

EPA Announces One-Year Delay of SO₂ NAAQS Designations

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On July 27, 2012, EPA announced it will delay issuance of the area designations for the 2010 primary sulfur dioxide (SO₂) national ambient air quality standard ("NAAQS") by up to one year, citing insufficient information to make the designations by the previous deadline of June 2012. The SO₂ NAAQS was revised by EPA on June 3, 2010 to a 1-hour standard of 75 ppb. Under the Clean Air Act, the EPA is required to designate areas as attainment, nonattainment, or unclassifiable within 2 years after promulgating a revised NAAQS. The EPA may take an additional year to promulgate the designations if it has insufficient information to do so within two years.

In a March 2011 guidance document on area designations for the final SO₂ NAAQS, the EPA discussed a hybrid approach that would require both monitoring data and refined SO₂ dispersion modeling in setting area designations. Under the hybrid monitoring/modeling approach, areas would be designated as attainment if they have no monitored violations and modeling or other appropriate information demonstrates no violations. Areas would be designated as nonattainment if monitoring data, an appropriate modeling analysis, or other information indicates a violation. Unclassifiable areas would be those that have no monitored violations, but no modeling analysis or other sufficient information to support an attainment designation. EPA expressed its belief that given the limited network of SO₂ monitors and its expectation that the states had not yet finished modeling all significant SO₂ sources, most of the country would be designated as unclassifiable. (The states were required to submit designation recommendations by June 3, 2011.)

EPA subsequently received several comments from industry and state regulators questioning the appropriateness of the hybrid approach. In 2012, EPA held meetings with stakeholders regarding implementation of the revised SO₂ NAAQS. Some stakeholders recommended that EPA take additional time to promulgate the designation, and some requested that EPA revise its March 2011 guidance on SO₂ modeling. EPA stated that these comments revealed uncertainties about the approach that should be used for setting area designations. Meanwhile, environmental organizations issued a notice of intent to sue to EPA for missing the June 3, 2012 deadline. EPA therefore concluded it has insufficient information to meet the two-year deadline and is entitled to an additional year under the Clean Air Act to finalize the designations.

The new deadline for EPA to promulgate area designations is June 3, 2013, but EPA indicated it is aiming to promulgate final designations for some areas, such as those with monitored violations of the SO₂ NAAQS, by the end of this year.

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