

DESIGNATIONS AND PERMITTING REQUIREMENTS FOR THE 2015 OZONE STANDARDS

On Oct. 1, 2015, the U.S. Environmental Protection Agency (EPA) strengthened the nation's air quality standards for ground-level ozone to improve public health and environmental protection. EPA will work closely with state, local and tribal air agencies to implement the ozone standards, beginning immediately. The agency's projections show the vast majority of U.S. counties will meet the proposed standards by 2025 just with the rules and programs now in place or underway.

Highlights

- EPA will designate attainment and nonattainment areas in late 2017.
- The agency will work closely with state, local and tribal air agencies to develop clean air plans for meeting ozone standards.
- The final rule includes a grandfathering provision to ensure that compliance with the updated ozone standards will not delay final processing of certain pending preconstruction permit applications.

Designating Attainment and Nonattainment Areas

- As part of the final rule, EPA has outlined initial steps the agency will take to help states implement the revised standards, including the anticipated area designations schedule.
- Once EPA sets a new air quality standard, or revises an existing standard, the Clean Air Act requires EPA to designate areas as meeting the standards (*attainment areas*) or not meeting them (*nonattainment areas*) based on local air quality. The agency also may designate an area as *unclassifiable*, meaning there is not enough information to make a determination. Governors make initial designation recommendations, and EPA works closely with states and tribes as it determines initial designations and boundaries for nonattainment areas.
- All states with nonattainment areas must develop emission inventories and implement a preconstruction permitting program designed to provide additional air quality safeguards for those areas. States with nonattainment areas classified as "Moderate" or higher must develop state implementation plans (SIPs) showing how the areas will meet the standards. These states also must adopt reasonably available control technology (RACT) standards for certain types of emission sources in the nonattainment area.

- Tribes may, but are not required to, develop their own plans for nonattainment areas in Indian country. Where necessary or appropriate to protect air quality, EPA will develop plans for any tribal area that chooses not to develop its own plan.
- EPA anticipates the following schedule for making area designations:
 - By October 1 2016: States (and any tribes that choose to do so) recommend the designation for all areas of the state, or any relevant areas in Indian country, and the associated boundaries for those areas. To assist states and tribes in preparing their recommendations, EPA intends to update its existing designations guidance in early 2016.
 - By June 1, 2017: EPA responds to states' and tribes' initial recommendations and identifies where the agency intends to modify the recommendations. States and tribes will have the opportunity to comment on EPA's response, and to provide new information and analyses for EPA to consider.
 - By October 1, 2017: EPA issues final area designations; those designations likely would be based on 2014-2016 air quality data.
 - 2020 to 2021: For nonattainment areas classified as "Moderate" and above, states, and any tribes that choose to do so, complete development of implementation plans, outlining how they will reduce pollution to meet the standards. State and tribal plans can include federal measures, and any local or statewide measures needed to demonstrate that a nonattainment area will meet the standards by its attainment date.
 - 2020 to 2037: Nonattainment areas are required to meet the primary (health) standard, with deadlines depending on the severity of an area's ozone problem.
- Clean Air Act rules will help areas meet the proposed standards by cutting emissions of ozone-forming nitrogen oxides (NOx) and volatile organic compounds (VOCs). These include rules that will reduce emissions from the nation's biggest sources of man-made NOx and VOC emissions, such as vehicles, engines and fuels, power plants, industrial processes, stationary engines and products such as solvents and paints.
- In addition, voluntary programs such as the Advance Program and ENERGY STAR help reduce emissions by encouraging states, counties, cities and tribes to take actions to maintain clean air in their communities and by reducing energy demand. Thirty-five areas in 18 states are participating in the Advance Program, implementing programs to protect air quality, such as minimizing congestion, improving public transit, reducing idling, increasing energy efficiency in buildings, and raising awareness about air quality.

- Actions taken in the coming months that improve air quality will help reduce ozone in 2016 – one of the three years that will be considered in determining attainment areas.
- Many existing regulations and guidance documents will apply to the revised standards. EPA intends to propose additional rules and develop additional guidance to assist states with implementing the revised standards within the next year. These rules will address classification and implementation issues such as:
 - Air quality thresholds for nonattainment area classifications, which determine maximum attainment dates and other required emission control programs;
 - State implementation plan (SIP) and attainment demonstration due dates;
 - Developing nonattainment area emissions inventories and attainment demonstrations
- EPA anticipates finalizing any proposed new rules and issuing any additional guidance by the time the agency makes final area designations.

Transition Mechanism for PSD Permitting Requirements

Under EPA's Prevention of Significant Deterioration (PSD) program, new or expanding sources of air pollution, such as factories, industrial boilers or power plants must obtain preconstruction permits to ensure they use modern pollution controls and do not significantly worsen air quality in areas with clean air.

- As part of the final rule, EPA is issuing a grandfathering provision for certain preconstruction permitting requirements to ensure that compliance with the revised ozone standards will not delay final processing of certain pending permit applications. This provision, similar to the provision finalized in EPA's 2012 particulate pollution standards, would apply to certain eligible applications for PSD permits that have achieved particular milestones by the time of signature or by the effective date of the rule, depending on the milestone.
- To receive a PSD permit, a source must meet several requirements, including demonstrating that emissions from a proposed project do not cause or contribute to a violation of any national ambient air quality standard. This requirement generally applies to the air quality standards -- including any revised standards -- that are in effect at the time the permit is issued.
- The grandfathering provision will apply to PSD permit applications if either:
 - The permitting agency has formally determined the application to be complete as of Oct. 1, 2015; or

- The public notice for a draft permit or preliminary determination has been published prior to the date revised ozone standards become effective (60 days after publication in the Federal Register).
- Permit applications that have not met either of these criteria would have to demonstrate that the proposed project does not cause or contribute to a violation of any revised ozone standards that are in effect when the permit is issued, including the revised standards.
- The final grandfathering provision will become part of EPA's PSD permit program but states and local agencies with EPA-approved PSD permit programs may also choose to use the provision.
- The grandfathering provision applies only to the requirement to demonstrate that a proposed project does not cause or contribute to a violation of the updated ozone standards. Proposed projects will continue to be subject to all other PSD requirements, including Best Available Control Technology (BACT) and must demonstrate compliance with the applicable previous ozone standards.
- The grandfathering provision does not apply to nonattainment New Source Review permit applications, which are subject to different requirements.

FOR MORE INFORMATION

- To read the proposed rule and other fact sheets: <http://www3.epa.gov/ozonepollution/actions.html>
- Information on the Advance Program <http://www3.epa.gov/ozoneadvance/index.html>
- About Energy Star: <http://www.energystar.gov>