Tribal Authority Rule (TAR)

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Clean Air Act Implementation

• In the 1970s the Clean Air Act (CAA) authorized state inclusion in CAA implementation

• States typically have limited or no jurisdiction in Indian Country

• The TAR mandate was added in the 1990 amendments to the CAA
  - The amendments authorized tribal governments to participate in Clean Air Act implementation
August 1994, EPA proposed rules to treat eligible Indian Tribes the same manner as a State

February 1998, EPA promulgated the final rule, called Tribal Authority Rule

May 2000, District of Columbia Court of Appeals upheld Rule after court challenge

April 2001, US Supreme Court let Rule stand
**TAR, the Final Rule**

- Under TAR, tribes do not need to meet any regulatory deadlines
- Tribes can use modular approach to seek delegation of authority (NSR Program, NAAQS, monitoring, etc.)
- Tribes can apply for and receive Section 103 and 105 funding
  - Eligible tribes pay 5% and 10% match for Section 105
  - Treatment as State (TAS) status required for lower match
- Tribes can also apply for Treatment as Affected State, Section 505 of the CAA
Eligibility criteria for TAS

- Federally Recognized tribes
- Capable of conducting governmental duties
- Demonstration of jurisdiction over legal boundaries of reservation
- Demonstrate capacity to conduct air quality activities