



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
RESEARCH TRIANGLE PARK, NC 27711

July 8, 2011

OFFICE OF  
AIR QUALITY PLANNING  
AND STANDARDS

Dear Tribal Leader:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally-recognized Indian tribes on two guidance documents for EPA's Regional Offices regarding the inclusion of tribes in the process of designating areas following the completion of a National Ambient Air Quality Standard (NAAQS).

The Clean Air Act (CAA) requires EPA to establish NAAQS for pollutants that can impact public health and the environment, and come from "numerous" and "diverse sources." We have NAAQS for six pollutants: ozone, particulate matter, sulfur dioxide, lead, nitrogen oxides, and carbon monoxide. After EPA sets these NAAQS, the CAA requires EPA to designate areas as nonattainment, attainment, or unclassifiable related to the promulgated NAAQS. Under section 107(d)(1)(B)(ii) of the CAA, EPA must finalize the area designations no later than 2 years from the date a new or revised NAAQS is promulgated. Tribes are able to participate in the designations process.

The first guidance document (Process Guidance) will provide direction to EPA Regional Offices for working with federally-recognized Indian tribes regarding the CAA section 107(d) designations process for Indian country. Although section 107(d) does not explicitly reference Indian tribes or Indian country, tribes are able (although not required) to participate in the designations process. The intent of this process guidance is to ensure that a nationally consistent approach is used for designations of Indian country and to ensure that outreach to, and consultation with, tribes are included as a part of the overall process. First, this guidance provides background information regarding the designations requirements for EPA and states under the CAA. Next the guidance provides background information regarding how tribes can participate in the designations process. Finally, the guidance discusses the stepwise process for working with tribes in the designation process, and the appropriate timing for conducting outreach and consultation in that process.

The second guidance document (Policy Guidance) will further define EPA's policy regarding designating areas of Indian country separately from adjacent areas, when requested by the relevant tribes for a particular area of Indian country. This guidance will ensure a nationally consistent approach for evaluating requests to designate distinct areas of Indian country and for recognizing tribal jurisdiction in the 40 CFR Part 81 Tables. Our purpose for this document is fourfold: 1) ensure the protection of air quality in Indian country; 2) increase transparency in the designations process; 3) recognize tribal sovereignty in air quality management matters affecting their Indian country; and 4) address requests from tribes to have a separate attainment or nonattainment area from adjacent state or local government areas.

We will be completing these guidance documents so they can be used after the Agency completes the Ozone NAAQS on or about July 31, 2011, and would like to offer the tribes an opportunity to comment. If you choose to participate in the consultation process, we ask that you notify EPA by July 22, 2011.

When requested, consultation will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* ([www.epa.gov/tribal/consultation/consult-policy.htm](http://www.epa.gov/tribal/consultation/consult-policy.htm)).

We look forward to working with you and your staff on these guidance documents and will keep you informed regarding the review process and any additional guidance or other support activities. If your tribe is interested in consultation or participating further in the discussions with EPA officials about these policies, please do not hesitate to contact Laura McKelvey, of my staff, at (919) 541-5497, email: [mckelvey.laura@epa.gov](mailto:mckelvey.laura@epa.gov) or Angel McCormack at (919) 541-3588, email: [mccormack.angel@epa.gov](mailto:mccormack.angel@epa.gov). We will send you copies of the draft documents upon request.

Sincerely,



Gregory Green  
Director  
Outreach & Information Division

cc: Tribal Environmental Director  
Tribal Environmental Staff