

# INSTITUTE FOR TRIBAL ENVIRONMENTAL PROFESSIONALS

## 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



# TAR (cont)

- 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

