Update on EPA Air Programs

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2021 SIPRAC Meeting
April 8, 2021

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Topics for Today's Discussion

1. Region 1 ARD priorities
2. Ozone issues
3. Key EPA national rules
4. Air Toxics
5. New Source Review
6. Energy & Climate
7. Questions

R1 Air & Radiation Division Investment Areas

- **Workforce Development**
- **Implement Core Programs**
- **Investment Areas:**
  - Climate & Energy
  - Mobile Sources
  - Air Toxics/Community Assistance

Order	Topic
13985	Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
13990	Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis
13992	Revocation of Certain Executive Orders Concerning Federal Regulation
14007	President's Council of Advisors on Science and Technology
14008	Tackling the Climate Crisis at Home and Abroad
14013	Executive Order on Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration

Relevant Executive Orders

Date	Action
Jan. 20	Regulatory Freeze Pending Review
Jan. 20	Modernizing Regulatory Review
Jan. 20	Paris Climate Agreement
Jan. 20	Agency Actions for Review
Jan. 27	Memorandum on Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking
Feb. 11	Biden-Harris Administration Launches American Innovation Effort to Create Jobs and Tackle the Climate Crisis

Relevant Presidential Actions

OZONE NONATTAINMENT

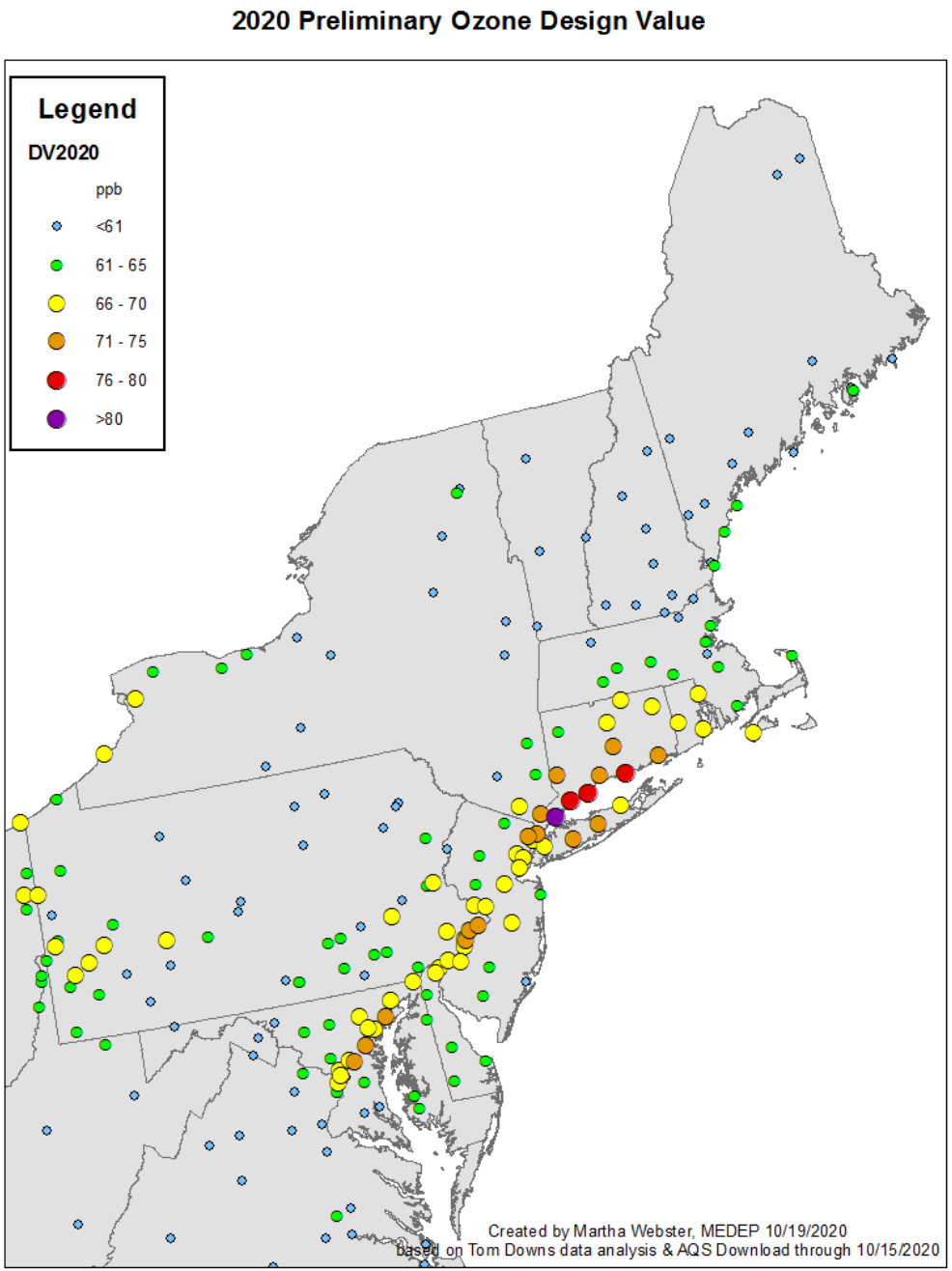
Complexity of SIP Planning for two Ozone Standards

Area Class		Percent above 1-hr ozone NAAQS	8-Hour ozone design values (ppm)		Attainmnet date (years after designation)	New York Area Attainment Dates	
			2008 NAAQS (0.075 ppm)	2015 NAAQS (0.070 ppm)		2008 NAAQS (0.075 ppm)	2015 NAAQS (0.070 ppm)
Marginal	From up to*	0.833 15	0.076 0.086	0.071 0.081	3	July 20, 2015	NA
Moderate	From up to*	15 33.333	0.086 0.100	0.081 0.093	6	July 20, 2018	August 3, 2024
Serious	From up to*	33.333 50	0.100 0.113	0.093 0.105	9	July 20, 2021	August 3, 2027
Severe-15	From up to*	50 58.333	0.113 0.119	0.105 0.111	15	July 20, 2027	August 3, 2033
Severe-17	From up to*	58.333 133.333	0.119 0.175	0.111 0.163	17	July 20, 2029	August 3, 2035
Extreme	From up to*	133.333	0.175	0.163	20	July 20, 2032	August 3, 2038

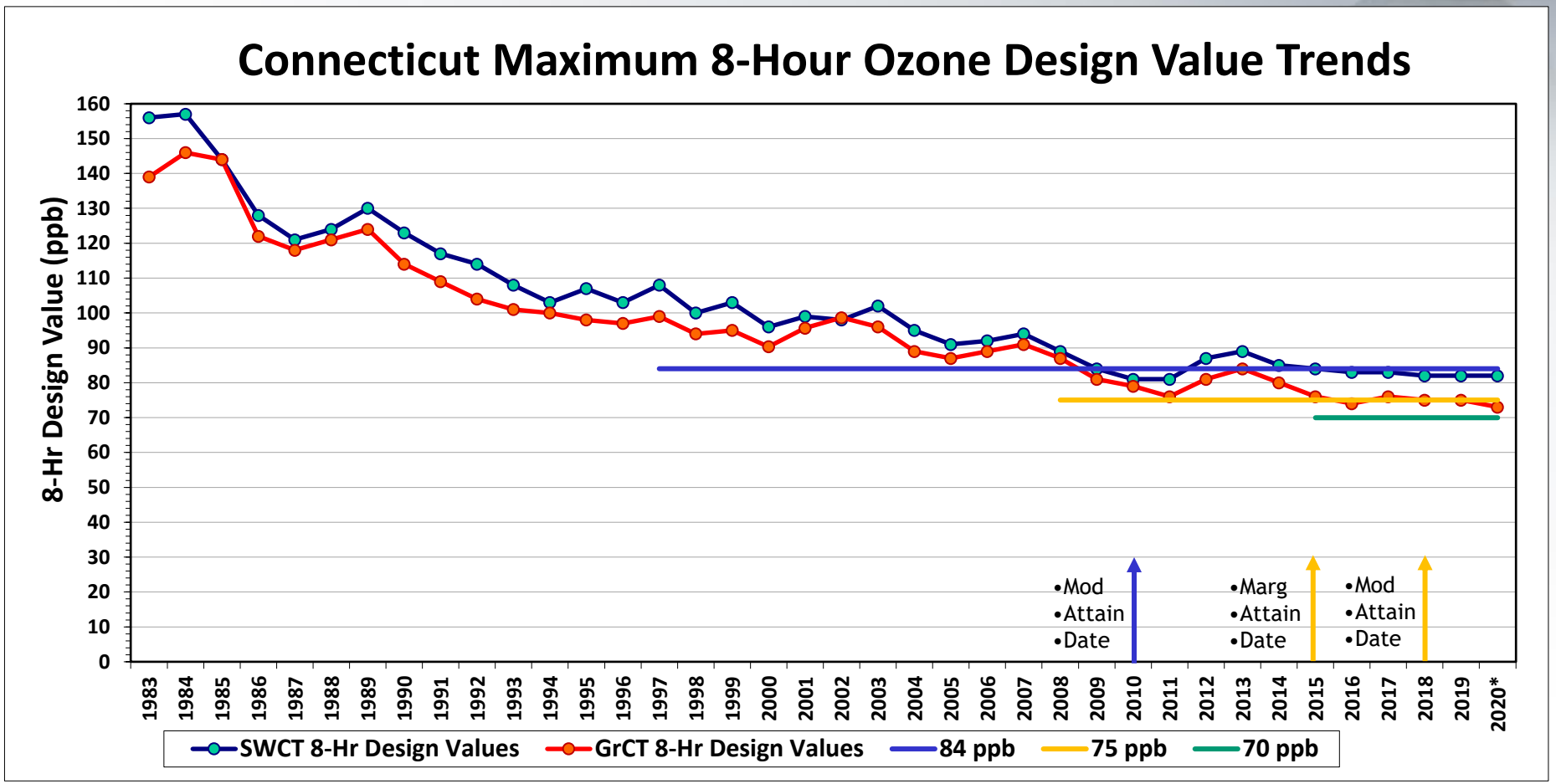
*but not including

Preliminary 2018 - 2020 Ozone Design Values

The ozone design value is based on the 3-year average of the 4th highest daily maximum 8-hour average. This value is used to determine if the area is meeting the National Ambient Air Quality Standard (NAAQS).

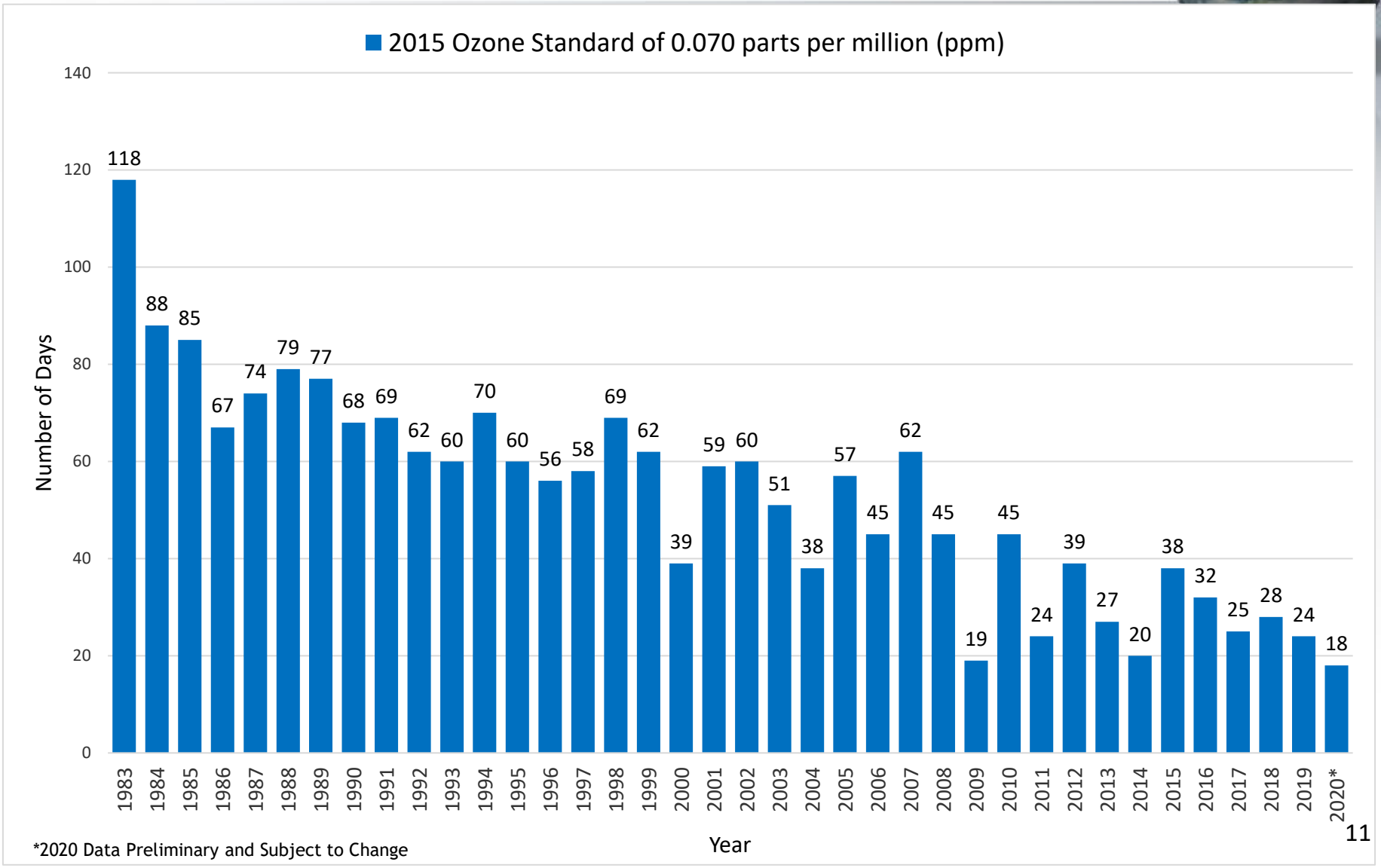


TRENDS IN OZONE DATA



* 2020 Data Preliminary and Subject to Change

8-Hour Ozone Exceedance Days in New England for 2015 NAAQS (70 ppb)



*2020 Data Preliminary and Subject to Change

2020 Ozone Season*

State	Number Of 2015 8-hr (0.070 ppm) Exceedance Days	Number Of 2008 8-hr (0.075 ppm) Exceedance Days	Number of 1997 8-hr (0.08 ppm) Exceedance Days	Number of 1-hr (0.125 ppm) Exceedance Days
Connecticut	17	9	3	0
Maine	1	0	0	0
Massachusetts	3	1	0	0
New Hampshire	0	0	0	0
Rhode Island	4	2	1	0
Vermont	0	0	0	0
New England	18	9	3	0

- * Preliminary data through September 30, 2020

OZONE TRANSPORT ISSUES

- 2008 Standard
  - Cross State Air Pollution Rule (CSAPR) Update Remand Rule Update
    - Sept 2019 - D.C. Circuit issued decision in *Wisconsin v. EPA* addressing legal challenges to CSAPR Update
    - Final Rule was signed on March 15, 2021
- 2015 Standard
  - Ozone Transport SIPs: three state groupings:
    - Group 1 states (<.7 ppb contribution to other states)
      - MA and VT approved. CT, ME, NH & RI submitted.
    - Group 2 states (0.7 to 0.99 ppb contribution)
    - Group 3 states (>1 ppb contribution)

2015 STANDARD

- Due August 3, 2020:
  - Emissions inventory and emissions statement certification
  - Nonattainment NSR certification
  - RACT analysis (RACT implementation date = 1/1/2024)
- Due August 3, 2021:
  - Attainment demonstration
  - Reasonable further progress (RFP) plan
  - Reasonably available control measures (RACM)
  - Contingency measures

- Attainment date: August 3, 2024

Northeast Ozone Litigation

EPA Rule	Case	Date Decided	Impact on EPA Rulemaking	EPA Response
CSAPR Update	Wisconsin v EPA	Sept. 13, 2019	Remanded w/o vacatur	Revised CSAPR Update Final Rule Signed March 15, 2021
CSAPR Closeout	New York v EPA	Oct. 1, 2019	Vacated & remanded	
CSAPR Update (Mandamus)	New Jersey v EPA	July 28, 2020	EPA to issue CSAPR Update Remand Final Rulemaking by March 15, 2021	
MD & DE §126 Petitions Denied	Maryland v EPA	May 19, 2020	Partial remand: EPA to reevaluate four named sources EGUs w/SNCRs	[To be determined]
NY §126 Petition Denied	New York v EPA	July 14, 2020	Vacated; remanded: EPA to reevaluate all 350 EGU and non-EGUs named sources in 9 states	
PA RACT SIP Approval	Sierra Club v EPA	Aug. 27, 2020	Vacated; remanded: EPA to reevaluate NOx emission rate limit, SCR use, and recordkeeping for PA coal-fired EGUs w/SCRs	
Failure to Act on Transport SIPs	State Of New York et al v. Wheeler et al	Jan 12, 2021	EPA has not made the required determinations approving or disapproving these Good Neighbor SIPs	

CAA §184(c) Recommendation Timeline

June 8, 2020	Ozone Transport Commission (OTC) submitted a recommendation under Section 184(c) of the Clean Air Act (CAA) to require daily nitrogen oxides (NOx) emission limits for Pennsylvania coal-fired electric generating units (EGUs) with existing SCR and SNCR NOx controls.
July 7, 2020	EPA published a notice (85 FR 41972) acknowledging receipt of the Recommendation and describing the 184(c) process.
January 15, 2021	EPA published a notice (86 FR 4049) with an analysis of the recommendation and opening the public comment period.
Feb 2, 2021	The public hearing was held virtually.
April 7, 2021	Comment period closes (extended an additional 30 days by request).
Next steps	EPA will consult with the OTC states.
	EPA will propose to approve or deny the OTC Recommendation and solicit public comment.
	EPA will issue a final rule.

https://www.epa.gov/interstate-air-pollution-transport/ozone-transport-commission-otc-clean-air-act-section-184c

STATUS OF OTHER EPA KEY NATIONAL RULES

Vehicle Rules

SAFE Vehicle Rule

- Current administration revisiting the GHG targets for MY 2021-2026 light-duty vehicles.
- Anticipate clear indication by summer 2021 whether EPA will maintain current GHG targets of 1.5%/yr through MY2026 or set different targets.
- EPA also revisiting the decision to withdraw California's waiver of preemption under Section 209 of the Clean Air Act.

Cleaner Trucks Initiative NPRM

- ANPRM signed on Jan 6, 2020. Comment period is closed and EPA compiling input.
- OTAQ continues technical work to support the draft proposal.
- No updates in terms of timing at this point.
- High priority for the Administration.

Affordable Clean Energy (ACE) Rule

- 111(d) Process
  - EPA identifies Best System of Emission Reduction (BSER)
  - States submit state plans that establish standards of performance for designated facilities
  - Affected sources comply with standards of performance
- ACE vacated and remanded – January 19, 2021
  - Clean Power Plan (CPP) is not in place as state plan submission dates have passed, emissions goals already achieved
  - Therefore, no obligation for states to submit state plans under the CPP
  - D.C. Circuit, February 22, 2021 – ordered partial stay of issuance of mandate on CPP repeal vacatur until EPA responds with new rulemaking

AIR TOXICS PROGRAM UPDATES

2020 MM2A Final Rule

Summary

Final Rule: Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act (Major MACT to Area-MM2A Rule)

- Published in *Federal Register o*n November 19, 2020 *(*85 FR 73854) and became effective on January 19, 2021

- Allows major sources of hazardous air pollutants (HAP) to reclassify to area source status *at any time* by limiting its emissions and potential to emit (PTE) HAP to below the major source thresholds (10 tpy of a single HAP and 25 tpy of any combination of HAP)

- EPA received two petitions for reconsideration of the final rule and two petitions for judicial review. Petitioners include 10 environmental groups, 13 states, and 2 cities

2020 MM2A Final Rule

Regulatory Amendments

Finalized amendments to existing NESHAP General Provisions (40 CFR 63 subpart A)

- Applicability
  - New provision allowing sources to reclassify at any time
- Timing for Compliance with Applicable Standards
  - Immediate compliance with applicable standards when a source reclassifies
- Notification Requirements
  - Electronic notification of initial notification and notification of change in status
- Recordkeeping Requirements
  - Removes 5-year record retention limit for applicability determination for sources that obtain new PTE limits
- Interaction with Enforcement Actions
  - Reclassification does not absolve a source subject to an enforcement action or investigation for violations or infractions that occurred before the source reclassified

2020 MM2A Final Rule

Regulatory Amendments

- Finalized amendments to individual NESHAP Subparts: Account for final amendments to General Provisions
  - Removed date limitations for reclassification
  - Updated dates for initial notification requirements that are in the past
  - Amended General Provisions Tables
- Deferred issue of enforceability of PTE HAP limits and effectiveness criteria but included a ministerial revision of the PTE definition (40 CFR 63.2) in the interim
- **For more information:** https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean (**Or search: EPA MM2A**)

Residual Risk and Technology (RTR) Review

- Clean Air Act (CAA) requires EPA to conduct two types of reviews of Maximum Achievable Control Technology (MACT) standards
  - **Residual risk review,** required under Section 112(f)(2), to determine whether the MACT standard protects public health with an "ample margin of safety" required within 8 years after a MACT standard is issued
  - **Technology review,** required under CAA Section 112(d)(6), is required every 8 years and focuses on developments in practices, processes and control technologies that reduce HAP and also evaluates and corrects regulatory gaps
  - In addition to RTR analyses, we evaluate and update other aspects of the rules including: electronic reporting, monitoring, testing, and consistency with legal requirements, such as, removal of startup, shutdown, and malfunction exemptions.

RTR Program Status

- Finalized RTRs for about 98 source categories since 2005
- In 2020, we finalized RTRs for 28 source categories
- Additional RTRs have court-order deadlines: 6 have a deadline of November 1, 2021, one has a deadline of April 1, 2022, and one has a deadline of December 26, 2022
- For more information on the schedule and RTR rules visit: https://www.epa.gov/stationary-sources-air-pollution/risk-and-technology-review-national-emissions-standards-hazardous

Ethylene Oxide Regulatory Update

- **Ethylene Oxide Commercial Sterilizers and Fumigation Operations NESHAP**
  - **Advanced Notice of Proposed Rulemaking**, December 12, 2019, outlined potential control measures available, provided opportunity for public comment and opportunity to provide EPA with data to support rulemaking. (84 FR 67889)
  - **Section 114 Information Collection Request** to several companies requested information to support rulemaking, including facility data, control device information, work practices, and costs of emissions reduction methods.
  - **Proposed Information Collection Request (ICR):** June 12, 2020, proposed to broaden the data collection to all facilities subject to 40 CFR Part 63 Subpart O (85 FR 35932)
  - Proposed Rulemaking will be issued after EPA has completed all of the necessary analyses
- **More information**: https://www.epa.gov/stationary-sources-air-pollution/ethylene-oxide-emissions-standards-sterilization-facilities

Petitions to add 1-bromopropane to the List of HAPs Regulated Under the Clean Air Act

- On June 18, 2020, in the *Federal Register* EPA granted petitions to add 1-bromopropane (1-BP), also known as n-propyl bromide (nPB), to the Clean Air Act list of air toxics. (85 FR 36851)
- 1-BP is primarily used in metal parts cleaning and to clean electronics. It can also be used as an intermediate chemical in the manufacture of pharmaceuticals and agricultural products, as well as in spray adhesives and dry cleaning.
- The June 18, 2020 final notice does not have any direct impacts. **No regulatory requirements will come into effect until EPA adds 1-BP to the CAA list of air toxics.**
- In a subsequent action, EPA will add 1-BP to the CAA list of air toxics. Once 1-BP is added, some rules will immediately include 1-BP emission limits, while EPA will need to revise others to fully address 1-BP.

PFAS Update

Engagement with State Partners

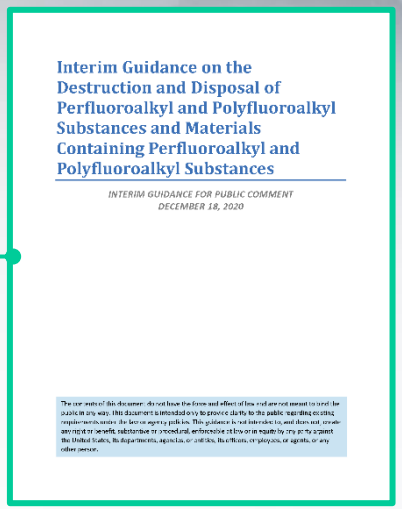
- New England's environmental commissioners and many US Representatives sent letters to the Administrator asking for action on PFAS.

Other Test Method 45 (OTM-45)

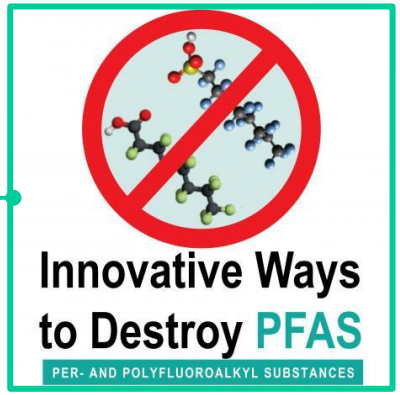
- Released on 1/13/2021.
- Method for PFAS Sampling and Analysis from Stationary Emission Sources
- Visit: https://www.epa.gov/emc/emc-other-test-methods

EPA Research on PFAS Treatment and Destruction

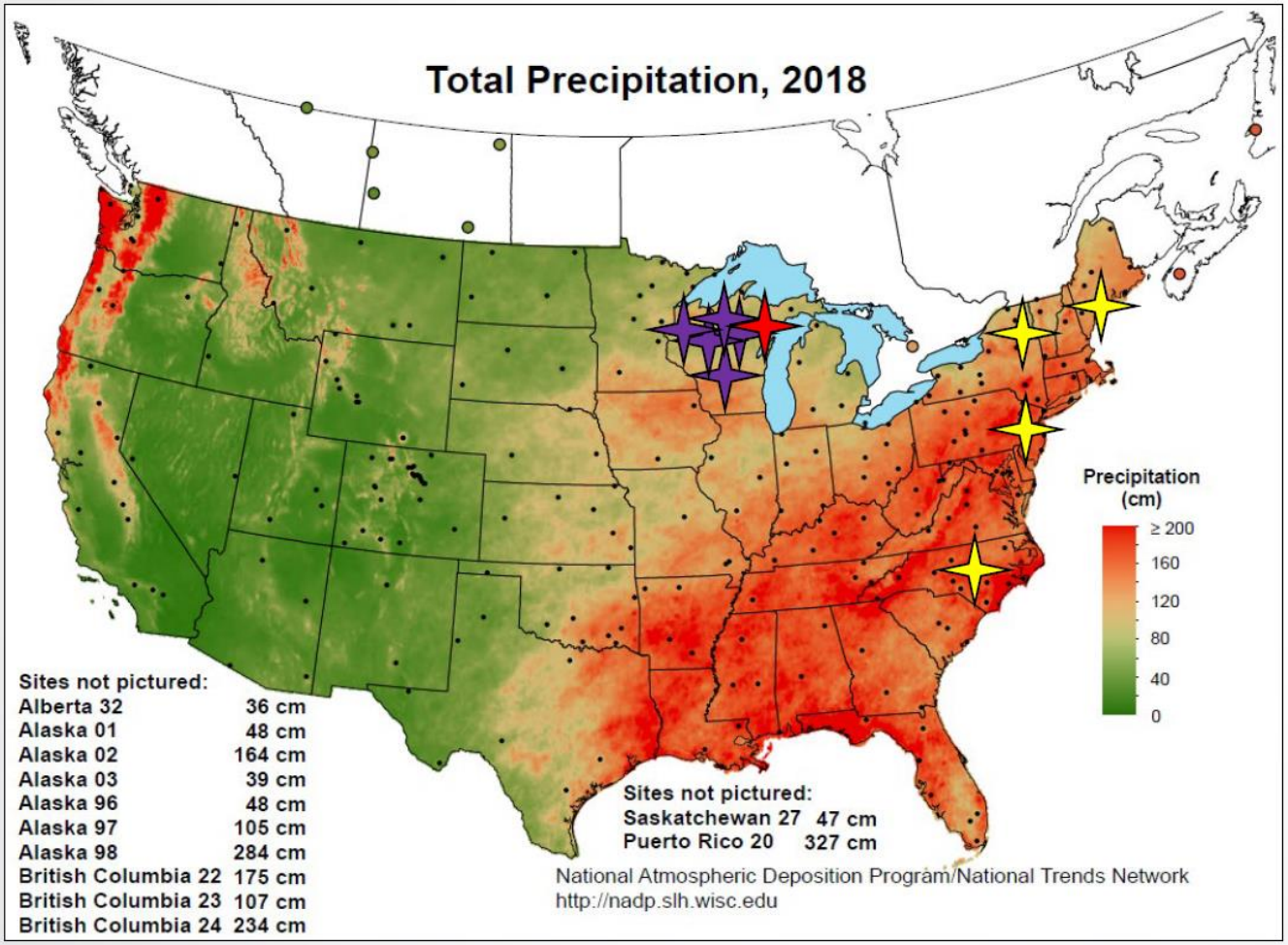
- Released *Interim Guidance on the Destruction and Disposal of PFAS and Materials Containing PFAS* for public comment on 12/18/2020
- EPA's PFAS Innovative Treatment Team (PITT) evaluating novel technologies for destroying PFAS
  - Over 200 submissions received
  - EPA will promote next stage development for challenge winners


Interim Guidance on the Destruction and Disposal of Perfluoroalkyl and Polyfluoroalkyl Substances and Materials Containing Perfluoroalkyl and Polyfluoroalkyl Substances

INTERIM GUIDANCE FOR PUBLIC COMMENT
DECEMBER 18, 2020



PFAS Update, continued



EPA is collecting wet deposition field measurements at four sites in the northeast, including a site in coastal Maine.

PERMITTING POLICIES & RULE CHANGES

- Final NSR Error Corrections Rule (1/5/21)
- Final Project Emissions Accounting Rulemaking (10/22/20)
- Draft “Begin Actual Construction” Interpretation (3/25/20)
- Hazelhurst Title V Petition Order and the General Duty Clause (12/31/20)

Permitting Policies & Rule Changes

- Final NSR Error Corrections Rule (1/5/21)
  - EPA finalized a rule to correct minor errors that have accumulated over time in four NSR regulations.
  - While these minor errors have not materially impeded the effective operation of the NSR program, EPA believes that it is important to remove such errors from the regulations in order to provide regulatory certainty and clarity.
  - The corrections are all considered to be non-substantive and are intended to provide clarity and precision to the NSR regulations without altering any NSR policy or changing the NSR program as a whole. Revisions associated with this rulemaking included:
    - removing outdated cross references;
    - typographical errors; and
    - various provisions, such as certain "grandfathering" provisions, that, with the passage of time, no longer serve any practical function or purpose.

- Final Project Emissions Accounting Rule (10/22/20)
  - EPA finalized a rule to clarify the process for evaluating whether the New Source Review (NSR) permitting program would apply to proposed projects at existing air pollution sources.
  - This rule makes it clear that both emissions increases and decreases from a major modification at an existing source can be considered during Step 1 of the two-step NSR applicability test.
    - This process is known as project emissions accounting (previously referred to as project netting).
    - Both emissions increases and decreases from a major modification are to be considered during Step 1 of the two-step NSR applicability test
  - EPA has received requests for judicial review and administrative reconsideration on this rulemaking

Permitting Policies & Rule Changes

- **Draft** "Begin Actual Construction" Interpretation (3/25/20)
  - Draft guidance proposes that source owner or operator may, prior to obtaining an NSR permit, undertake physical on-site activities – including activities that may be costly, that may significantly alter the site, and/or are permanent in nature – provided that those activities do not constitute physical construction on an emissions unit
    - *Begin actual construction: initiation* ***of physical on-site construction activities on an emissions unit which are of a permanent nature****. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures.*
  - **This guidance remains to be finalized**

- Hazelhurst Title V Petition Order and the General Duty Clause (12/31/2020)
  - On December 31, 2020, the EPA finalized a Title V petition order regarding the Hazlehurst Wood Pellet facility in Georgia.
  - In the order, the EPA determined that the General Duty Clause (GDC) under section 112(r)(1) is not an applicable requirement for the purposes of Title V permitting.
  - Furthermore, states do not have delegation of the GDC and the GDC is only enforceable by the EPA.
  - As a result, the EPA recommends removing the GDC provision from the proposed permit. The order only applies to the GDC, and other activities under 112(r) may be considered applicable requirements. Please refer to the order at the following link for a detailed analysis. https://www.epa.gov/sites/production/files/2021-01/documents/hazlehurstorder2020.pdf

ENERGY

ENERGY STAR IN NEW ENGLAND

- **New England Energy Management Best Practice Network**

Regional network of industrial end-users, utilities, and strategic energy managers brought together with the common goal of saving energy. Next Webinar on Utility Offerings in New England (May 4 from 2:00 to 3:00 PM ET): **REGISTER HERE**

- **New England's Treasure Hunt Campaign**

Webinars on how to conduct a treasure hunts to find energy efficiency opportunities in commercial buildings and industrial facilities. Next Webinar on Energy Treasure Hunt for Microbreweries w/ EPA's Pollution Prevention Program (April 27 from 1:00 to 2:00 PM ET): **REGISTER HERE**

- **ENERGY STAR Portfolio Manager (PM) tool**

EPA offers trainings on PM to help you to determine your building's energy performance.

CT 2020 ENERGY STAR PARTNERS

- **Energize Connecticut** in partnership with Eversource Energy and AVANGRID of Orange, Conn., an initiative that provides utility services, which was recognized for evolving its energy efficiency programs to increase consumer awareness and drive sales of ENERGY STAR equipment.

- **XeroxCorp** of Norwalk, Conn., a work solutions company specializing in print technology, imaging and data analytics, which was recognized for exemplary promotion of ENERGY STAR certified products through extensive training and marketing efforts reaching more than 90,760 employees and customers.

- ***2021 ENERGY STAR Partners will be announced soon!***

OFFSHORE WIND PERMITTING

OCS Air Permits & Applicable Requirements

- Air emissions from OCS sources are regulated under section 328 of the Clean Air Act and implementing regulations at 40 CFR part 55.
- Part 55 provides procedures to make federal regulations, and state and local regulations from the Corresponding Onshore Area (COA) applicable to an OCS source. To date, Massachusetts is the COA for Region 1 projects.
- EPA is required to promulgate a *consistency update* to part 55 which incorporates applicable COA regulations into federal law.
- Under CAA § 328(a)(4)(C) and 40 C.F.R. § 55.2, an OCS source includes any equipment, activity, or facility which:

  (1) Emits or has the potential to emit any air pollutant;

  (2) Is regulated or authorized under the OCSLA (43 U.S.C. § 1331 et seq.); and

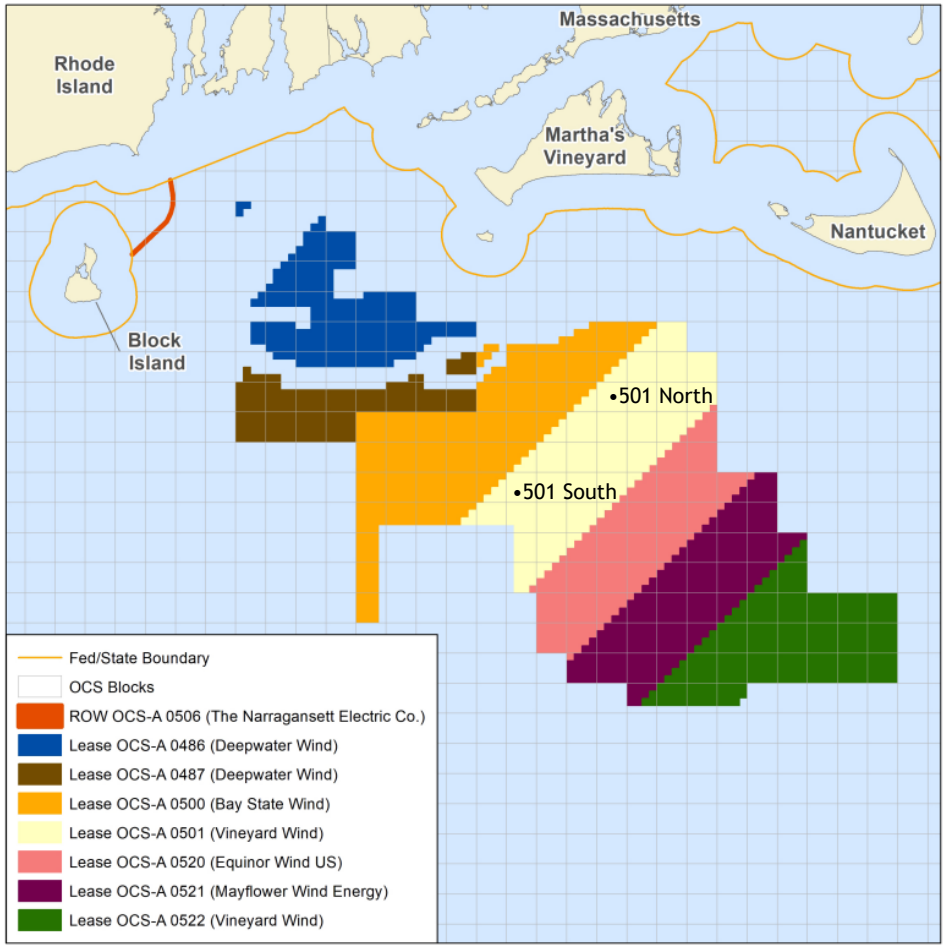
  (3) Is located on the OCS or in or on waters above the OCS.

- Furthermore, 40 C.F.R. § 55.2 establishes that the OCS source definition shall include vessels that are:

  (1) Permanently or temporarily attached to the seabed and erected thereon and used for the purpose of exploring, developing or producing resources therefrom, within the meaning of section 4(a)(1) of OCSLA (43 U.S.C. §1331 et seq.); or

  (2) Physically attached to an OCS facility, in which case only the stationary sources [sic] aspects of the vessels will be regulated.

Wind Energy Development in the North Atlantic OCS



- **Deepwater Wind/Ørsted**
- **South Fork**
  - 130 MW wind farm
  - Agreement with New York
  - Complete application in-house
- **Revolution Wind**
  - 800 MW wind farm
  - Agreements with Connecticut and Rhode Island
  - NOI submitted
- **Bay State Wind**
  - 800 MW wind farm (proposed)
- **Vineyard Wind**
- **Vineyard Wind (501 North)**
  - 800 MW wind farm
  - Agreement with Massachusetts
  - Poised to finalize permit in April 2021
- **Park City Wind (501 South)**
  - 800 MW wind farm
  - Agreement with Connecticut
  - NOI submitted
- **Mayflower Wind Energy**
  - Proposed 800 MW
  - Agreement with Massachusetts
- **Equinor Wind**

WRAP UP/QUESTIONS?

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