

US EPA ARCHIVE DOCUMENT

This paper reflects preliminary agency thoughts and ideas and the options presented have not been thoroughly analyzed for legal and programmatic issues.

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Tribal Issues

Topic: EPA is working with tribal governments to identify issues that could occur when Indian country is located within nonattainment areas.

Background

Some tribes have expressed concerns that nonattainment designations for the 1-hr standard were made without specific attention to Indian country. Many Indian reservations are located in areas likely to be designated nonattainment for the 8-hour standard.

There is little actual air quality data collected on some of these reservations showing a violation of the standard. Tribal governments are in the early stages of developing air quality programs. As in other rural areas where there is an ozone problem, it is usually the result of transport from an urban area. There are few significant sources on Indian reservations contributing to ozone problems on the reservations or downwind. It should also be noted that state Clean Air Act programs generally do not apply within Indian country. Where sources in Indian country are contributing to a nonattainment problem, then the problem will generally be addressed through a Tribal or Federal implementation plan.

Tribal Concerns

Tribal governments have raised a number of questions about both the process of describing nonattainment area boundaries as well as the economic impacts of a nonattainment designation. Many tribes are only now beginning to overcome barriers to economic development and pursue their own economic plans, which in some cases include industrial development. Given that the urban area in many cases has been transporting air pollution to the reservation, and considering the inequitable economic development of the past, a nonattainment designation has the potential to have a significant impact on tribes. For example, a new major stationary source locating in a nonattainment area is required to obtain offsets from within the nonattainment area under the new source review requirements. For a number of reasons, securing these offsets can be more difficult for a source in Indian country than for one under a state program. EPA believes this issue needs to be explored.

Next Steps

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EPA plans to discuss Indian country issues in future designations with tribes, and is working with tribes to explore options for doing so on a national work group. In this national work group, EPA is also discussing options for Indian country areas which may be designated nonattainment as a result of a surrounding or adjacent nonattainment area, although these options have not been fully developed.

Issues for discussion/input from the public

EPA is interested in seeking input on potential approaches to addressing tribal concerns. Some options are:

- Providing incentives to states and industry to create additional reductions forming a pool of offsets “earmarked” for tribal development pool of credits to address concerns about inequitable economic development.
- Delaying nonattainment designations until a framework is established to provide for addressing the tribal concerns about inequity.