



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
RESEARCH TRIANGLE PARK, NC 27711

JUL 22 2016

OFFICE OF
AIR QUALITY PLANNING
AND STANDARDS

MEMORANDUM

SUBJECT: Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard - Round 3

FROM: Stephen D. Page, Director
Office of Air Quality Planning and Standards

A handwritten signature in black ink, appearing to read "Stephen D. Page", written over the printed name in the "FROM:" field.

TO: Regional Air Division Directors, Regions 1 – 10

This memorandum provides information on the schedule and process for the area designations for the 2010 primary sulfur dioxide (SO₂) national ambient air quality standard (NAAQS) that the Environmental Protection Agency must complete by a court-ordered deadline of December 31, 2017 (“Round 3”). Please share this information with the state and tribal air agencies in your Region. This memorandum supplements, where necessary, our prior designations guidance on area designations for the 2010 primary SO₂ NAAQS, which was issued on March 20, 2015.¹ Air agencies should continue to refer to the March 20, 2015, guidance for information on determining area designations and appropriate area boundaries for the SO₂ NAAQS.²

On June 2, 2010, the EPA established a revised primary SO₂ NAAQS at 75 parts per billion (ppb), which is met at a monitoring site when the 3-year average of the 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb (75 FR 35520; June 22, 2010). On August 5, 2013, the EPA published a notice announcing designations of 29 areas in 16 states as nonattainment for the 2010 primary SO₂ standard (“Round 1”), based on certified ambient air quality monitoring data (78 FR 47191). However, at that time, the EPA was not yet prepared to issue designations for the remaining areas of the country. Subsequently, three lawsuits were filed against the EPA in different U.S. District Courts alleging that the agency had failed to perform a nondiscretionary duty under the Clean Air Act (CAA) by not designating all portions of the country by the June 3, 2013, deadline.³ Under a consent

¹ Memorandum from Stephen D. Page to Regional Air Division Directors, Regions 1 – 10, “Updated Guidance for Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard,” March 20, 2015.

² Also see two memorandums from Stephen D. Page to Regional Air Division Directors, Regions 1 – 10, “Policy for Establishing Separate Air Quality Designations for Areas of Indian Country” and “Guidance to Regions for Working with Tribes during the National Ambient Air Quality Standards (NAAQS) Designations Process,” December 20, 2011.

³ On July 27, 2012, the EPA extended the deadline for area designations for the 2010 primary SO₂ standard by 1 year due to having insufficient information to make initial area designations in 2 years. With this extension, the EPA was required to complete initial designations by June 3, 2013 (77 FR 46295; August 3, 2012).

decree entered by the Court on March 2, 2015, in one of those cases, the EPA is required to complete the remaining area designations according to a specific schedule with the following deadlines: July 2, 2016 (“Round 2”); December 31, 2017 (“Round 3”) and December 31, 2020 (“Round 4”). On June 30, 2016, the EPA signed a *Federal Register* notice completing the designations for the Round 2 areas subject to the July 2, 2016, deadline, designating 4 areas nonattainment, 16 areas unclassifiable and 41 areas unclassifiable/attainment (81 FR 45039; July 12, 2016). The schedule for completing the remaining designations overlaps with submission of SO₂ air quality information by states to the EPA under the SO₂ Data Requirements Rule (DRR). This information may be used by the EPA in evaluating areas’ air quality in relation to the 2010 SO₂ primary NAAQS, including designations and redesignations (80 FR 51052; August 21, 2015).⁴

General Approach and Schedule for Round 3 Designations

Pursuant to the court order, the EPA must complete the Round 3 designations no later than December 31, 2017. The areas that must be designated in Round 3 under the court order are any remaining undesignated areas in which, by January 1, 2017, states have not installed and begun operating a new SO₂ monitoring network meeting the EPA’s specifications referenced in EPA’s SO₂ DRR.⁵ For those areas subject to the SO₂ DRR where air agencies have chosen modeling to comply with that rule’s requirements, we are expecting air agencies to provide new modeling analyses to the EPA by January 13, 2017, following the requirements of the SO₂ DRR. The EPA has issued guidance on the use of source modeling for SO₂ designations purposes in the “SO₂ NAAQS Designations Modeling Technical Assistance Document” (SO₂ Modeling TAD). The EPA has also issued guidance on how to appropriately and sufficiently monitor ambient air quality in the “SO₂ NAAQS Designations Monitoring Technical Assistance Document” (SO₂ Monitoring TAD).⁶

In 2011, all states submitted designations recommendations based on air quality information that was then available for their areas. For the areas that will be designated in Round 3, information regarding an appropriate designation may have changed since air agencies submitted their original designations recommendations in 2011. Though CAA section 107(d) does not require states to submit updated recommendations, we are inviting states and tribes to submit updated designation recommendations for the EPA to consider in Round 3 of designations, just as we did for the recent Round 2 designations. States and tribes that wish to update their recommendations should do so no later than January 13, 2017. This is also the deadline for air agencies to submit any new modeling analyses pursuant to the source characterization requirements of the SO₂ DRR. When considering boundaries for updated area

⁴ For the 16 areas designated in Round 2 as unclassifiable, which are all subject to the requirements of the DRR, the states have not yet provided sufficient air quality characterization to fulfill those DRR requirements. States that choose to characterize these areas through air quality modeling are required to submit the modeling information to the EPA by January 13, 2017. States that choose to characterize these areas using newly-established monitors are required to begin operating those monitors no later than January 1, 2017, and to report the results of 3 years of monitoring to the EPA in 2020. The EPA may use this additional information, along with any other relevant information, to inform possible separate future actions for these source areas, including redesignation following the procedures in CAA section 107(d)(3).

⁵ By January 15, 2016, each air agency was required to submit to the relevant EPA Regional Administrator a final list identifying the sources in the state around which SO₂ air quality is to be characterized. The final national list, which consists of 379 sources, is available on the EPA’s website at: <https://www.epa.gov/so2-pollution/so2-data-requirement-rule-source-list>. By July 1, 2016, each air agency was required to identify whether it will use ambient monitoring or air quality modeling to characterize the air quality for each source area on the list.

⁶ The SO₂ Modeling TAD and the SO₂ Monitoring TAD are available on the EPA’s website at <https://www.epa.gov/so2-pollution/technical-assistance-documents-implementing-2010-sulfur-dioxide-standard>.

designation recommendations and area specific analyses, the EPA recommends that air agencies consider the factors discussed in Attachment 2 of the March 20, 2015, memorandum titled, “Updated Guidance for Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standards” and in the SO₂ Modeling TAD. States and tribes that choose to submit updated recommendations should identify the area boundaries and whether they recommend areas be designated as attainment,⁷ nonattainment, or unclassifiable on the basis of currently available information. States or tribes intending to submit exceptional events demonstrations for event-influenced SO₂ monitoring data from 2015 or 2016 should do so by July 14, 2017.

If the EPA intends to modify a state’s or tribe’s designation recommendation (original or updated), we will notify the state or tribe no later than 120 days prior to promulgating the final designations (e.g., no later than August 14, 2017, for designations due to be promulgated by the EPA’s anticipated December 14, 2017, signature date). States and tribes will then have an opportunity to comment on the EPA’s intended modifications and provide additional information for the EPA to consider with respect to a designation recommendation that the EPA intends to modify. The EPA does not expect to be able to consider any such information that is submitted after October 13, 2017. Submitting information in advance of this date will help ensure that the EPA can fully consider any such information prior to issuing final designations. Also, although not required by statute, in order to consider public input in the designation process, we currently plan to provide a 30-day public comment period immediately following issuance of the EPA’s 120-day letters responding to the recommendations made by states. The attachment to this memorandum shows the anticipated schedule for the third round of designations that must be completed by December 31, 2017, under the court order.

While the language in CAA section 107 specifically addresses states, we intend to follow the same process for tribes, pursuant to section 301(d) of the CAA and the Tribal Authority Rule (40 CFR part 49). Therefore, we intend to designate tribal areas, in consultation with the tribes, on the same schedule as state designations. If a state or tribe does not submit updated designation recommendations, the EPA will promulgate the designations that it deems appropriate after considering the originally submitted recommendation and appropriate updated information, if any, available to the EPA.

Staff members at the EPA’s Office of Air Quality Planning and Standards are available for assistance and consultation throughout the designations process. General questions on the designations process may be directed to Rhea Jones at (919) 541-2940. Modeling-related questions may be directed to James Thurman at (919) 541-2703. Monitoring-related questions may be directed to Neilson Watkins at (919) 541-5522.

Attachment

⁷ While states have and may continue to submit designations recommendations identifying areas as “attainment,” the EPA expects to continue its traditional approach of using a designation category of “unclassifiable/attainment” for areas that the EPA determines meet the NAAQS. The EPA expects to reserve the category “unclassifiable” for areas where the EPA cannot determine based on available information whether the area is meeting or not meeting the NAAQS and whether the area is contributing to a violation in a nearby area.

ATTACHMENT

TIMELINE FOR 2010 PRIMARY SO ₂ NAAQS DESIGNATION PROCESS – ROUND 3 – AREAS ASSOCIATED WITH DECEMBER 31, 2017, COURT-ORDERED DEADLINE*	
Milestone	Date**
States and tribes may submit updated recommendations and supporting information for area designations to the EPA	No later than January 13, 2017
States and tribes submit modeling analyses pursuant to SO ₂ Data Requirements Rule	No later than January 13, 2017
States and tribes certify 2016 SO ₂ monitoring data	No later than May 1, 2017
States submit exceptional events demonstrations for event-influenced SO ₂ monitoring data from 2015-2016	No later than July 14 , 2017
The EPA notifies states and tribes concerning any intended modifications to their recommendations (120-day letters)	o/a August 14, 2017 (no later than 120 days prior to final designations)
The EPA publishes public notice of state and tribal recommendations and the EPA's intended modifications and initiates 30-day public comment period	o/a August 23, 2017
End of 30-day public comment period	o/a September 22, 2017
States and tribes submit additional information, if desired, to demonstrate why an EPA modification is inappropriate	No later than October 13, 2017
The EPA signs notice promulgating final SO ₂ area designations for Round 3	o/a December 14, 2017 (Can be no later than December 31, 2017)

* Designations for Round 4 must be promulgated by December 31, 2020.

** o/a = on or about