



# Tribal Air News



June 1, 2008  
Volume 6, Issue 2



### Inside this issue:

<b>Cherokee NCORE Monitoring Site</b>	<b>2</b>
<b>EJAir New EJ Website</b>	<b>3</b>
<b>Grants for Diesel Cleanup</b>	<b>4</b>
<b>Kansas City Air Quality Training Postponed</b>	<b>5</b>
<b>Mercury Rule Vacated</b>	<b>6</b>
<b>Designations Update</b>	<b>7</b>
<b>AQS Q and A</b>	<b>9</b>
<b>Dates to Remember</b>	<b>10</b>

## EPA's Greenhouse Gas Reporting Rule What does it mean for Tribal Governments ?

EPA is developing a rule that will require reporting of greenhouse gas (GHG) emissions. The objective of this program is to collect comprehensive and accurate data relevant to future climate policy decisions, including potential regulation under the Clean Air Act. Emissions of these GHGs result from both "upstream" (energy production) sites and "downstream" sources (such as large industrial facilities) and there will be a range of options in the proposed rule regarding which sources will be required to report.

EPA is considering establishing emissions reporting requirements for six GHGs: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>).

EPA will publish a proposed rule by September 2008 and a final rule by June 2009, to meet deadlines established in the FY 2008 Omnibus Appropriations Act signed by President Bush on December 26, 2007.

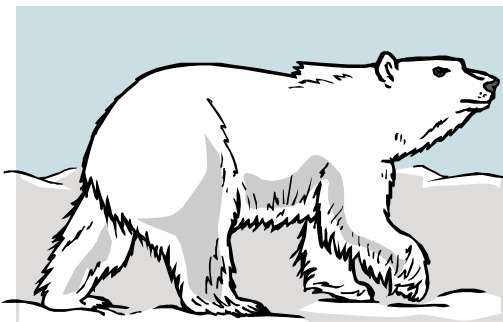
### Potential Impact on Tribal Governments

Because the thresholds for reporting will be defined during the

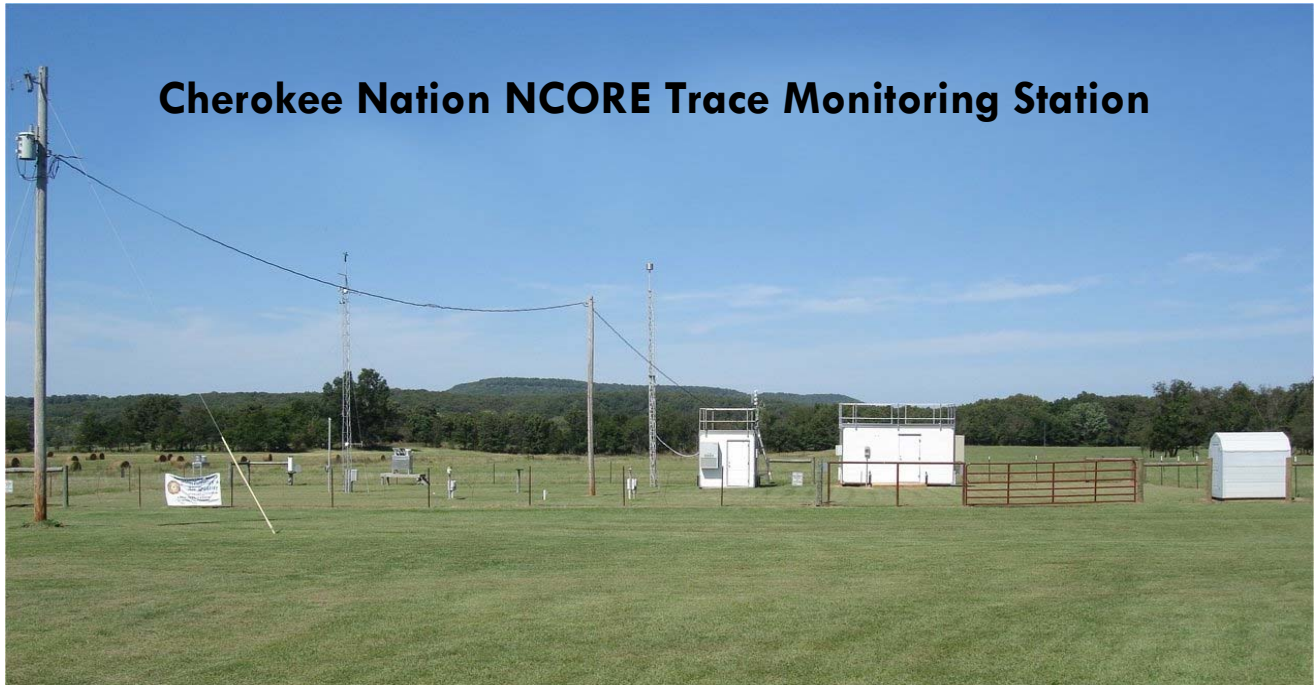
rulemaking process, it is difficult to say at this time exactly which facilities will be reporting. It is possible that the proposed rulemaking could affect large emissions sources in Indian Country, assuming the facilities meet the thresholds. The rule is not expected to affect smaller operations where emissions are difficult to measure or where there are a large number of small sources.

EPA will conduct a Regulatory Impact Analysis to assess the total cost of the rule and identify potential impacts on affected facilities.

To the extent that any electric generating units operated by tribal governments are already subject to reporting CO<sub>2</sub> emissions under EPA's Acid Rain Program, the Agency can rely on those existing data and thus minimize any new requirements.



Contact: Kitty Sibold  
(sibold.katherine@epa.gov)



The Cherokee Nation has one of the first tribal NCORE (National Core site) trace gas monitoring sites operating in Indian country. Up and running in March, this site consists of trace instrumentation evaluating CO, SO<sub>2</sub>, and NO<sub>y</sub>. Other instrumentation includes a through-the-probe calibration system, zero air generator, and a digital data-logger. The Cherokee NCORE station is also collocated with the tribe's Clean Air Status and Trends network (CASTNet) site, which includes instruments for monitoring and sampling of dry deposition atmospheric components, ozone, and extensive meteorological parameters. This unique pairing of NCORE and CASTNet monitoring at one site provides a wealth of data on various pollutants and parameters for use in evaluating air quality in a rural area and provides data for network comparisons on a national level.

This unique NCORE candidate site has two NO<sub>y</sub> analyzers with external molycon converters located at 3 and 10 meters above ground, respectively. Other special studies onsite include a continuous ambient ammonia analyzer and numerous "passive" type sampling studies conducted in coordination with EPA Region 6. Future plans include the installation of a recently acquired continuous Tekran speciated mercury analyzer and a continuous PM<sub>2.5</sub> FEM BAM (Federal Equivalent Method Beta Attenuation Monitor), both of which will be operational in FY09.

The Cherokee Nation has established a track record of excellence in ambient air quality monitoring in Indian Country during the past decade. It has done so through its network of various air quality monitoring stations and

projects as well as through its participation in regional and national organizations dedicated to improving ambient air quality. In addition, the Cherokee Nation has established a record of excellence through its leadership of the Inter-Tribal Environmental Council (ITEC) consortium, providing environmental multimedia services to over 40 tribes within EPA Region 6 and to additional tribes throughout the United States.

The Cherokee Nation, acting through its Cherokee Nation Environmental Programs (CNEP) office, has been active in ambient air quality monitoring since 1996. The CNEP began its work in air quality monitoring in 1996 when it established a network of ten PM<sub>2.5</sub> monitors on lands of the Cherokee Nation and seven other ITEC tribes in Oklahoma's Indian Territory.

The Cherokee Nation also currently operates a network of criteria pollutant monitors at five permanent stations on lands within its jurisdictional boundaries and a state of the art mobile monitoring unit that provides air quality data in selected communities. Each location and site serves a unique monitoring purpose and scope. Primarily, CNEP sites are utilized for NAAQS compliance. However most sites are uniquely paired with other EPA project programs to provide special information, such as status and trends, mercury deposition or community air toxics.

Contact: Ryan Callison



# Introducing *EJAir*

## OAD's new Environmental Justice Website



“Environmental Justice” or EJ, is a term you should hear used more and more at EPA, where our goal is to ensure that all Americans are equally protected from adverse environmental effects or impacts.

To further this goal, on February 22, 2008 we launched EJAir, a website with informational materials that we thought would be most helpful to both our internal and external audiences. These include such things as case studies, grant availability, technical tools and notes from meetings or conferences.

EJAir was officially installed at EPA.GOV as <http://www.epa.gov/air/ej>. The OAR Website Quick-Finder has even added a direct link to the EJAir website!

EJAir is, of course, a work in progress, and we will be adding new features and information as it becomes available. An OAQPS EJ Team, led by Candace Carraway, meets regularly to pursue development of EJ implementation strategies, analytical tools, and outreach programs. Please help us by sending your suggestions for content, navigation and any other ideas you may have to help us improve this product—we’ll be delighted to hear from you!

Contact: Tom Link regarding the website ([link.tom@epa.gov](mailto:link.tom@epa.gov)) or Candace Carraway regarding the EJ team’s work ([carraway.candace@epa.gov](mailto:carraway.candace@epa.gov))





## EPA Makes **\$50 Million** Available to Clean Up Diesel Engines Nationwide and Invites Tribal Nations to Participate

Reducing emissions from diesel engines is one of the most important air quality challenges facing the United States. Many scientific studies have linked diesel pollution, which contains particulate matter (PM or soot), ground-level ozone (smog) and air toxics, to a number of serious respiratory and cardiac health effects, such as heart and lung disease, chronic bronchitis, exacerbations of asthma symptoms, and even premature mortality. Also, EPA has classified diesel exhaust as likely to be carcinogenic at environmental concentrations. The EPA has set more stringent heavy-duty highway and nonroad engine standards to reduce diesel emissions. However, these standards will not be fully implemented until 2030. During this time, older diesel engines will continue to emit high levels of toxic nitrogen oxides, diesel particulate matter, and other air pollutants.

In April 2008, EPA announced the availability of almost \$50 million in grants to fund diesel emissions reducing technologies, and EPA's regional offices have recently published the funding competition for this program. Promoting such technologies will reduce emissions from the nation's current fleet of 11 million diesel engines. These reductions will help expedite the health benefits of the new heavy-duty diesel engine standards across the country.

EPA's National Clean Diesel Campaign (NCDC) will manage these funds via four separate programs. Of most interest to the tribes will be the Clean Diesel Funding Assistance Program (CDFAP), which received \$27.6 million to support grant projects to reduce exposure to diesel emissions. The NCDC works closely with a network of seven Collaboratives, which are comprised of the regional EPA office, and region-wide public and private entities that work together to reduce air pollution.

In the past, EPA and tribal governments have collaborated to implement diesel emission projects within tribal communities. The Puyallup Tribe and the EPA



successfully worked together to retrofit ten diesel school buses. The health benefits of reducing the emissions from

these school buses extends beyond the Puyallup tribal grounds. These school buses serve the Chief Leschi School whose student body of 700 represents over 92 tribes. These grants offer tribal governments and EPA the opportunity to work together to support additional effective projects that reduce tribal communities' exposure to the serious health risks associated with diesel emissions.

### Eligible Applicants

State, tribal and local (city and county) governments can apply for the grants under the NCDC program. School districts, and metropolitan planning organizations-- *as well as non-profits and institutions with transportation, educational services and air quality responsibilities* -- are also eligible entities for assistance. Tribal governments may choose to partner with private sector fleets to participate in the program.

### Grant Application & Evaluation Process

Each EPA regional office will manage the grant applicants within their region and in accordance with its Request for Proposals (RFP). The NCDC Current Funding webpage (<http://www.epa.gov/otaq/diesel/grantfund.htm#current>) contains a map of each EPA regional Collaborative's jurisdiction. It also provides links to all of the seven Collaboratives' websites and RFPs. Please review the corresponding RFP for application timelines, deadlines, and allocations. The Collaboratives will distribute the grants via a competitive grant process later this year.

EPA's regional offices will evaluate and rank eligible project proposals based on: areas with high population, air quality issues; air toxic concerns; disproportionate concentrations of air pollution (e.g., truck stops and marine ports); the useful life of the engine; and the conservation of diesel fuel and use of Ultra Low Sulfur Diesel (early introduction of ULSD for nonroad projects).

EPA anticipates that the CDFAP grants will be awarded to grant recipients in the fall of 2008. The law dictates that half of the funding is dedicated to benefit

**Studies have linked diesel emissions to serious respiratory and cardiac health effects, even premature death. Diesel exhaust is also a likely carcinogen at ambient levels.**



## Diesel Grants (from page 4)

public fleets, including private fleets contracted for public purpose such as road construction projects.

### Eligible Projects

CDFAP grants must be used to support technologies and engines that have been verified or certified by the EPA or the California Air Resources Board. These grants cannot fund the cost of emissions reductions currently mandated under federal, state or local law. However, applicants can apply for funding in order to gain experience with new technologies and begin their emission reductions program prior to the dates for compliance with these mandates. Specific details are available on the regional Collaborative websites.

**EPA's National Clean Diesel Campaign will provide grant funds to get early emission reductions from older diesel engines, such as school buses.**

Eligible fleets include, but are not limited to, medium or heavy duty trucks and non-road equipment.



### Act Today!

Diesel engines are an essential component of passenger and commercial transportation. The new emission reducing standards will take decades to implement because of the long lifespan of diesel engines. Fortunately, emission-reducing, cost-effective diesel technologies are available today to reduce the emissions of the existing diesel fleet. These grants can help tribal governments reduce diesel emissions and protect the health of their communities.



Please visit the National Clean Diesel Campaign website at [www.epa.gov/cleandiesel](http://www.epa.gov/cleandiesel) to find out how to participate.

Contact: Rosalva Tapia ([tapia.rosalva@epa.gov](mailto:tapia.rosalva@epa.gov))

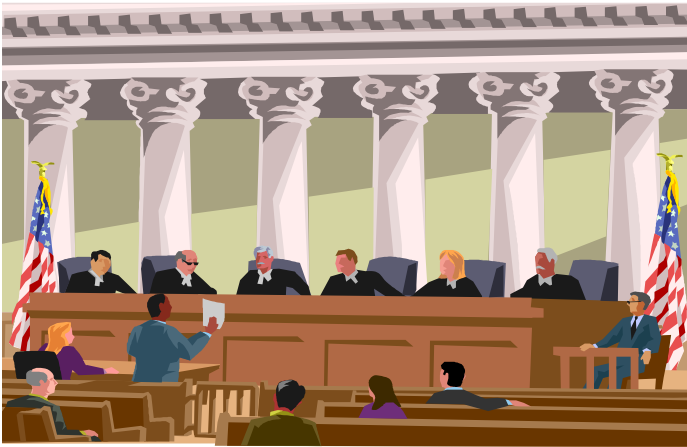


## Region VII Air Quality Training Postponed

EPA has rescheduled the Region VII offering of the training – Improve and Protect Air Quality in Indian Country. It was not held in Kansas City on May 6 – 8. Instead, it will be held September 16 – 18, in Kansas City. There is room for more participants and EPA invites both environmental professionals and tribal leaders to participate. Travel scholarships are available. Call Melissa McCullough with questions at 919.541.5646.

Here is the web address for more information and registration: [http://projects.pechan.com/epa/tribalWorkshops\\_kc/](http://projects.pechan.com/epa/tribalWorkshops_kc/)

## U.S. Court of Appeals Vacates EPA's Clean Air Mercury Rule



### Background


On March 15, 2005, the EPA Administrator signed the first-ever federal rule to permanently cap and reduce mercury emissions specifically from coal-fired power plants, making the United States the first country in the world to regulate mercury emissions from coal-fired power plants -- the largest remaining sources of mercury emissions in the country. When fully implemented, these rules were expected to reduce utility emissions of mercury from 48 tons a year to 15 tons, a reduction of nearly 70 percent. The Clean Air Mercury Rule (CAMR) built on EPA's Clean Air Interstate Rule (CAIR) to significantly reduce criteria pollutant emissions from all sources, including coal-fired power plants. EPA issued CAMR under section 111 of the Clean Air Act, after finding that it was neither appropriate nor necessary to regulate utility mercury emissions under section 112 of the Act. This finding was based on EPA's conclusion that utility mercury emissions are not reasonably anticipated to result in hazards to public health, after implementation of other requirements of the Act, and that EPA's earlier decision to list utilities as a source to be regulated under Section 112 was in error.

The CAMR approach was to establish "standards of performance" under section 111 of the Act, limiting mercury emissions from new and existing coal-fired power plants. It also created a market-based cap-and-trade program that would reduce nationwide utility emissions of mercury in two distinct phases. The first phase cap was to be 38 tons and emissions would be reduced by taking advantage of "co-benefit" reductions – that is, mercury reductions achieved by re-

ducing sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) emissions under CAIR. In the second phase, due in 2018, plants were to be subject to a second cap designed to reduce emissions to 15 tons upon full implementation.

CAMR set mercury emissions "budgets" for each state, the District of Columbia, and Indian country. For more information, see [www.epa.gov/camr](http://www.epa.gov/camr). States and participating tribes would develop plans to achieve the required reductions, choosing what measures to adopt. CAMR included a model rule for a mercury emissions cap-and-trade program, which states and tribes could adopt.

In 2006, EPA published a proposed CAMR Federal Plan for coal-fired power plants located in all jurisdictions covered by CAMR to ensure the required emission reductions are achieved on schedule. As the control strategy for the Federal Plan, EPA proposed to adopt the model mercury cap-and-trade program (that EPA provided in CAMR as a control option) for those states without a timely submitted and approved CAMR plan. Such a Federal Plan would no longer apply for a state when they receive Agency approval of the state's CAMR Plan.



**Mercury is a potent neurotoxin, to which developing fetuses and children are especially vulnerable.**



**Mercury deposits to aquatic ecosystems and contaminates fish tissues.**

### The Court decision

In 2006, diverse parties, including several states, unions, non-governmental organizations, industry groups, and the National Congress of American Indians and Treaty Tribes, filed suit against EPA regarding the CAMR. Their expressed concerns were twofold: belief that total mercury control under CAMR would not be sufficient and concern that there would be local impacts from mercury emissions that might not be addressed by national cap and trade standards. Several parties argued that, once EPA concluded that utility mercury emissions should be regulated under section 112, it could not change that decision without making certain

## Mercury Rule (from page 6)

findings contained in section 112(c)(9).

On Feb. 8, 2008, the United States Court of Appeals for the District of Columbia Circuit agreed, and vacated EPA's Section 112(n) Revision Rule and the Clean Air Mercury Rule (State of New Jersey v. EPA, No. 05-1097).

The court ruled that when EPA determined in the year 2000 that power plants should be regulated under section 112 and listed them under Section 112(c)(1), it could only remove them from the list after making the findings required by the delisting provisions of Section 112(c)(9). This means that, to delist, EPA must determine that no source in the category (or group of sources, in the case of area sources) emit hazardous air pollutants in quantities that:

- may cause a lifetime risk of cancer greater than one in one million to the most exposed individual, or;
- will exceed a level which is adequate to protect public health with an ample margin of safety, or;
- will result in adverse environmental effect.

Because EPA had not made those findings in the Section 112(n) Revision Rule, the court found that EPA could not remove power plants from the section 112(c) list, and therefore vacated the rule. As such, the Court also vacated CAMR because, under EPA's own interpreta-

tion of the Act, since coal-fired power plants would then remain listed as sources under section 112, regulation of existing sources' mercury emissions under section 111 is prohibited.

The court did not review or rule on any of the substantive provisions of CAMR, such as the legality of using emissions trading mechanisms to comply with limits under section 111.

The Court's decision vacating the Section 112(n) Revision Rule and the Clean Air Mercury Rule was effective March 14, 2008. The effect of the vacatur is to restore coal- and oil-fired power plants as a listed source category under Section 112. Since no rule is in place under Section 112 to control hazardous air emissions from these facilities, Section 112(g) of the Act applies. Under section 112(g), no person may begin actual construction or reconstruction of a major source of HAP unless the permitting authority determines on a case-by-case basis that requirements for controlling new source hazardous air pollutant emissions (Maximum Achievable Control Technology or MACT) will be met.

Contact: Eric Ginsburg ([ginsburg.eric@epa.gov](mailto:ginsburg.eric@epa.gov))

## Update: Attainment and Nonattainment Designations

EPA promulgated a new 24-Hour PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS) on October 17, 2006 to provide increased protection of public health and the environment from fine particle pollution. As with each new NAAQS, EPA is then required to designate all geographic areas within the United States as attainment (meeting the standard), unclassifiable (insufficient information to tell), or nonattainment (not meeting the standard) under Section 107 of the Clean Air Act (CAA). Through this designations process, EPA communicates to the public whether the air meets our health-based standard, which triggers an implementation plan process to improve air quality for states and tribes.



Designating an area under the CAA is accomplished through a formal rulemaking process outlined in Section 107(d) of the Act. If an area does  
(continued on page 10)



## Our CAPPAs Off to You

We're proud to announce that EPA has a new tool that will be helpful for tribes to rank potential air pollution and climate action activities on the basis of how successful they might be for a particular locality. This tool, the Climate and Air Pollution Planning Assistant (CAPPAs), was developed by ICLEI (a.k.a. Local Governments for Sustainability) but will be useful for tribes and native villages, as well as more metropolitan areas. CAPPAs is meant to answer the question: What are air quality management or climate strategies that we can adopt for our community that are most likely to produce a successful program?

As you know, tribes are confronting and evaluating air pollution issues. Some tribes may be in areas that will not meet the ozone or particulate matter National Ambient Air Quality Standards that are set for health protection. In addition, tribes have also shown interest in advocating Federal action on climate change, recognizing the issues and impacts expected on tribes and important tribal resources. Evidence of this are resolutions such as those passed by the National Congress of American Indians (June 2006) and 162 Native Tribes and Villages (presented to the Alaska delegation of Congress in March 2007). These voices join 840 Mayors who have signed the US Mayors Climate Protection Agreement, and who are pledging to cut greenhouse gas emissions 80% by 2050 (<http://www.seattle.gov/mayor/climate/>). Other tribes and communities are considering undertaking similar actions. Energy generation and consumption are tied closely to both air pollution and greenhouse gas emissions. We all want to do what we can to save energy, not only for the environmental benefits, but also for monetary savings and national security benefits.

Solutions to air pollution problems are complicated and CAPPAs is a spreadsheet/web-based tool to help tribes and other local governments sort out options. This electronic tool briefly describes:

- o the air pollution control measures,
- o the associated air pollution and greenhouse gas benefits,
- o examples of measure's use elsewhere, and
- o links to other information.

**CAPPAs gives users overwhelmed with information on possible community actions a simple place to start.**

In addition, CAPPAs includes calculators that allow the user to experiment with what kind of energy, money and emissions savings are possible from different degrees of implementation of any given measure. It is particularly exciting that the tool can create a comprehensive emissions reduction plan.

In developing a plan with CAPPAs, a user can pick pollution reduction targets, rate the importance of different performance metrics (e.g., return on investment) by their community, and add in anything that might be specific to their situation (e.g., installation of tidal power generation). The user can then determine specific levels of implementation, utility region, energy costs, and the like, or alternatively they can rely on default information. Communities will end up with a list of ranked measures, optimizing for performance and local needs.

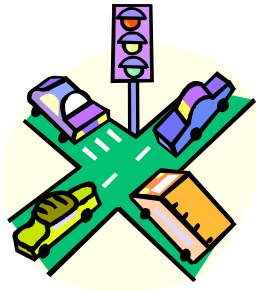


CAPPAs will be a worthy addition to the field of community tools, particularly as it gives communities with fewer specialized resources both a simple place to start and the benefit of the experience of hundreds of communities. In developing CAPPAs, ICLEI inventoried over 100 activities that can be undertaken by communities, either for government or community





## CAPPA (from page 8)



operations, in areas such as energy efficiency, transportation, waste management and chemical emission reductions. These communities reported how well different measures worked in terms of emissions reductions achieved, and rated such relevant performance metrics as financial return on investment, implementation timeframe and level of effort required by staff.

It is important to note that one can not take the performance calculations from this tool and plug it directly into

a tribal or state implementation plans. However, for its designed purpose -- giving communities a place to start for comparing and selecting strategies for air pollution and climate based on real-world experience and your local priorities – we believe that it will be very helpful indeed.

Contact: Melissa McCullough  
(mccullough.melissa@epa.gov)



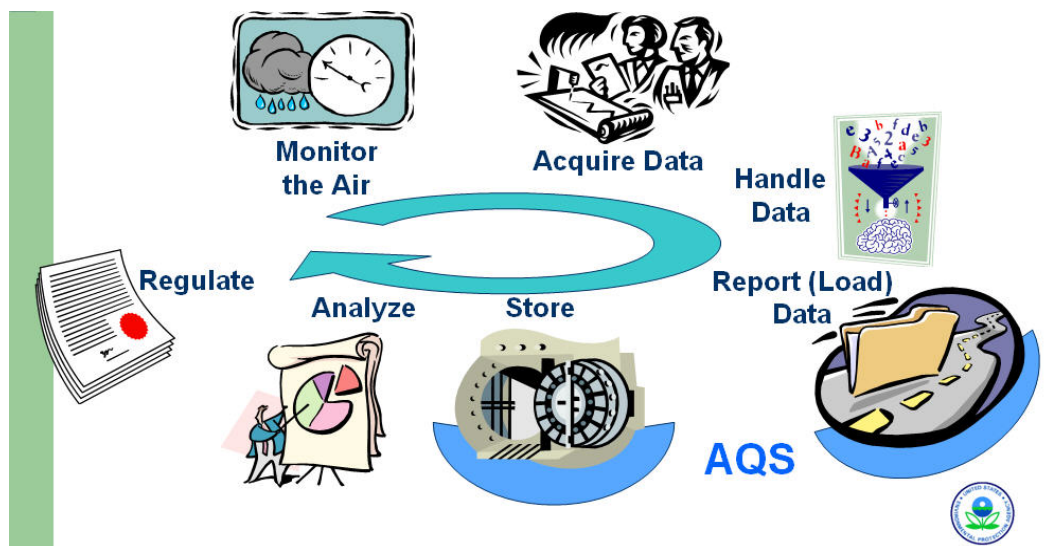
## AQS First Anniversary Q&A Session for Tribal Users

The EPA Office of Air Quality Planning and Standards (OAQPS) began hosting the bimonthly Question & Answer (Q&A) Session for tribal users of the Air Quality System (AQS) one year ago, on May 14, 2007. The primary goal of the Q&A session is to provide a forum where tribal users can have their questions, issues or concerns regarding the use of AQS addressed by staff of the EPA and the Institute for Tribal Environmental Professionals (ITEP). In addition, at each session these professionals demonstrate such basic features of the AQS application as logging on, navigating, and password synchronization, as well as more advanced features, such as setting up a tribal site, running AQS in tribal mode, and updating data.

Tom Lewis, of the AQS Level 2 User Support staff, hosts each session. Using Genesys, a web conference tool designed to conduct real time meetings via the Internet, people can participate using their PC and telephone. (A toll-free conference phone line is provided.) Once logged in to

Genesys, via a web browser, each participant is able to view the host's PC screen.

Although we advertise the Q&A Session for tribal users of the AQS, we welcome participation by any tribal person who has an interest. If you would like to participate in the next Q&A Session, please email Tom Lewis ([lewis.tom@epa.gov](mailto:lewis.tom@epa.gov)). Feel free to include questions or issues that you would like addressed, and/or features of the AQS application you would like demonstrated.





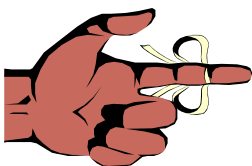
## Designation Update (from page 7)

not meet the 2006 standard for 24-hour PM<sub>2.5</sub>, that area will be designated as nonattainment. We expect that southern California will be one of the few nonattainment areas in the country affecting tribes. In these 24-hour PM<sub>2.5</sub> designations, it is likely that we will follow the practice we used for the 1997 ozone and 1998 PM standards and designate areas that meet the standard or where we lack definitive information as attainment/unclassifiable.

Many tribes made recommendations for the 2004 ozone and PM designations, although they were not required to participate. Last fall we asked if tribes were interested in forming another workgroup to give input to the process for designations under the PM<sub>2.5</sub> 24-hour standard, and did not hear interest. We do plan to reassess on the next National Tribal Air call the need for regular calls with OAQPS on the designations process for this, and subsequent, standards.

Earlier this spring, EPA Regional Offices sent letters to each tribal Chair offering the opportunity to participate in the designations process and to consult with EPA officials on this upcoming Federal action. Five tribes made recommendations to EPA about air quality designations. EPA will make designations for this standard in December, 2008. Several tribes have requested consultation with Region 9.

EPA is in the process of reviewing a number of NAAQS. In March 2008, the Agency revised the ground-level ozone standards. In September 2008, we will issue a final decision on the lead standard. Other reviews of standards will be done on a regular schedule. We will print the schedule of those standards updates in the next newsletter. If you have specific questions about designations, contact your Regional Office or Tom Link at OAQPS ([Link.tom@epa.gov](mailto:Link.tom@epa.gov)). Tom can set up a call with the region to discuss your situation.



## Dates and Websites to Remember

- June 3-5 National Tribal Forum on Air Quality, Las Vegas, NV
- June 23 - 27 National Tribal Conference on Environmental Management, Billings, MT
- July 29-31 Training: New Source Review – Research Triangle Park, NC
- August 19-22 Training: Climate Change on Tribal Lands – Flagstaff, AZ
- September 16-18 Training: Improve and Protect Air Quality in Indian Country—Region VII, Kansas City
- Sept 23-26, 2008 Training: Air Pollution and Ecosystems, TAMS Center, Las Vegas, NV
- [www.epa.gov/apti](http://www.epa.gov/apti) The EPA Air Pollution Training Institute website includes upcoming training courses, past broadcasts (e.g. rule updates) and webcasts

---

Tribal Air News is produced by the Environmental Protection Agency's Office of Air Quality Planning and Standards Outreach and Information Division, the Community and Tribal Programs Group.

The newsletter is produced quarterly and is distributed electronically.

For more information about the newsletter, or to contribute stories and pictures contact:

Laura McKelvey ([mckelvey.laura@epa.gov](mailto:mckelvey.laura@epa.gov)) Or Melissa McCullough ([mccullough.melissa@epa.gov](mailto:mccullough.melissa@epa.gov))

