



Regional Haze SIPs in the West

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Additions/updates in underlined italic

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Legal Situation

- SIPs were due December 17, 2007
- NOI to sue was filed by Environmental Defense in June 2008 in response to late RH SIPs
- Environmental Defense can file lawsuit any time after August 25, 2008 to force EPA to make a finding of failure to submit
- *Environmental Defense filed lawsuit last week*



Findings

- EPA Finding of Failure to Submit possible as early as October 3, 2008
- *Now imminent with lawsuit filed, but lack of CAIR is a problem*
- Decision still pending
- *5 states (AZ, NM, OR, UT, WY) submitted complete §309 plans in 12/03, never acted upon by EPA, so no “Failure to Submit” from these states’ point of view*



Findings Process

- Publish findings notice in the FR
- Effective upon publication
- Begins 2-year clock for RH FIPs pursuant to 110(c)
- No mandatory sanctions other than FIPs



Consequences

- EPA Regions will begin preparation of FIPs once finding is made
- Will likely withhold Section 105 grant funding to prepare FIPs
- Region 8 has done this for Montana FIP
- EPA will be making decisions for each state and their sources, in particular on BART



Unintended Consequences

- Potential impacts on future funding
- Delays implementation of controls
- Makes preparing 2012 RH SIP reports more difficult
- To EPA, indicates a serious failure at regional planning



Timing

- EPA takes at least a year to act on submitted SIPs
- To avoid a FIP, EPA would need to get state SIPs in at least 1 year prior to FIP deadline



Questions for States

- What are the barriers to getting the SIPs in?
- Where are you in the process?
- Do you need help from WRAP and EPA?
- How can we work together on this?