL, and NJ for 5 areas:
 - For NJ portion of NYC area – RACT for NO_x and VOC; attainment demonstration, RFP, and contingency measures

2008 Ozone NAAQS Implementation: Litigation



- **2008 Ozone NAAQS State Implementation Plan (SIP) Requirements Rule (80 FR 12264; March 6, 2015)**
 - Provides rules and guidance on nearly all aspects of the attainment planning requirements
 - Revoked the 1997 NAAQS effective April 6, 2015, and established anti-backsliding requirements
- ***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)
 - The D.C Circuit issued its decision on Feb 16, 2018, upholding about half of the challenged elements and vacating several flexibilities in the SRR

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/DOJ filed a rehearing petition on April 23 seeking:**
 - Substantive rehearing on the court’s (1) application of § 172(e) in determining anti-backsliding requirements following revocation of the 1997 ozone NAAQS and (2) interpretation of § 176(c) as requiring transportation conformity in areas designated maintenance for the 1997 NAAQS and attainment for the 2008 NAAQS.
 - Request for remand without vacatur (as opposed to vacatur) of the Rule provisions related to (1) requirements for areas designated nonattainment for the 1997 NAAQS and attainment for the 2008 NAAQS and (2) transportation conformity demonstrations for areas designated maintenance for the 1997 NAAQS.

2015 Ozone NAAQS: Implementation-Related Rulemakings



- **Proposed Rule: Implementation of the 2015 NAAQS for Ozone: Nonattainment Area Classifications and SIP Requirements** published for public comment Nov 17, 2016 (81 FR 81276)
- **Final: 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: 2015 Ozone NAAQS State Implementation Plan (SIP) Requirements Rule**
 - To be issued later this spring/summer
 - The *South Coast II* ruling will require revisions to final rule scope and approach related to RFP baseline year and revoking 2008 NAAQS

2015 Ozone NAAQS: Round 1 Designations



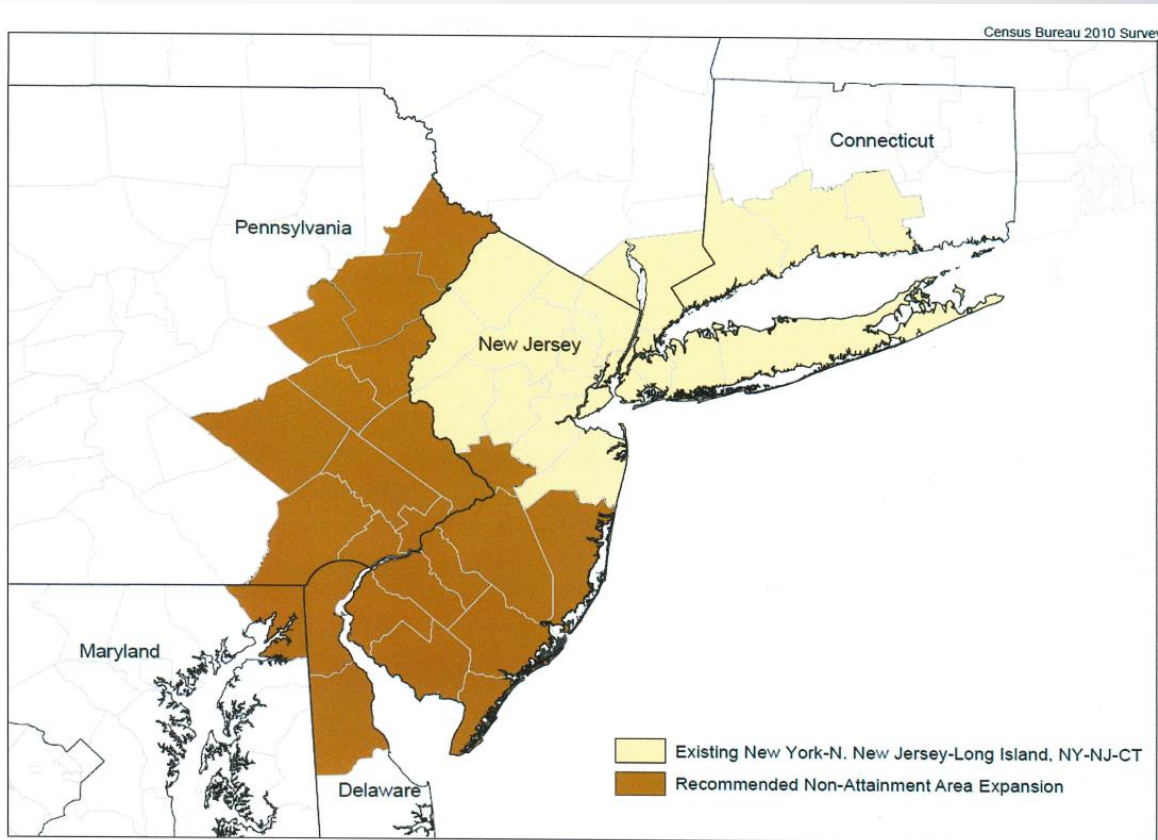
- **The statutory deadline for designations was Oct 1, 2017**
- **On Nov 6, 2017, the EPA issued final designations of attainment/unclassifiable for about 85% of the counties in the United States**
 - This included 2,646 counties, two separate areas of Indian Country areas and five territories
 - It also included a designation of unclassifiable for three counties in the state of Washington due to insufficient monitoring data to calculate a 3-year ozone design value
 - These final designations took effect on January 16, 2018, 60 days after the notice was published in the Federal Register
- *All of Maine, New Hampshire and Vermont and portions of Massachusetts and Rhode Island designated attainment/unclassifiable*

2015 Ozone NAAQS Designations (cont.)



- **On Dec 22, 2017**, EPA notified states and tribes concerning any intended modifications to their designation recommendations (“120-day letters”) for the remaining undesignated areas of the U.S.
 - EPA proposed 54 intended nonattainment areas and 3 unclassifiable areas, as well as additional attainment/unclassifiable areas and deferred taking action on the 8 counties in the San Antonio, TX metropolitan statistical area
 - Notification of availability and public comment period was published on Jan 5, 2018 (83 FR 651); comment period ended Feb 5, 2018
 - EPA requested States and Tribes to provide any final input by Feb 28, 2018
 - EPA was under court order to promulgate final ozone area designations for these areas no later than April 30, 2018

CT's Preferred Option for Boundaries of New York City Nonattainment Area



- From Oct 1, 2016 letter from CT Governor
- See: www.epa.gov/ozone-designations/2015-ozone-standards-state-recommendations

2015 Ozone NAAQS: Round 2 Designations

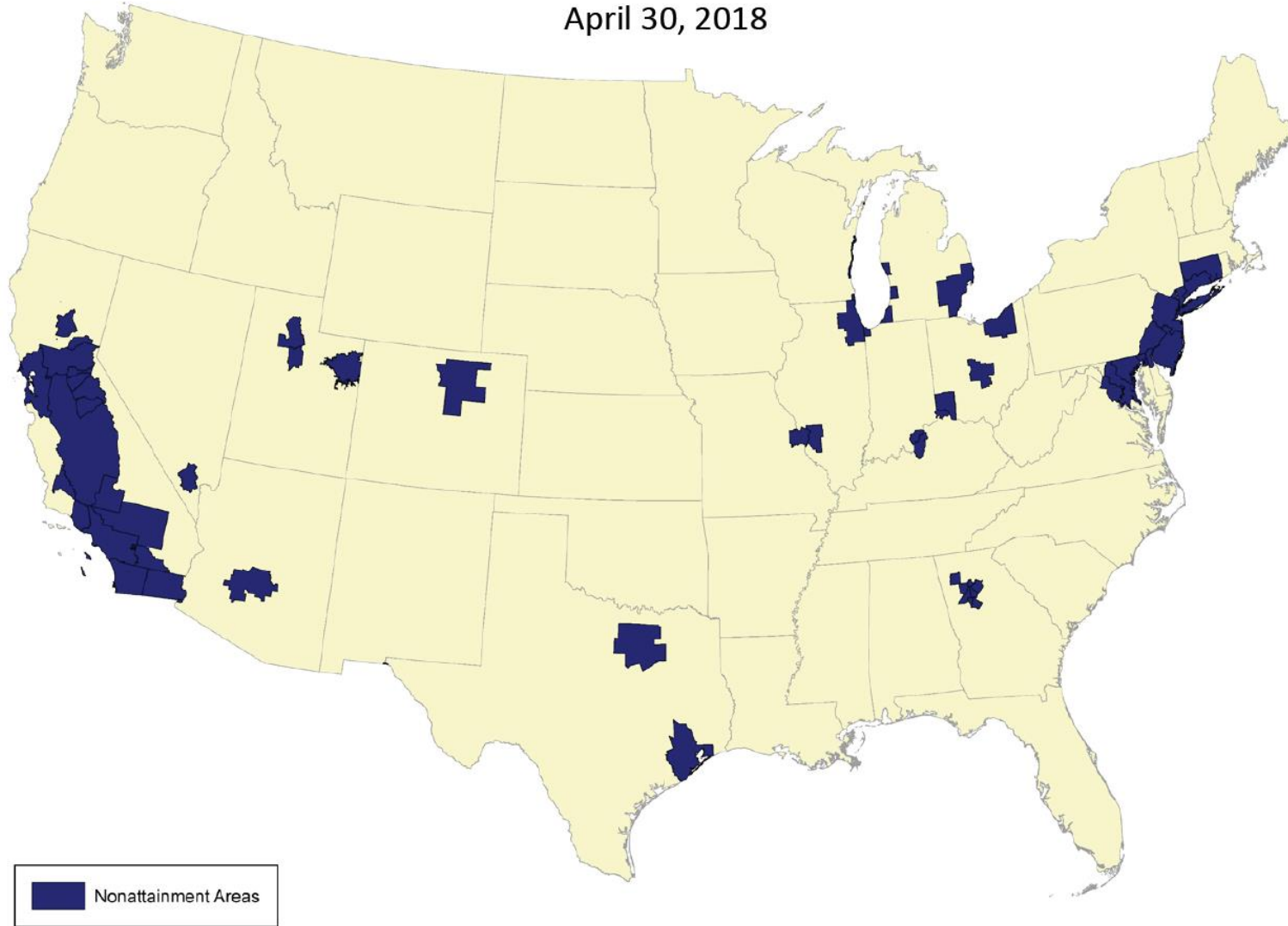


- **On April 30, 2018** the EPA finalized air quality designations for all areas of the country except the eight counties in the San Antonio, Texas metropolitan area. In this action the EPA:
 - Designated 51 areas as Nonattainment, including 2 separate areas of Indian country
 - Designated 1 area as Unclassifiable; and
 - Designated all other areas, including both state and tribal areas, as Attainment/Unclassifiable (with the exception of San Antonio, TX as noted above).
 - Announced the classification for Nonattainment areas, which occurs by operation of law at the time of designation and is based on the severity of each area's ozone air quality problems.
 - Reclassified five areas in California to a higher classification (voluntary action).
- The effective date of these designations is Aug 3, 2018 (60 days following the June 4 publication in the FR).
- The EPA will finalize designations for the eight counties in the San Antonio, Texas metropolitan area by July 17, 2018.

Nonattainment Area Designations for the 2015 Ozone Standards



April 30, 2018

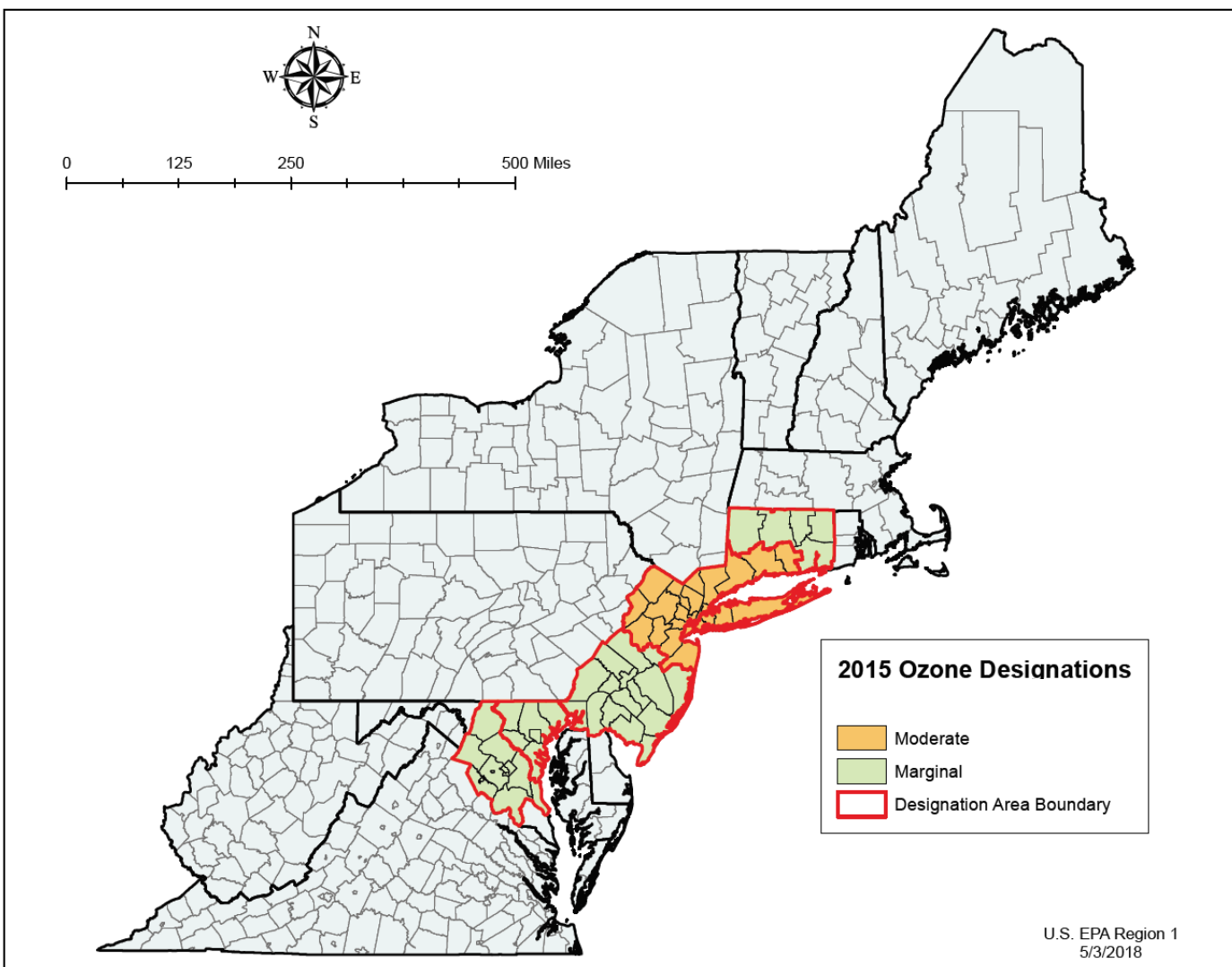


Classification thresholds and attainment dates



Classification	Classification Thresholds	Attainment Date (years from effective date of designations)
Marginal	from 71 ppb up to 81 ppb	3 years (<i>Aug 2021</i>)
Moderate	from 81 ppb up to 93 ppb	6 years (<i>Aug 2024</i>)
Serious	from 93 ppb up to 105 ppb	9 years (<i>Aug 2027</i>)
Severe	from 105 ppb up to 163 ppb	15 (or 17) years (<i>Aug 2033 (or 2035)</i>)
Extreme	from 163 ppb	20 years (<i>Aug 2038</i>)

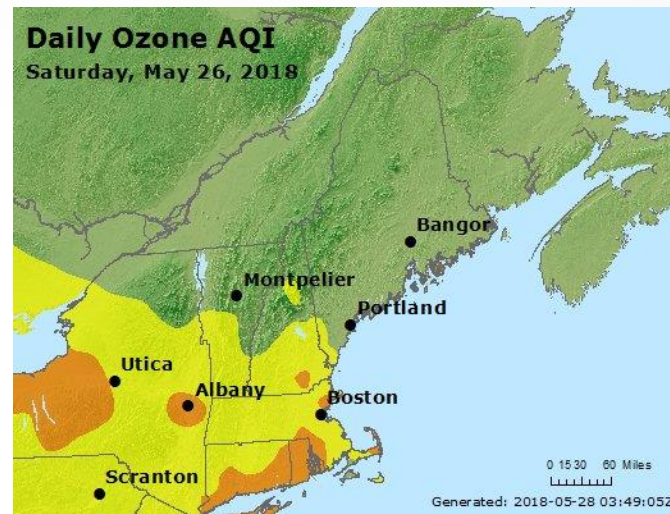
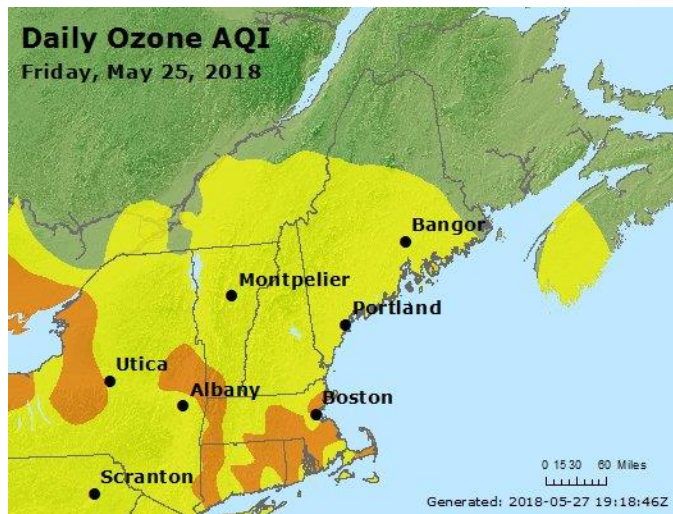
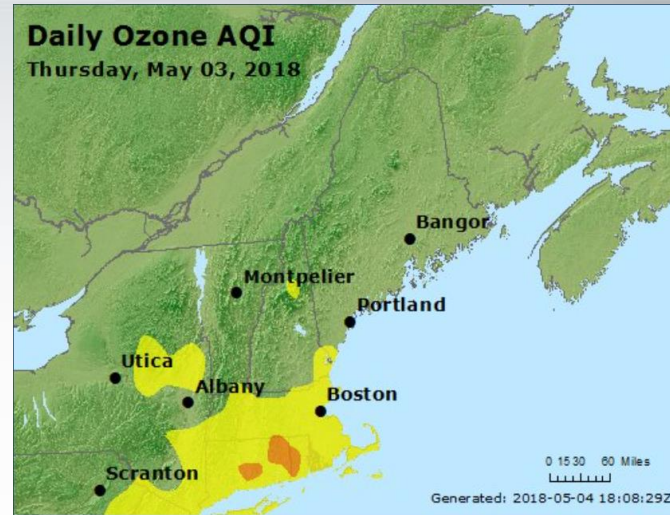
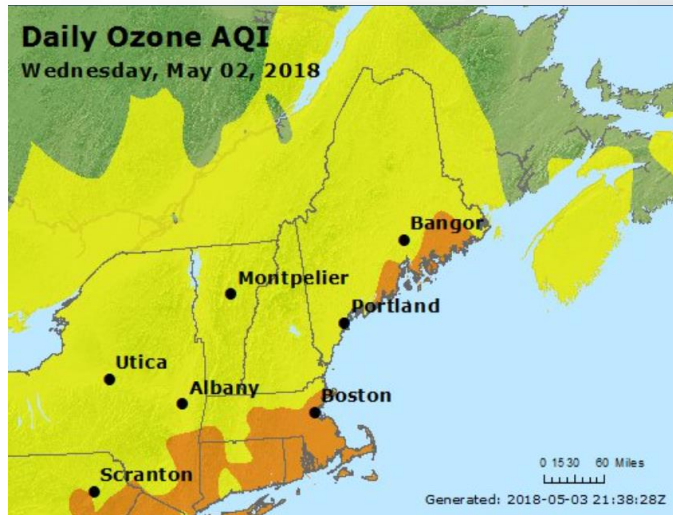
Nonattainment Areas in the Northeast



2014-2016 DVs

- Gr CT - 74 ppb
- NYC - 83 ppb
- Philadelphia - 77 ppb
- Baltimore - 73 ppb
- Wash DC - 72 ppb

2018 Unhealthy Air Days in CT



Exceedance Days
for 2015 NAAQS

2015- 33 days

2016- 31 days

2017- 20 days
(7 thru 6/13)

2018- 4 days
(thru 6/13)



Ozone Transport



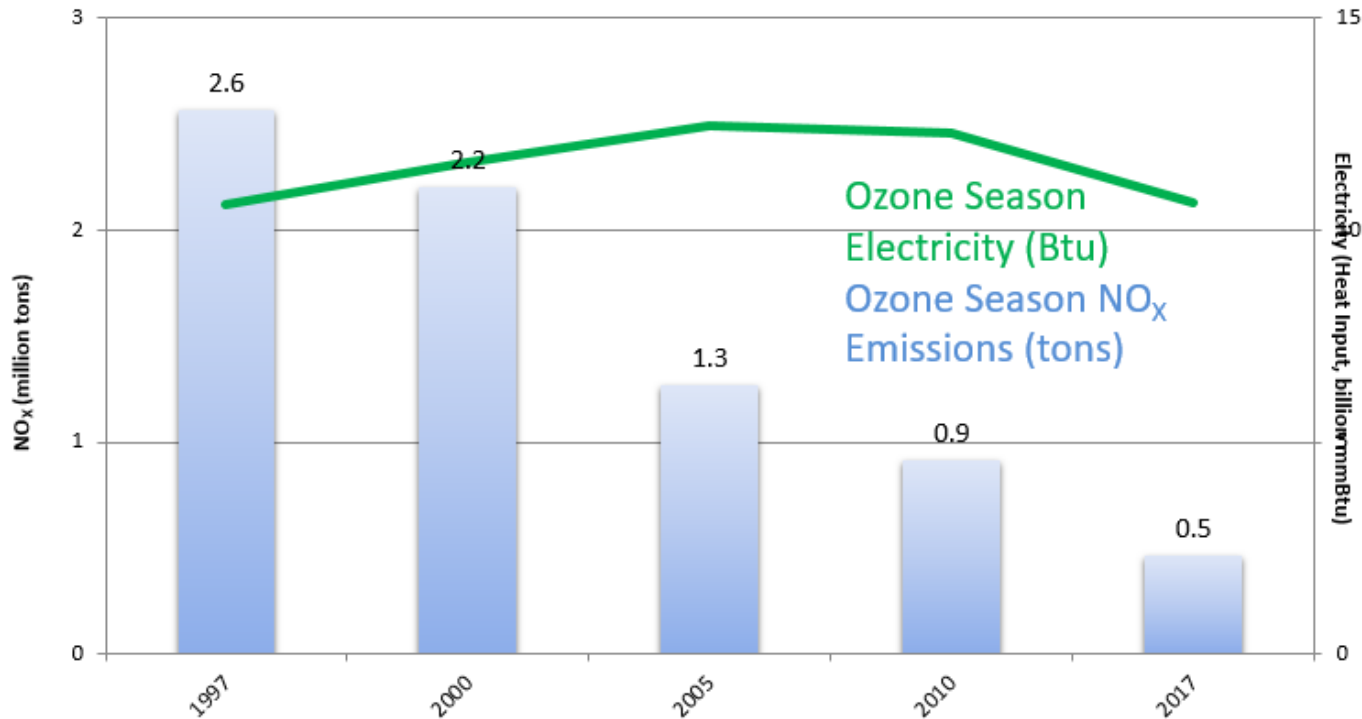
- To address interstate transport, **Congress established the “good neighbor” provision [Section 110(a)(2)(D)(i)(I)]**, which requires upwind states to implement emission reductions if the upwind state contributes significantly to nonattainment or interferes with maintenance of the NAAQS in downwind areas
- The CAA envisions a SIP-led process; EPA is focused on a SIP first approach
- States have asked EPA for information and guidance to enable states to develop approvable and timely transport SIPs to address regional (multi-state) air quality problems
- Congress established additional CAA provisions that can be used to address interstate transport of air pollutants that are contributing to nonattainment or interfering with maintenance of NAAQS, *e.g.*:
 - Establishing provisions for creating (and as appropriate, for expanding) transport regions, specifically establishing the ozone transport region (Section 176A)
 - Providing for states to petition EPA to address sources that emit or would emit in violation of the good neighbor provision (Section 126 petitions)

2008 Ozone NAAQS: Good Neighbor Transport SIPs



- **The CSAPR Update was finalized on September 7, 2016, to address summertime interstate transport of ozone pollution for the 2008 NAAQS in the eastern U.S. by updating the CSAPR ozone season program.**
 - The first implementation period was from May 1 – September 30, 2017
- **Outstanding good neighbor obligations for the 2008 ozone NAAQS**
 - CSAPR Update was issued as a partial remedy for 21 eastern states (full remedy for TN).
 - AL, AR, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NJ, NY, OH, OK, PA, TX, VA, WV, and WI
 - CSAPR Update Rule did not address 2008 transport obligations for western states
 - There are 24 states for which EPA has not yet fully-approved a SIP and continues to have a FIP obligation.
 - Kentucky – EPA is under a court-ordered deadline of June 30, 2018, for a full FIP. On May 10, 2018 KY submitted a demonstration for EPA’s approval. At KY’s request, in a parallel process, Region 4 proposed to approve KY’s SIP. The comment period on EPA’s proposed approval ended on May 18. Final approval of the KY SIP will moot EPA’s FIP obligation.
 - For other states, EPA has statutory FIP deadlines ranging from August 2017 to March 2019
 - On 1/17/18, NY and CT filed a joint complaint re EPA’s failure to promulgate fully compliant FIPs by 8/12/17 for IL, MI, PA, VA and WV

Results from an Effective Partnership: Seasonal NO_x



- Ozone season NO_x emissions from power generation have decreased considerably
- CSAPR Update preliminary results:
 - 2017 ozone season emissions 21% (78,000 tons) below 2016 levels
 - Regional emissions 7% (23,000 tons) below CSAPR Update budgets

2008 Ozone NAAQS: Good Neighbor Transport SIPs (con't)



- To help states develop, supplement or resubmit their good neighbor SIPs for the 2008 standards, EPA signed the **“Supplemental Transport Memo”** on Oct 27, 2017.
 - The modeling conveyed in this memo indicated that there are no monitoring sites, outside of California, that were projected to have nonattainment or maintenance problems with respect to the 2008 ozone NAAQS of 75 ppb in 2023
- EPA has been developing a federal notice-and-comment rulemaking to evaluate and make a determination regarding outstanding good neighbor obligations for the 2008 ozone NAAQS, considering new information such as the Oct 2017 modeling.
 - The Agency has said it intends to issue a proposal by June 29, 2018 and a final action by Dec 6, 2018. *[Court Order on June 12 now mandating these dates.]*
 - EPA will also continue working with states outside the CSAPR Update to fully approve transport SIPs for the 2008 NAAQS.

2015 Ozone NAAQS: Good Neighbor Transport SIPs



- 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 identifies a preliminary list of potential flexibilities for developing a good neighbor SIP for the 2015 ozone NAAQS.
 - On April 12, EPA hosted a national stakeholder conference call 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.
 - The memorandum and the spreadsheet containing the updated contribution metrics, are also available on EPA's website at:
www.epa.gov/airmarkets/interstate-air-pollution-transport
- EPA is encouraging 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.

Section 176A Petition



- In Dec, 2013, CT, MA, NH, RI, VT along with several other OTR states have petitioned EPA to expand the OTR to include IL, IN, KY, MI, NC, OH, TN, WV and the rest of VA.
 - **Section 176A:** The Administrator . . . may (1) add any state or portion of a state to any region . . . whenever the Administrator has reason to believe that the interstate transport of air pollutants from such state significantly contributes to a violation of the standard in a transport region.
- EPA took final action to deny the petition on Nov 3, 2017 (82 FR 51238):

“The EPA continues to believe an expansion of the OTR is unnecessary at this time and would not be the most efficient or effective way to address the remaining interstate transport issues for the 2008 ozone NAAQS in states currently included in the OTR. Additional local and regional ozone precursor emissions reductions are expected in the coming years from already on-the-books rules. The EPA believes its authority and the states’ authority under other CAA provisions (including CAA section 110(a)(2)(D)(i)(I)) will allow the agency and states to develop a more effective remedy for addressing any remaining air quality problems for the 2008 ozone NAAQS identified by the petitioners.”

Clean Air Act Section 126(b)



Petitioning State	Response Deadlines	Named EGU Sources	Ozone NAAQS Cited
CT ¹	1/25/17 (4/6/18)	Brunner Island, PA	2008
DE (4 petitions)	3/5/17 4/7/17 7/9/17 8/3/17	1. Brunner Island, PA 2. Harrison, WV 3. Homer City, PA 4. Conemaugh, PA	2008 and 2015
MD ²	7/15/17	36 EGUs at 19 facilities in IN, KY, OH, PA and WV	Emphasized 2008, mentioned 2015
NY	11/9/18 ³	All EGU and non-EGU sources projected to emit at least 400 tpy of NOx in 9 upwind states (IL, IN, KY, MD, MI, OH, PA, VA, WV)	2008 and 2015

¹On Feb 7, 2018, in response to a CT-filed, mandatory duty suit, the U.S. District Court in Connecticut ordered the EPA to sign a final action on the CT petition within 60 days, or by April 8, 2018. The EPA proposed to deny this petition on February 22, 2018 and finalized a denial action on April 6, 2018 (83 FR 16064, published April 13, 2018)

²On Sept 27, 2017, MD and several environmental groups filed suit for EPA's failure to respond to MD's 126 petition. Proposed denial of DE and MD petitions published on June 8, 2018 (83 FR 26666); public hearing on June 22; comment periods ends July 23.

³Petition received March 14, 2018. On May 11, 2018, EPA extended the deadline to act on the NY petition by 6-months.

2010 SO₂ NAAQS Area Designations



- EPA revised **Primary NAAQS for Sulfur Dioxide (SO₂) standard** on June 3, 2010 to 75 ppb/1-hour (75 FR 35520)¹
- EPA is completing area designations in four separate Rounds:
 - **Round 1** – July 25, 2013: EPA designated 29 areas as nonattainment (effective Sept 12, 2013). Only NE area was Central NH Nonattainment Area.²
 - **Round 2** – July and Dec 2016: EPA finalized designations for 65 areas including 7 nonattainment areas, 41 unclassifiable/attainment areas, and 17 unclassifiable areas
 - **Round 3** – Dec 21, 2017: EPA designated all remaining areas of the country except Round 4 areas (effective April 9, 2018)
 - Included 6 nonattainment areas, 23 unclassifiable areas, and the remainder of the country in all states, territories, and tribes designated attainment/unclassifiable (except Round 4 areas)
 - All of NE except Central NH NA designated attainment/unclassifiable
 - **Round 4** – by Dec 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. No New England areas.

¹ On June 8, 2018 (83 FR 26752, EPA proposed to retain the primary SO₂ NAAQS. Comment period closes July 23, 2018.

² Final approval of NH Attainment Plan SIP published on June 5, 2018 (83 FR 25922). NH submitted redesignation request to EPA on March 16, 2018.

Infrastructure Requirements 2010 SO₂ NAAQS



- CT DEEP submitted the SO₂ infrastructure SIP on May 30, 2013.
 - CT included a demonstration address interstate transport showing SO₂ emissions from CT do not contribute significantly to nonattainment or interfere with maintenance of the 2010 SO₂ standard in another state
- EPA took action on June 3, 2016 (81 FR 35636) on all ISIP elements except for interstate transport.
- EPA proposed approval of CT SO₂ Transport SIP on May 8, 2017 (82 FR 21351), and took final action on Sept 7, 2017 (82 FR 37013).

2012 PM_{2.5} NAAQS Implementation

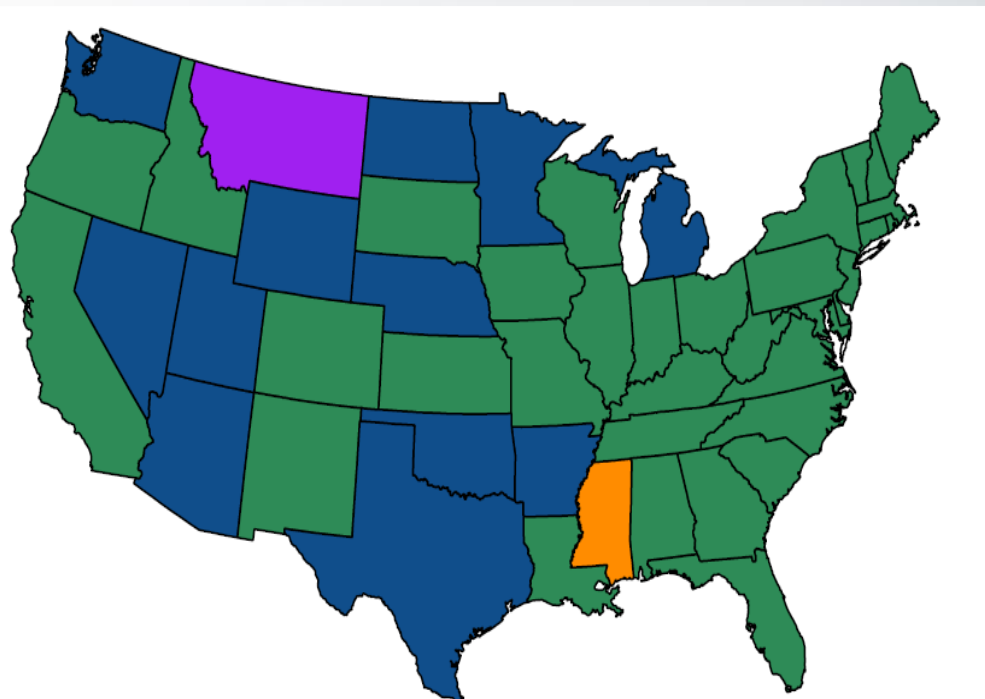




- EPA revised the PM_{2.5} NAAQS primary annual PM_{2.5} standard to 12µg/m³ on Dec 14, 2012 (78 FR 3086)
 - Nine Moderate nonattainment areas were designated in April 2015. *None in New England.*
 - Moderate area attainment plan due date - Oct 2016
 - Infrastructure SIPs including elements addressing interstate transport due Dec 2015
- CT submitted ISIP for 2012 NAAQS on Dec 14, 2015
 - EPA proposed approval of CT's 2012 ISIP on Mar 19, 2018 (83 FR 11933).
 - Proposed action also included action on the Transport SIP for 2006 PM_{2.5} NAAQS submitted Aug 19, 2011, and revisions to PSD rules submitted Oct 18, 2017.


Map of the 156 areas protected by the Regional Haze Rule



Regional Haze: Status of Actions from First Implementation Period



 Approved (including CSAPR FIP)  Full FIP

 Partial approval w/ FIP  Needs revised SIP or FIP

Regional Haze Rule and Guidance Updates



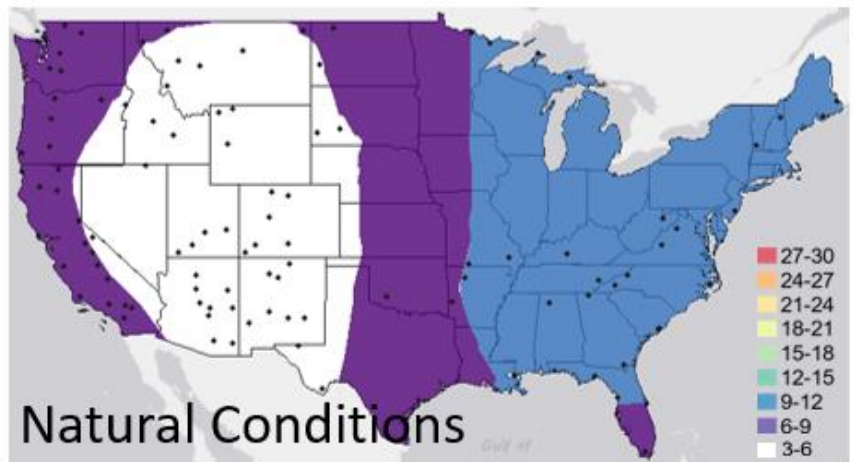
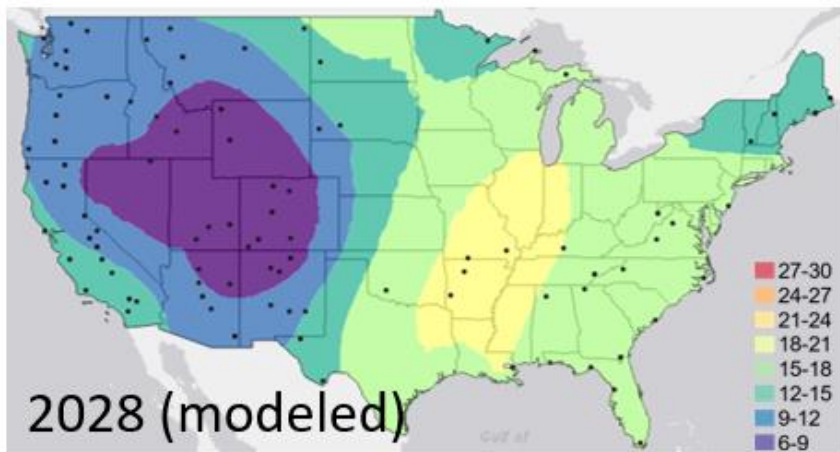
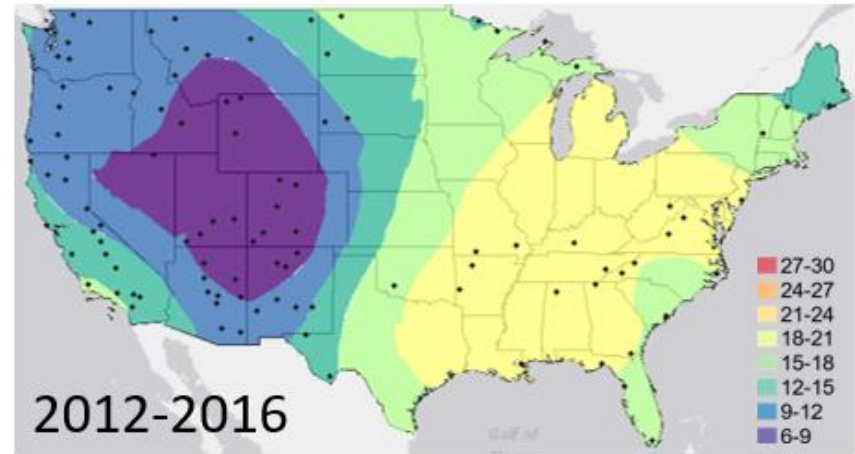
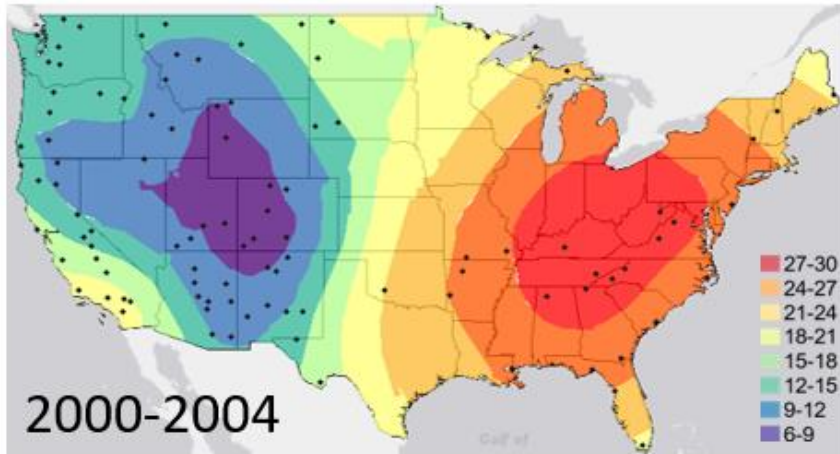
- **Rule revisions were finalized on January 10, 2017 (82 FR 3078):**
 - Petitions for review were filed in the D.C. Circuit as well as petitions for reconsideration
 - On January 17, 2018, EPA announced its decision to revisit aspects of the 2017 rule revisions:
 - “EPA intends to commence a notice-and-comment rulemaking in which we will address portions of the rule, including but not limited to the Reasonably Attributable Visibility Impairment (RAVI) provisions, the provisions regarding Federal Land Manager (FLM) consultation, and any other elements of the rule we may identify for additional consideration. Furthermore, EPA plans to finalize one or more EPA guidance documents for regional haze State Implementation Plan (SIP) revisions due in 2021. Such guidance may also address some or all of the issues raised in the petitions for reconsideration.”
 - EPA asked the D.C. Circuit to place the litigation into abeyance “pending administrative proceedings that may result in changes or clarifications to the challenged rule and thereby potentially narrow the scope of this litigation;” motion granted January 30, 2018
- **On July 8, 2016 (81 FR 44608), EPA released draft guidance**
 - Next steps on guidance are expected to be developed as EPA initiates regulatory review of the 2017 rule revisions

Regional Haze: Second Implementation Period

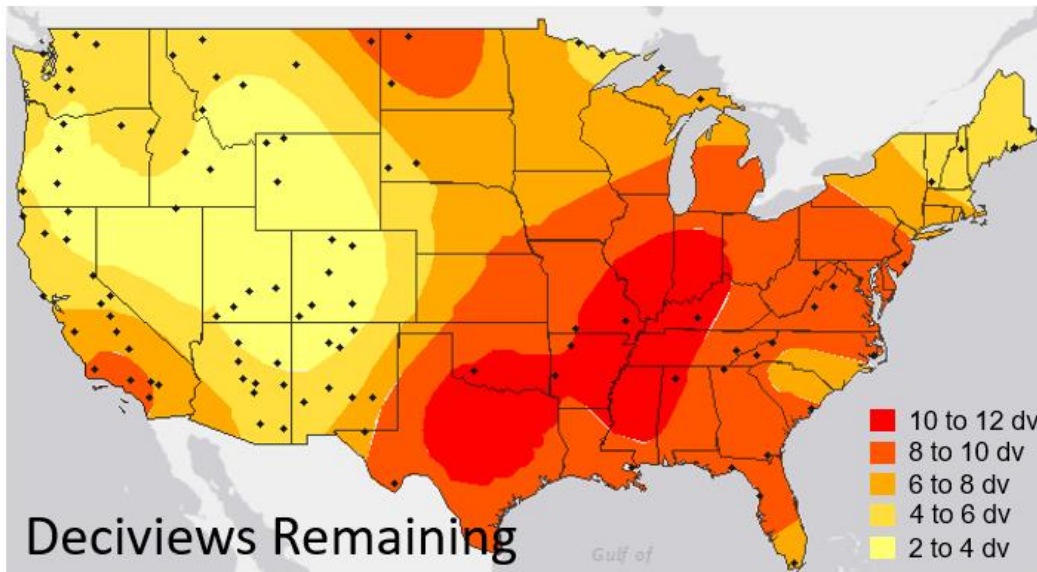
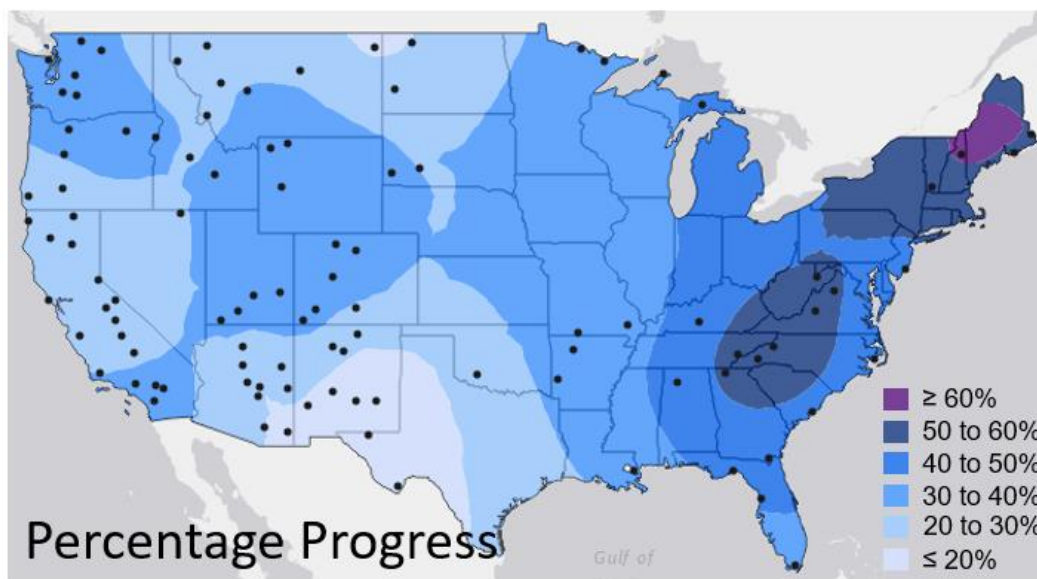


- EPA is already working with states and groups of states on the second planning period
- Key principles for implementation of the second planning period include:
 - Ensuring that states have the information they need to develop approvable regional haze plans
 - Ensuring that states have discretion and flexibility to select sources for reasonable progress analysis
 - Ensuring that we are on a path that enables compliance with the Clean Air Act, improved visibility in Class I areas, and state discretion regarding whether and how to control sources of visibility-impairing pollutants
- In Oct 2017, OAQPS' modeling group released preliminary, future-year (2028) visibility projections. This work included sector-specific source apportionment to help understand visibility impairment at Class I areas.
- These results may be helpful to some states, particularly for areas where model performance was good and uncertainty was low (most eastern Class I areas).
- EPA's SCRAM website has the details on this work, including the TSD (www.epa.gov/scram).

National Visibility Summary- 20% Most Impaired Days (deciviews)



Progress Towards Natural Conditions in 2012-2016



NSR Improvements and Other Recent Actions



- Actual-to-Projected-Actual Applicability Test Guidance Memorandum
- Project Emissions Accounting Memo
- Project Emissions Accounting Rulemaking
- Source Aggregation Guidance
- Project Aggregation Reconsideration
- Ambient Air Guidance
- Rulemaking on Treatment of Biomass for Permitting
- PM_{2.5} and Ozone SILs Guidance
- Routine Maintenance, Repair and Replacement (RMRR)
- Once-In-Always-In

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 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 and Proposal



- **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
- A proposal will codify the considerations and interpretations reflected in the memorandum
 - Current schedule: Fall 2018
- **Litigation**
 - Environmental Defense Fund, Natural Resources Defense Council and Sierra Club filed suit May 29 in the D.C. Circuit Court seeking review of the guidance memo

Source Aggregation



- EPA defines “*stationary source*” in the permitting programs as all of the pollutant-emitting activities that are:
 - 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)[40 CFR 70.2 and 52.21(b)(1) and (5)]
- 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’s determinations of whether “common control” exists have been based on an assessment of multiple factors
 - We are evaluating whether/how to further refine the factors that must be assessed
- EPA intends to address “adjacent” and “common control” in various actions
 - Letter from William Wehrum dated April 5, 2018 - ***Limetree Bay Terminals, St. Croix, U.S. Virgin Islands - Permitting Questions***
 - See www.epa.gov/sites/production/files/2018-04/documents/limetree_2018.pdf
 - Letter from William Wehrum dated April 30, 2018 - ***Meadowbrook Energy and Keystone Landfill Common Control Analysis***
 - See www.epa.gov/sites/production/files/2018-05/documents/meadowbrook_2018.pdf

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
- Current Action – Final Reconsideration Rule
 - Current schedule: Summer 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 is anticipating issuing guidance in Spring 2018

Treatment of Biogenic CO₂ Emissions in Permitting



- On February 13, 2018, EPA issued a response to New Hampshire reflecting its current views on the programmatic treatment of biomass
 - www.epa.gov/air-and-radiation/policy-update-epa-programmatic-treatment-biomass-and-forest-products-industry
- The letter clarifies, among other things, that:
 - The Consolidated Appropriations Act of 2017 urges the proactive recognition of forest biomass as being both carbon neutral and a source of renewable energy
 - Spurred by this congressional action, EPA is engaged in a multi-agency effort with DOE and USDA to establish a mechanism for federal cooperation and consistency on the use of biomass for energy throughout the federal government
 - EPA will be developing a set of options consistent with the carbon neutral policy of biomass from forests and other lands sectors to provide certainty for the treatment of biomass throughout the Agency's permitting decisions
- On April 23, 2018, EPA issued a policy statement that in forthcoming regulatory actions it will treat biogenic CO₂ emissions resulting from the combustion of biomass from managed forests at stationary sources for energy production as carbon neutral.
 - o Does not directly address the treatment of biogenic CO₂ emissions at any particular stationary source or in any specific regulatory context or other EPA program.
 - o These changes will be accomplished through the appropriate mechanisms, including, as necessary, a notice of any proposed rulemaking, the basis for such changes, and an opportunity for public comment
- EPA is in the process of developing a set of options for application of the newly announced policy to the CAA permitting programs.

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

Routine Maintenance, Repair and Replacement



- EPA believes there is uncertainty regarding the interpretation of the Routine Maintenance, Repair and Replacement (RMRR) provisions in the New Source Review program
- EPA is evaluating the need to clarify the interpretation and appropriate application of the RMRR provision under the NSR regulations
- EPA anticipates clarification in Spring 2018

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**
 - www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean

Repeal and Replacement of the Clean Power Plan



- On October 10, 2017, after a review as directed by the Energy Independence Executive Order, EPA proposed to repeal the Clean Power Plan (CPP)
- The CPP was premised on a novel and expansive view of Agency authority, a view inconsistent with previous rules and with EPA's historic interpretation of section 111 of the Clean Air Act
- Any proposed rule to replace the CPP would return EPA's actions to its understanding that the "best system of emission reduction" for a source should be based only on measures that can be applied to or at the source
- A public hearing was held in Charleston, West Virginia, on November 28-29, 2017.
- Public listening sessions were held in Kansas City on February 21, 2018, San Francisco on February 28, 2018, and in Gillette, Wyoming, on March 27, 2018.

Repeal and Replacement of the Clean Power Plan



- The public comment period for the proposed repeal of the CPP closed on April 26, 2018. EPA received over 500,000 comments
- On Dec 18, 2017, in a separate but related action, EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit information from the public about a potential future rulemaking to limit greenhouse gas emissions from existing power plants
- In light of the proposed repeal of the CPP, the focus of the ANPRM was on specific topics EPA should consider in a future regulatory action establishing emission guidelines for greenhouse gas emissions
- The comment period for the ANPRM closed February 26, 2018, and EPA received more than 250,000 comments
- For more information, go to: www.epa.gov/stationary-sources-air-pollution/electric-utility-generating-units-repealing-clean-power-plan

Municipal Solid Waste Landfills: New Source Performance Standards (NSPS) and Emission Guidelines (EG)



- **Background**

- August 29, 2016, EPA announced final updates to the NSPS to reduce emissions of methane-rich landfill gas from new, modified and reconstructed municipal solid waste (MSW) landfills
- EPA also issued EGs for reducing emissions from existing MSW landfills

- **Petition for Reconsideration and Judicial Review**

- May 5, 2017, EPA granted reconsideration to petitions on various issues regarding the 2016 MSW Landfills NSPS and EG
- May 31, 2017, EPA issued a 90-day stay on the 2016 NSPS and EG
 - Because the 90-stay expired on August 29, 2017, the 2016 rules are currently in effect
- EPA is developing the reconsideration process and path forward on these actions
- Notice of Intent to sue from several states for failure to enforce the 2016 EG and compliance times of the rule

Municipal Solid Waste Landfills: NSPS and EG (con't)



- **NSPS**

- With the March 13, 2020, court ordered deadline to complete the risk and technology review (RTR), EPA plans to align the NSPS reconsideration with the RTR, with a proposal expected in 2019
- This will provide clarity for regulated entities, pose less burden and add additional regulatory certainty to landfills covered by both regulations
- EPA continues to consider whether additional steps could be appropriate during reconsideration

- **EG**

- Under these guidelines, the Clean Air Act section 111(d) state plans for addressing existing landfills were due May 30, 2017
- At this time, EPA has neither approved nor disapproved the state plans that were timely submitted, nor has EPA promulgated any federal plans

- **For More Information**

- www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-new-source-performance-standards



Questions