

Members

Sen. Edward Charbonneau, Chairperson
Sen. Jean Breaux
Sen. James Buck
Sen. Mark Stoops
Rep. David Wolkins
Rep. James Baird
Rep. Sue Errington
Rep. Matt Pierce
Doug Meyer
Dave Wyeth
John Hardwick
Calvin Davidson
Thomas Easterly
Heather Hill
Kyle Hannon



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ENVIRONMENTAL QUALITY SERVICE COUNCIL

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MEETING MINUTES¹

Meeting Date: October 30, 2013
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 4

Members Present: Sen. Edward Charbonneau, Chairperson; Sen. Jean Breaux; Sen. James Buck; Rep. David Wolkins; Rep. James Baird; John Hardwick; Calvin Davidson; Thomas Easterly.

Members Absent: Sen. Mark Stoops; Rep. Sue Errington; Rep. Matt Pierce; Doug Meyer; Dave Wyeth; Heather Hill; Kyle Hannon.

Senator Charbonneau convened the meeting at 10:07 a.m. and recognized Thomas Easterly, the Commissioner of the Indiana Department of Environmental Management (IDEM), for Mr. Easterly's annual report to the EQSC on IDEM's environmental programs. Accompanying his presentation with PowerPoint slides (see Exhibit 1), Mr. Easterly made the following points:

- IDEM seeks "to protect Hoosiers and our environment while becoming the most customer-friendly environmental agency". It protects Hoosiers and our environment through developing regulations and issuing permits to restrict discharges to environmentally safe levels; inspecting and monitoring permitted facilities to ensure compliance with the permits; using compliance assistance

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

and/or enforcement when people exceed their permit levels or violate regulations; educating people on their environmental responsibilities; and cleaning up contaminated sites to eliminate public exposure to toxics and return properties to productive use.

- IDEM's "performance metrics" as of September, 2013, include the following:
 - 87.64 % of Hoosiers live in counties that meet air quality standards (versus only 61% in June of 2005)
 - 99.07% of Indiana's "CSO" communities -- those having sewer systems that collect rainwater runoff, domestic sewage, and industrial wastewater together -- have approved programs to address the release of untreated sewage in their sewer overflows (versus only 4% in June of 2005)
 - The total number of calendar days accumulated in issuing environmental permits is 22,647 for land-related permits (versus 100,013 calendar days in June of 2005), 49,179 for air-related permits (versus 511,000 calendar days in June of 2005), and 32,269 for water-related permits (versus 301,000 calendar days in June of 2005).
- A backlog in the processing of applications for NPDES (water pollution) permits and Title V (air pollution) permits has been eliminated and IDEM now issues permits using less than 60% of the statutorily allowed days. A backlog of unresolved enforcement cases has also been eliminated; there are now only two unresolved enforcement cases that are more than two years old.
- IDEM's fiscal year 2014-2015 appropriation is sufficient for current program needs. For fiscal year 2016-2017, IDEM expects to have sufficient total funds, but some individual dedicated funds (like the hazardous substances response trust fund) will be insufficient for the needs of their programs.
- In water quality matters, 100% of the individual NPDES permits issued by IDEM are now current, making IDEM #1 among the nation's state environmental agencies in this performance category; 44 of Indiana's CSO communities have fully implemented plans to reduce discharges; and IDEM has developed an electronic system for submission of DMRs (water pollution discharge monitoring reports).
- In air quality matters, all of Indiana met every National Ambient Air Quality Standard at the end of 2009. Since then, however, new and more stringent standards have resulted in the U.S. EPA designating Lake and Porter Counties and Lawrenceburg Township in Dearborn County as "nonattainment" of the standard for ozone; the City of Muncie as nonattainment of the standard for lead; and nine townships in five Indiana counties as nonattainment of the sulphur dioxide (SO₂) standard; and the new, lower PM_{2.5} (fine particle) standard that took effect in March will probably lead to new nonattainment designations in early 2015.
- The IDEM Office of Land Quality received an innovation award from the Environmental Council of the States and recently completed rules to encourage development of biodigesters, alternative fuel use, and the recycling (salvaging) of mobile homes.
- The Rules Branch of IDEM's Office of Legal Counsel is in the process of adopting administrative rules on a variety of subjects for several reasons, including changes

in federal rules and state law.

- The challenges facing IDEM include: problems with the air monitoring system in Louisville, Kentucky, which have delayed the EPA's designation of Floyd and Clark Counties as in attainment of the PM_{2.5} standard; the proliferation of toxic blue-green algae (cyanobacteria); and problems with the cost and timeliness of water quality monitoring.

Commissioner Easterly discussed the President's climate change directives, saying that the EPA has proposed new source performance standards for greenhouse gas emissions for certain power plants but Indiana's coal fired power plants will not meet these standards unless they use carbon capture and storage, which is not yet commercially available.

Commissioner Easterly also discussed air pollution "transport" issues, making these points:

- In 2011, the EPA's Clean Air Interstate Rule, which addressed air pollution that is transported from midwestern states to eastern states, was replaced by the more stringent Cross-State Air Pollution Rule (CSAPR).
- The CSAPR was vacated by the decision of the U.S. Court of Appeals for the District of Columbia in the case of *EPA v. EME Homer City Generation*, which held that the CSAPR was invalid because it might require an upwind state to reduce its emissions more than necessary to prevent its contribution to the downwind states' nonattainment of air standards. (The U.S. Supreme Court will hear an appeal of the *Homer City* decision.)
- Indiana will continue to work with the EPA to ensure that Indiana sources do not significantly contribute to air quality issues in downwind states and that Indiana sources are not unfairly required to implement controls for air quality problems that are better addressed by controls on sources in or near the downwind states.

Senator Buck asked Commissioner Easterly whether the improvement in Indiana's air quality has been due in part to the decline of manufacturing. The Commissioner replied that he did not think so, and that the improvement was probably more the result of improvements in emissions from many types of sources.

In response to questions from Senator Breaux, Commissioner Easterly discussed the consequences of an area being designated as nonattainment of air quality standards, the involvement of IDEM in the Great Lakes Compacts, and the future of the state funds and grant programs for the promotion of recycling.

At Representative Baird's request, Commissioner Easterly discussed the PM_{2.5} air quality standard that took effect in March. And, in response to a question from Calvin Davidson, he discussed problems associated with blue-green algae, saying that much needs to be discovered about how to control it.

Senator Charbonneau announced that the EQSC could not consider making recommendations for inclusion in its final report because, under the governing Legislative Council resolution, the EQSC could adopt a recommendation only if it was approved by a majority of the voting members of the EQSC, and only half of the EQSC's 14 voting members were present at the meeting. He expressed disappointment at this, saying that important issues had been discussed at the EQSC's three previous meetings and that he would have liked for the EQSC to consider adopting forward-thinking recommendations concerning those issues. He invited EQSC members to make comments.

Representative Wolkins said that all legislative members of the EQSC have the

opportunity to introduce 2014 legislation concerning the issues discussed by the EQSC, and that he intends to introduce legislation concerning municipal utility rates for owners of property located outside municipalities.

Senator Buck said that the General Assembly should do something to help the public understand that environmental regulations have an effect on job growth and economic development.

Senator Breaux said it should be remembered that environmental regulations have beneficial consequences as well as negative consequences.

Senator Charbonneau expressed his thanks to those involved in the work of the EQSC during 2013 and adjourned the meeting at 11:41 a.m.



Indiana Department of Environmental Management

Protecting Hoosiers and Our Environment Since 1986



Environmental Quality Service Council IDEM Report – October 30, 2013

Thomas W. Easterly, P.E., BCEE, Commissioner
IN Department of Environmental Management



IDEM's Mission

**Protecting Hoosiers and Our Environment
While Becoming the Most Customer-Friendly
Environmental Agency**

IDEM's mission is to implement federal and state regulations to protect human health and the environment while allowing the environmentally sound operations of industrial, agricultural, commercial and government activities vital to a prosperous economy.



How Does IDEM Protect Hoosiers and Our Environment?

- Develop regulations and issue permits to restrict discharges to environmentally safe levels.
- Inspect and monitor permitted facilities to ensure compliance with the permits.



How Does IDEM Protect Hoosiers and Our Environment?

- Use compliance assistance and/or enforcement when people exceed their permit levels or violate regulations.
- Educate people on their environmental responsibilities.
- Clean up contaminated sites to eliminate public exposure to toxics and return properties to productive use.



Performance Metrics September 2013

	Result	Target	Comments
Quality of Hoosiers' Environment			
% of Hoosiers that live in counties that meet air quality standards	87.64%	80%	Muncie Lead; Ozone in Clark, Floyd, Greene and LaPorte Counties, Sulfur Dioxide in parts of Daviess, Marion, Morgan, Pike and Vigo Counties
% of CSO Communities with approved programs to prevent the release of untreated sewage	99.07%	90%	98+9 (107) out of 99+9 (108). Not Gary
% of Hoosiers that receive water from facilities in full compliance with safe drinking water standards		95%	

Permitting Efficiency

Total calendar days accumulated in issuing environmental permits, as determined by state statute*

Land		35,445	37,310 statutory
Air		62,298	65,577 statutory
Water		64,666	68,070 statutory

* Places emphasis on back logged permits

Compliance

Total percentage of compliance observations from regulated customers within acceptable compliance standards*

Inspections	96.77%	75%	
Self reporting	97.99%	95%	
Continuous monitoring (COM)	99.83%	99.0%	

* Tracks observations and not just inspections



Performance Metrics June 2005

Quality of Hoosiers' Environment

% of Hoosiers in counties meeting air quality standards

Result	Target
[REDACTED]	80%
[REDACTED]	20%

12 counties & 2,408,571 of 6,195,643 above standard

% of CSO Communities with approved programs to prevent the release of untreated sewage

75% by 2007 is goal

Permitting Efficiency Total calendar days accumulated in issuing environmental permits, as determined by state statute*

Land

[REDACTED]	86,864
[REDACTED]	385,000
[REDACTED]	200,000

Air

Water

* Places emphasis on back logged permits

Compliance Total percentage of compliance observations from regulated customers within acceptable compliance standards*

Inspections

95.46%	[REDACTED]	75%
97.11%	[REDACTED]	95%
99.19%	[REDACTED]	98.95%

Self reporting

Continuous monitoring (COM)

* Tracks observations and not just inspections

Organizational Transformation Budgetary agency dollars spent on key outside contracts for core agency functions.

Dollars spent on outside services per year

[REDACTED]	\$3,447,017
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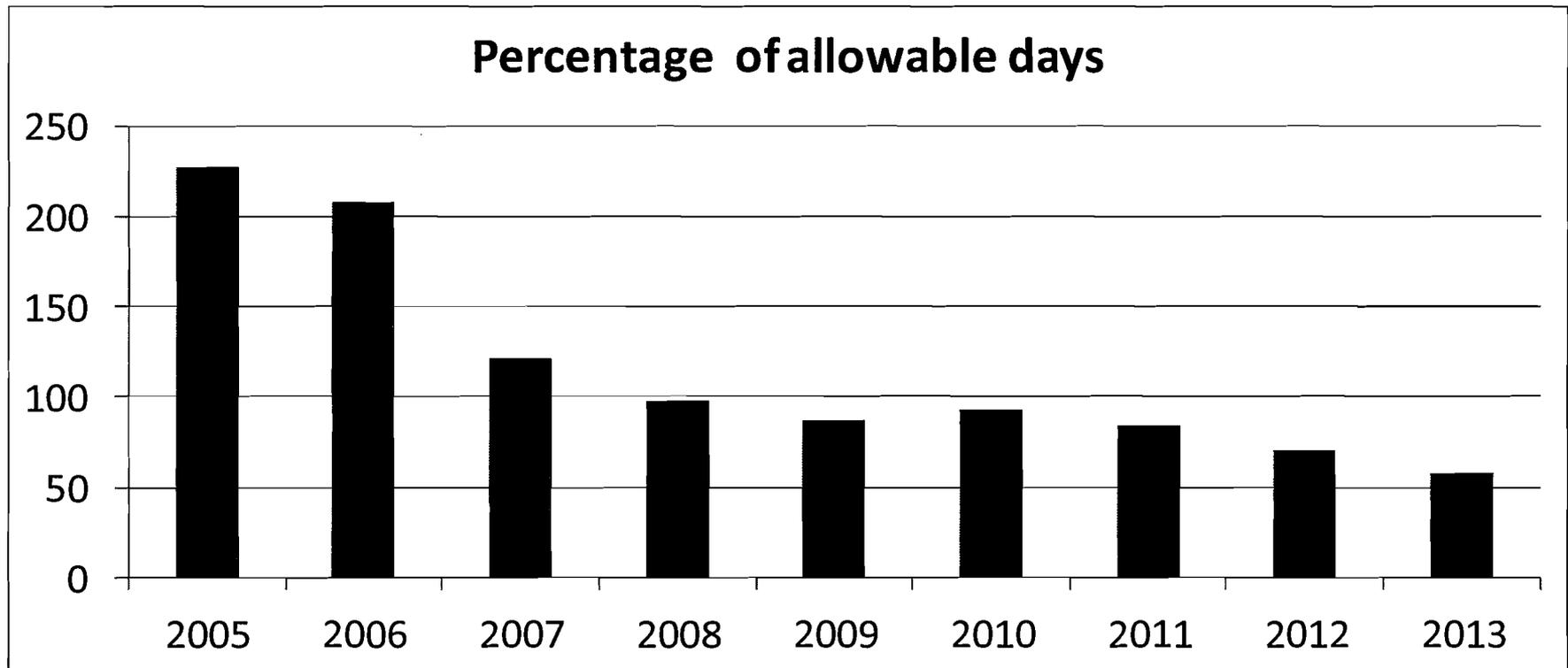


IDEM Backlogs Eliminated

- On January 10, 2005, there were 263 administratively extended NPDES permits and 289 unissued Title V permits. All of those have been issued and IDEM now issues permits using less than 60% of the statutorily allowed days.
- On January 10, 2005, there were 250 unresolved enforcement cases over 2 years old. Now there are only 2 cases that are over 2 years old.



Permits--Percent of Statutory Days





IDEM Financial Status

- IDEM's FY 2014-2015 appropriation is sufficient for current program needs.
- For FY 2016-2017, IDEM expects to have sufficient total funds, but some individual dedicated funds will be insufficient for the needs of their programs, while other funds will receive income in excess of needs.
- Possible federal funding reductions are a potential issue.



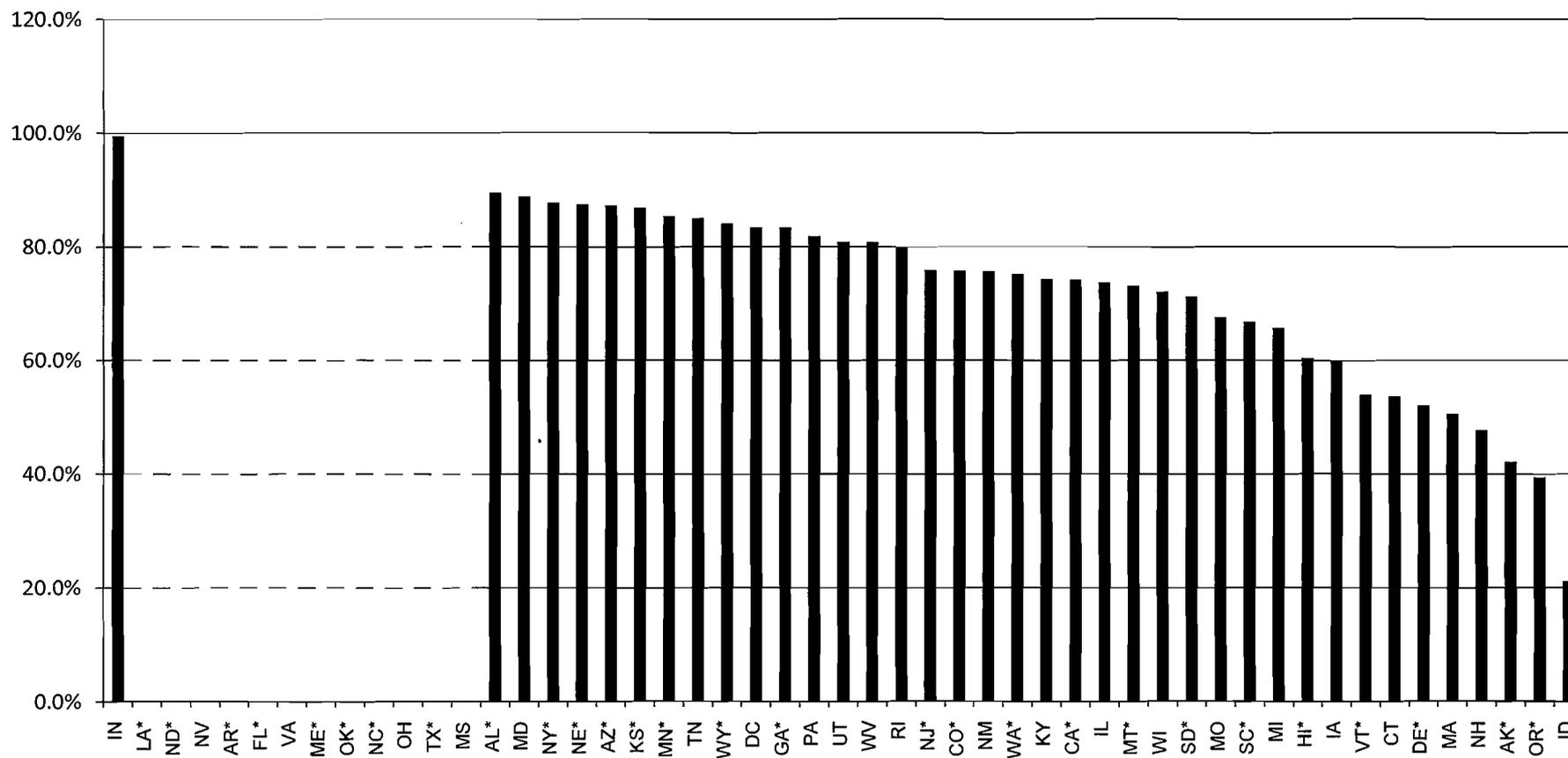
Office of Water Quality

- All individual NPDES permits are now current.
- IDEM is #1 in the nation with current permits.
- 44 CSO Communities have fully implemented plans to dramatically reduce discharges.
- IDEM has developed an electronic system for submission of DMRs.
- IDEM has worked with communities to develop a program to evaluate performance of systems that have fully implemented their CSO plans.



Best in NPDES Permitting

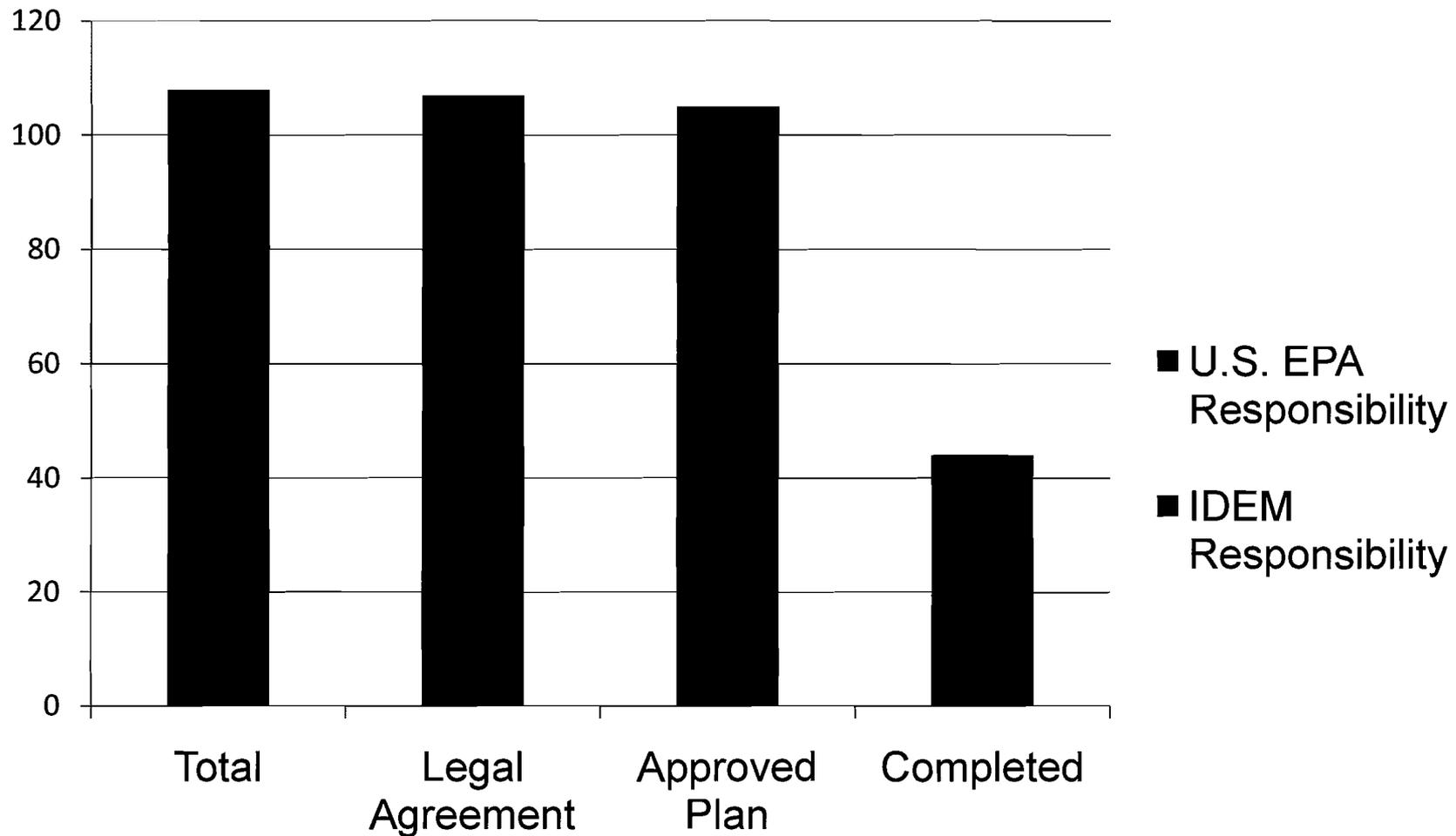
Total % Current Wastewater Permits





Water Quality

Indiana Combined Sewer Overflow Status





Office of Air Quality

- U.S. EPA approved the redesignation of central Indiana to attainment for the PM_{2.5} standard.
- Issued major permits to Indiana Gasification, Magnetation, and Ohio Valley Resources.
- Permit metrics continue to improve.
- Completed a long enforcement action with Grain Processing Corporation.



Current Air Quality Status

- At the end of 2009, all of Indiana met every currently effective NAAQS for the first time since NAAQS were established in the 1970's.
- IDEM was successful in working with U.S. EPA to have all of the state designated as attainment for those pollutants except:
 - Clark and Floyd Counties $PM_{2.5}$



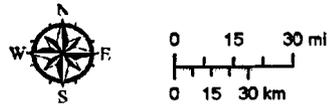
New Air Quality Standards

- Since the end of 2009, new air quality standards have resulted in U.S. EPA designating the following new nonattainment areas:
 - Lake and Porter Counties Ozone (2008 standard)
 - Lawrenceburg Township (Dearborn County) Ozone
 - City of Muncie Lead



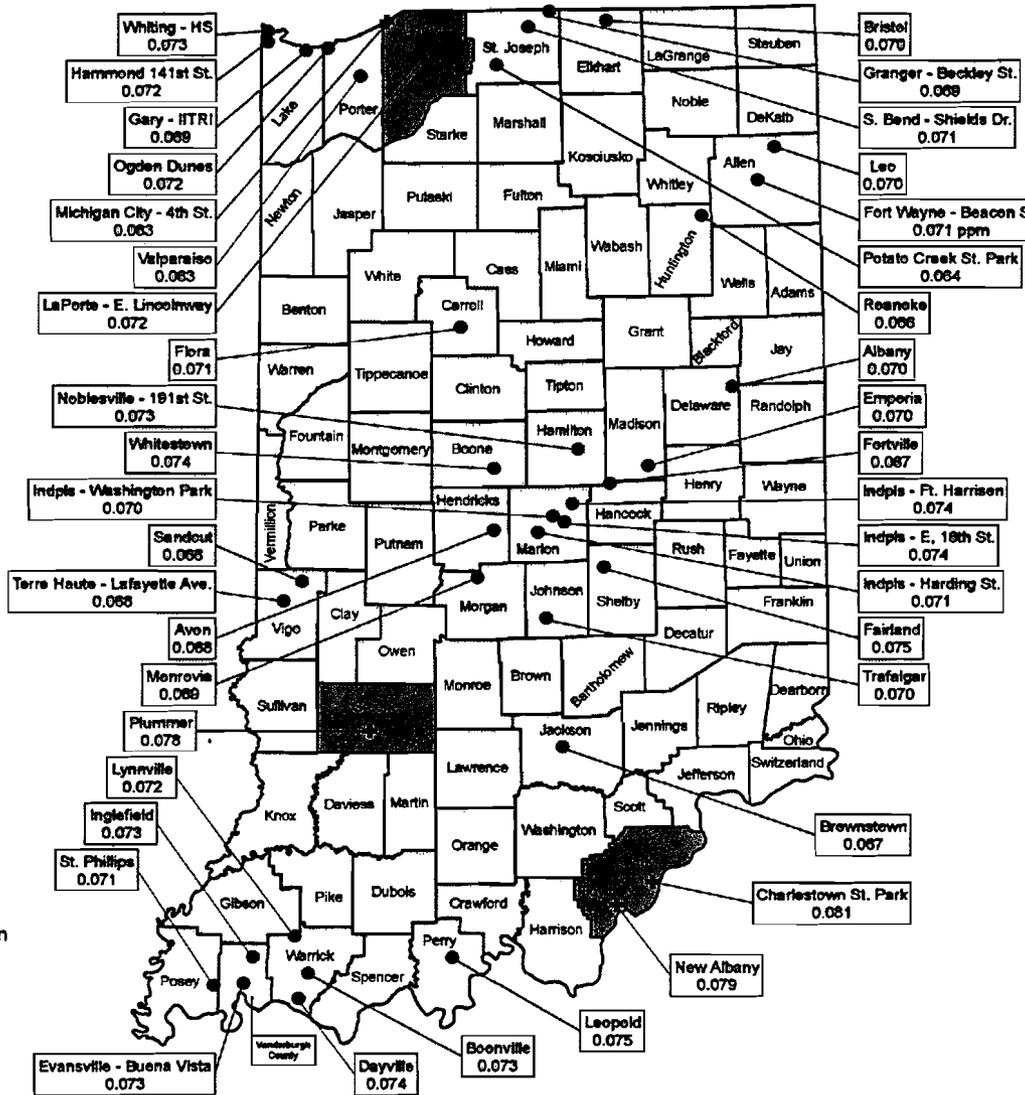
Legend

- Ozone Monitor with Design Value Less Than 0.076 ppm.
- ⊕ Ozone Monitor with Design Value Greater Than or Equal to 0.076 ppm.
- County with Design Value(s) Less Than 0.076 ppm or no data.
- County with Design Value(s) Greater Than or Equal to 0.076 ppm.



Notes:
 - Posted Data Represent 8-hour Average Design Values, 2010 - 2012.

Date: 6/20/2013
 Mapped By: C. Mitchell, OAQ
 Sources: Office of Air Quality
 Map Projection: GCS
 Map Datum: WGS 1984



2010-2012 8-Hour Ozone Design Values

Compared to
the standard at
0.075 ppm



New Air Quality Standards

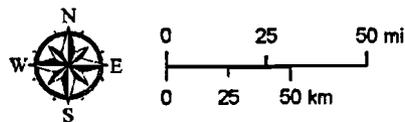
- All monitors in Indiana currently meet the 100 ppb short term NO₂ standard established in 2010.
- On July 25, 2013, U.S. EPA designated nine townships in five counties as nonattainment for the 1-hour, 75 ppb SO₂ standard established in 2010.



SO₂ 1-Hour Design Values (2010-2012) With U.S. EPA Defined Nonattainment Areas

Legend

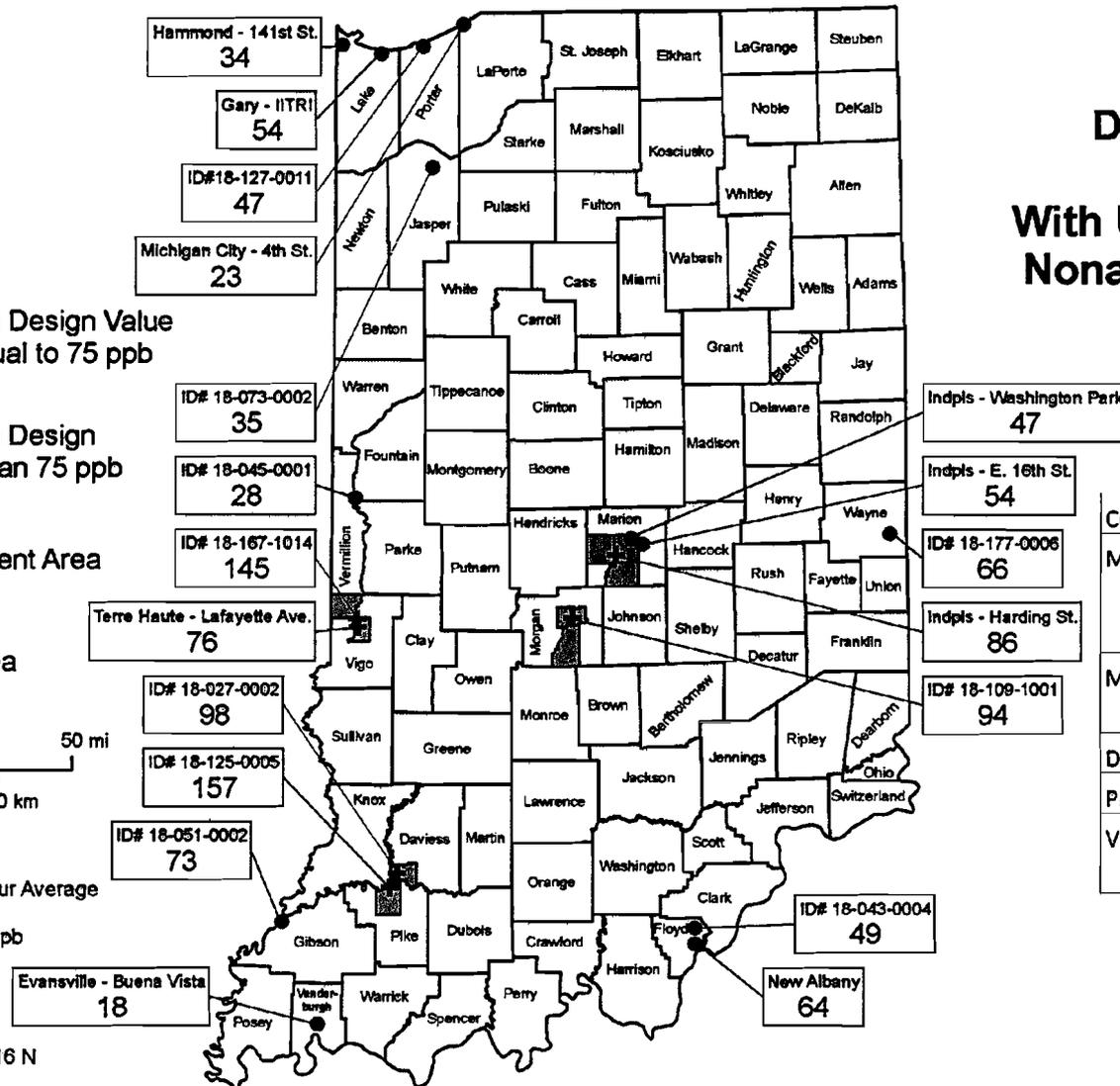
- SO₂ Monitor With Design Value Less Than or Equal to 75 ppb
- ⊕ SO₂ Monitor With Design Value Greater Than 75 ppb
- Final Nonattainment Area
- Unaddressed Area



Notes:

- Posted Data Represent 1-hour Average Design Values, 2010 - 2012
- Posted Data are in Units of ppb

Date: 9/4/2013
 Mapped by: C. Mitchell, OAQ
 Sources: Office of Air Quality
 Map Projection: UTM Zone 16 N
 Map Datum: NAD83

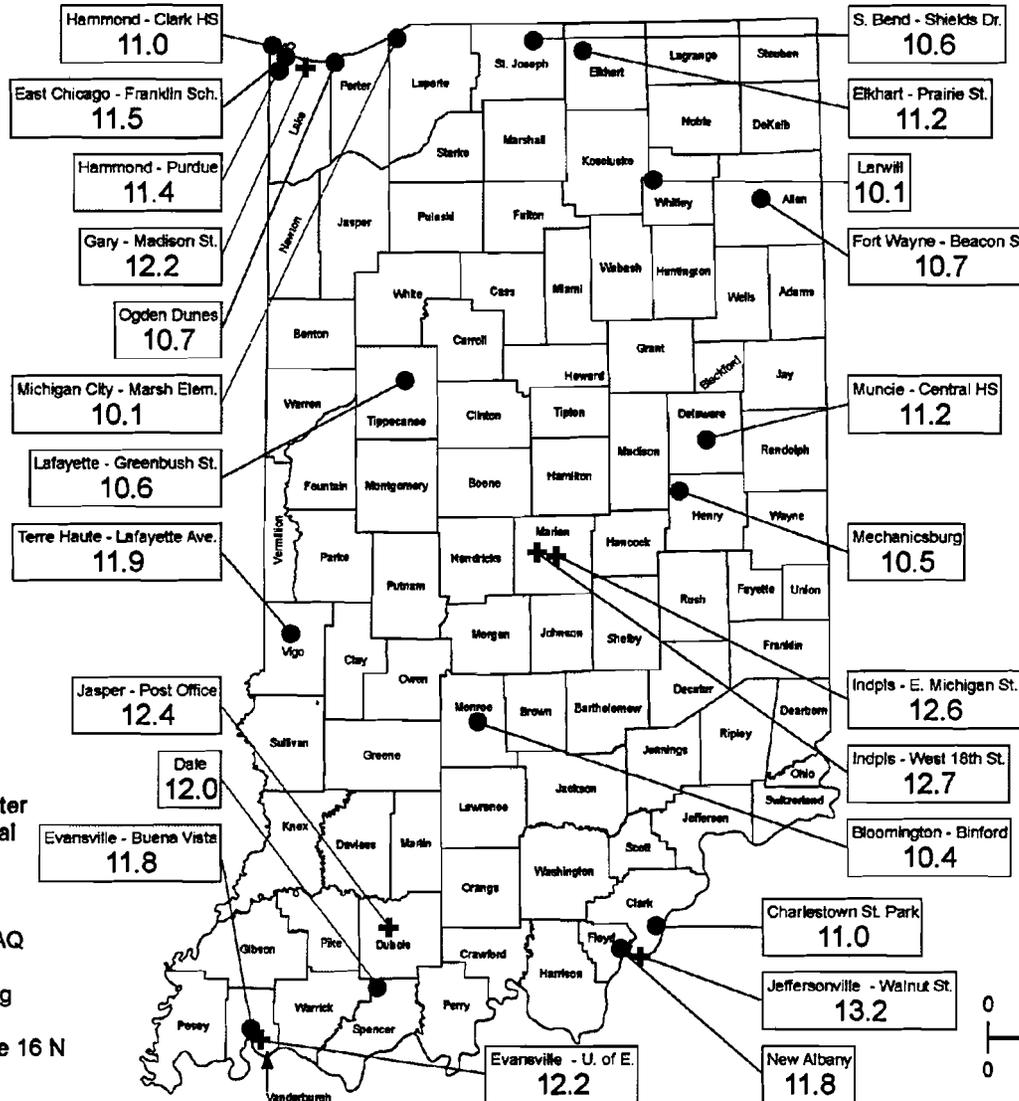


County	Nonattainment Area
Marion	Center Township
	Perry Township
	Wayne Township
Morgan	Clay Township
	Washington Township
Daviess	Veale Township
Pike	Washington Township
Vigo	Fayette Township
	Harrison Township



New PM_{2.5} Standard

- The new annual standard is 12 micrograms per cubic meter which is a 20% reduction from the previous 15 micrograms per cubic meter standard.
- Standard became effective March 18, 2013.
- New nonattainment designations likely in early 2015.



Legend

- PM_{2.5} Design Value Equal to or Greater Than 12.1 ug/m³
- PM_{2.5} Design Value Less Than 12.1 ug/m³

Notes:
 Posted data are in units of micrograms per cubic meter (ug/m³) and represent Annual Average Design Values for 2010 - 2012.

Mapped By: C. Mitchell, OAQ
 Date: 04/04/2013
 Source: IDEM Air Monitoring

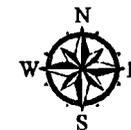
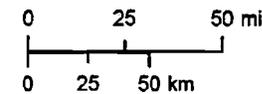
Map Projection: UTM Zone 16 N
 Map Datum: NAD83

PM_{2.5} Annual Design Values 2010 - 2012

In December, 2012 U.S. EPA finalized the Annual PM_{2.5} Standard

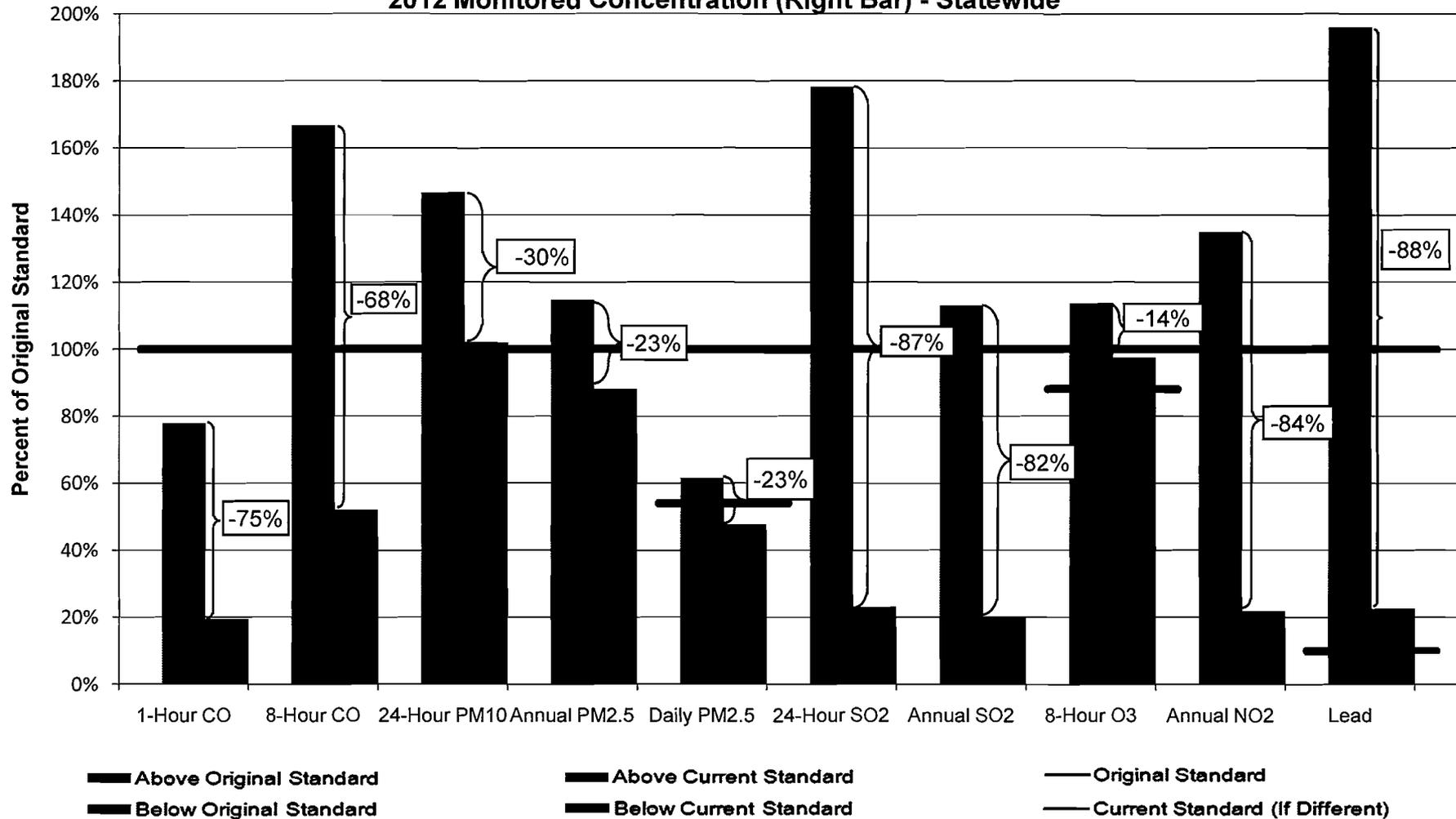
Standard set at 12.0 ug/m³

Standard Effective 3-18-2013





Percent Difference Between Highest Historical Monitored Concentration (Left Bar) and Highest 2012 Monitored Concentration (Right Bar) - Statewide





Office of Land Quality

- Received a 2013 Environmental Council of the States (ECOS) Innovation Award for development of an on-line Institutional Controls Registry.
- Averaged issuance of permits in 70% of the statutory allotted time.
- Developed in-house self-paced training modules for staff.



Office of Land Quality

Spill Information

- **2111 total spills reported to IDEM from July 1, 2012 to June 30, 2013**
- **15 total animal waste spills; 6 from regulated farms**
 - **2 CAFO's**
 - **4 CFO's**
 - **9 Spills from unregulated farms**



Office of Land Quality

- Completed:
 - Rules to encourage development of:
 - Biodigesters
 - Alternative fuel use
 - Mobile Home Recycling
 - UST Operator Training requirements



Office of Legal Counsel

Rules Branch

- In Progress:
 - PM_{2.5} and Ozone Designations
 - Central Indiana Annual PM_{2.5} Redesignations
 - SO₂ Designations
 - Sewage Sludge Incineration and Carbon Monoxide Monitoring
 - Emergency Generator Non-Rule Policy Document
 - Stage II Vapor Recovery
 - Exceptional Use Waters
 - Satellite Manure Storage Structures
 - Waste Tires



IDEM Challenges

- Louisville, KY, Air Pollution Data Audit may delay the designation of Clark and Floyd Counties to attainment for the 15 microgram per cubic meter PM_{2.5} standard.
- Algae and nutrients--science and cost issues.
- Bacteriological water quality issues.
- Cost and timeliness of ambient water quality data.



Federal Initiatives to Watch

- President's climate change initiative.
 - Regulations to reduce greenhouse gas emissions from new and existing power plants.
 - Mitigation measures.
- eDMRs—possible expansion of reporting requirements and mandatory electronic reporting.
- Air pollution issues from downwind states.



President's Climate Directives

- U.S. EPA to issue proposed carbon pollution restrictions for:
 - New power plants by September 20, 2013.
 - Existing power plants by June 1, 2014, and finalize those restrictions by June 1, 2015.
- States will be required to submit implementation plans under Section 111(d) of the Clean Air Act by June 30, 2016.



President's Climate Directives

- In September 2013, U.S. EPA proposed New Source Performance Standards (NSPS) for Greenhouse Gas (GHG) Emissions for certain Electric Utility Generating Units (EGUs).
 - Combined cycle gas turbines will meet the rule.
 - Coal fired units will not meet the rule without using carbon capture and storage.



President's Climate Directives

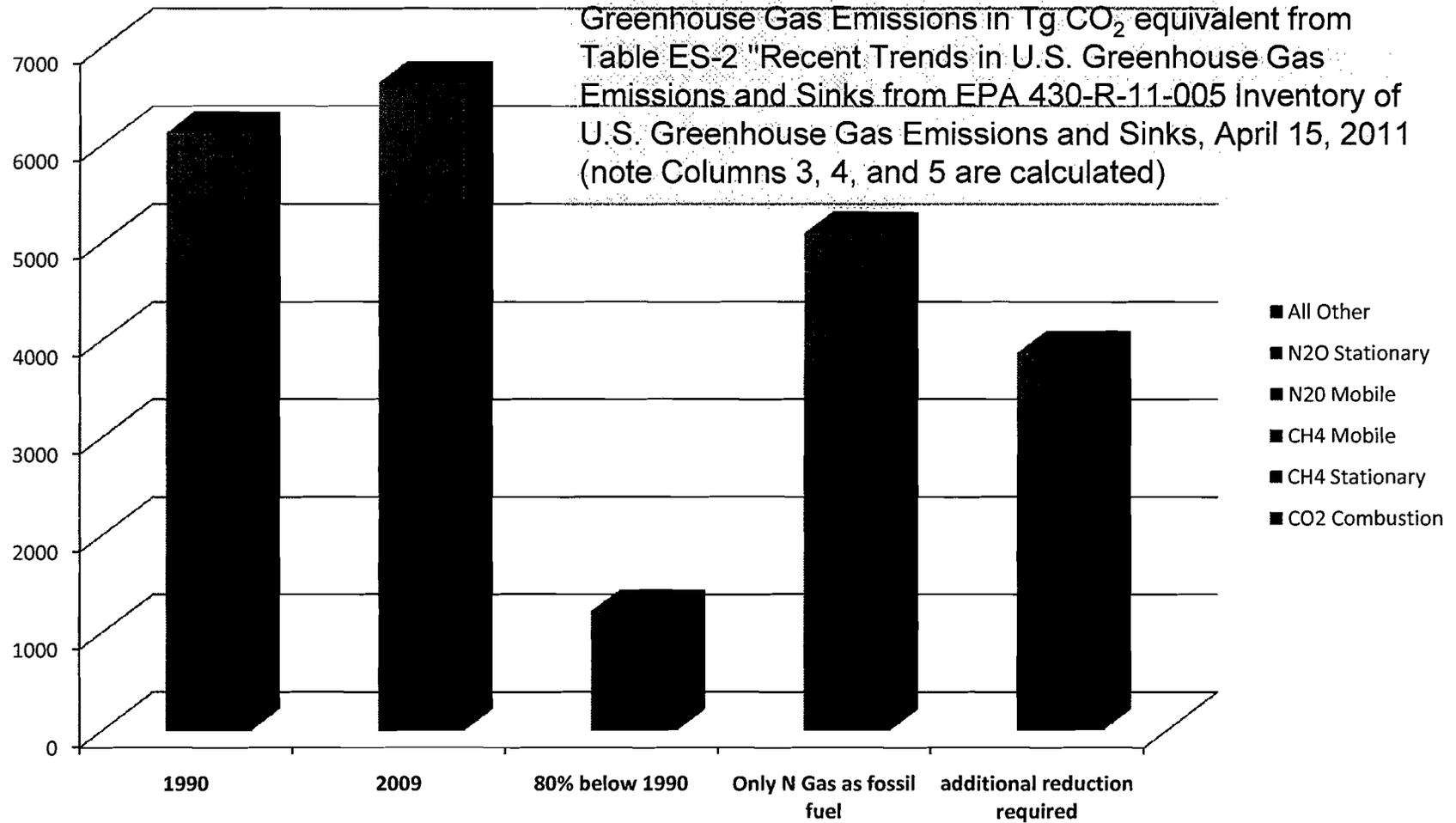
- Carbon capture and storage:
 - is not yet commercially available,
 - has not yet been demonstrated at commercial scale, and
 - is likely to be prohibitively expensive.



President's Climate Directives

QUESTION: Will initiatives which are aimed at weaning power plants off of coal going to make a significant difference in emissions?

The National Academy of Sciences report, "*America's Climate Choices*" recommends that actions be taken now to start reducing U.S. greenhouse gas emissions to levels between 50% and 80% below 1990 levels.





President's Climate Directives

- In the spring of 2012, the Environmental Council of the States (ECOS) passed Resolution 12-1, “Challenges of Achieving Significant Greenhouse Gas (GHG) Emissions Reductions.” A copy of this resolution is available at:

www.ecos.org/files/4711_file_Resolution_12_1_Challenges_of_GHG_reductions.doc



President's Climate Directives

- The resolution requests that the U.S. EPA develop one or more scenarios that will produce an 80% reduction in GHG emissions nationally, from a 2005 baseline, in 2050 or beyond; and to conduct an analysis of the costs and the benefits associated with each such scenario along with an estimate of the costs and benefits of not obtaining these GHG reductions.



President's Climate Directives

- The President's plan does not include numerical goals for GHG reductions.
- U.S. EPA has decided not to spend the resources required to develop the requested scenario, but rather to develop rules to reduce GHG emissions, even if these rules do not materially reduce U.S. emissions.
- The President's directive will change the power plant carbon profile without any public plan to actually reduce U.S. (or world) GHG emissions to the levels advocated by the National Academy of Sciences.



Protection of Downwind States

- In April, 2005, U.S. EPA had designated 474 counties in the eastern U.S. as nonattainment for the ozone standard and 208 counties as nonattainment for the PM_{2.5} air quality standards.
- At that time, U.S. EPA projected that, in the absence of the Clean Air Interstate Rule (CAIR), over 100 eastern U.S. counties would still not meet standards by 2012.



Protection of Downwind States

- The CAIR was issued in May 2005 to address the impacts of transported air pollution in 28 eastern states.
- The CAIR regulation was remanded to U.S. EPA in December 2008 and was replaced by the more stringent Cross States Air Pollution Regulation (CSAPR) in August, 2011.
- CSAPR's projected compliance costs exceeded CAIRs by \$800 million per year.



Protection of Downwind States

- The CSAPR Rule was vacated by the court under the Homer City decision (D.C. Circuit 11-1302). Under this decision, U.S. EPA must:
 - Determine if a state has a significant contribution to nonattainment areas in any downwind state.
 - Determine each state's obligation to reduce its contribution to the downwind state(s).
- Each state is then required to obtain that contribution reduction.



Protection of Downwind States

- Actual measured air quality demonstrates that CAIR, with an estimated annual cost of \$1.6 billion per year, adequately addresses transported air pollutants for the air quality standards that existed in 2010.
- The additional \$800 million per year that CSAPR is estimated to cost is an unnecessary burden on U.S. utility ratepayers, and the courts have overturned CSAPR.

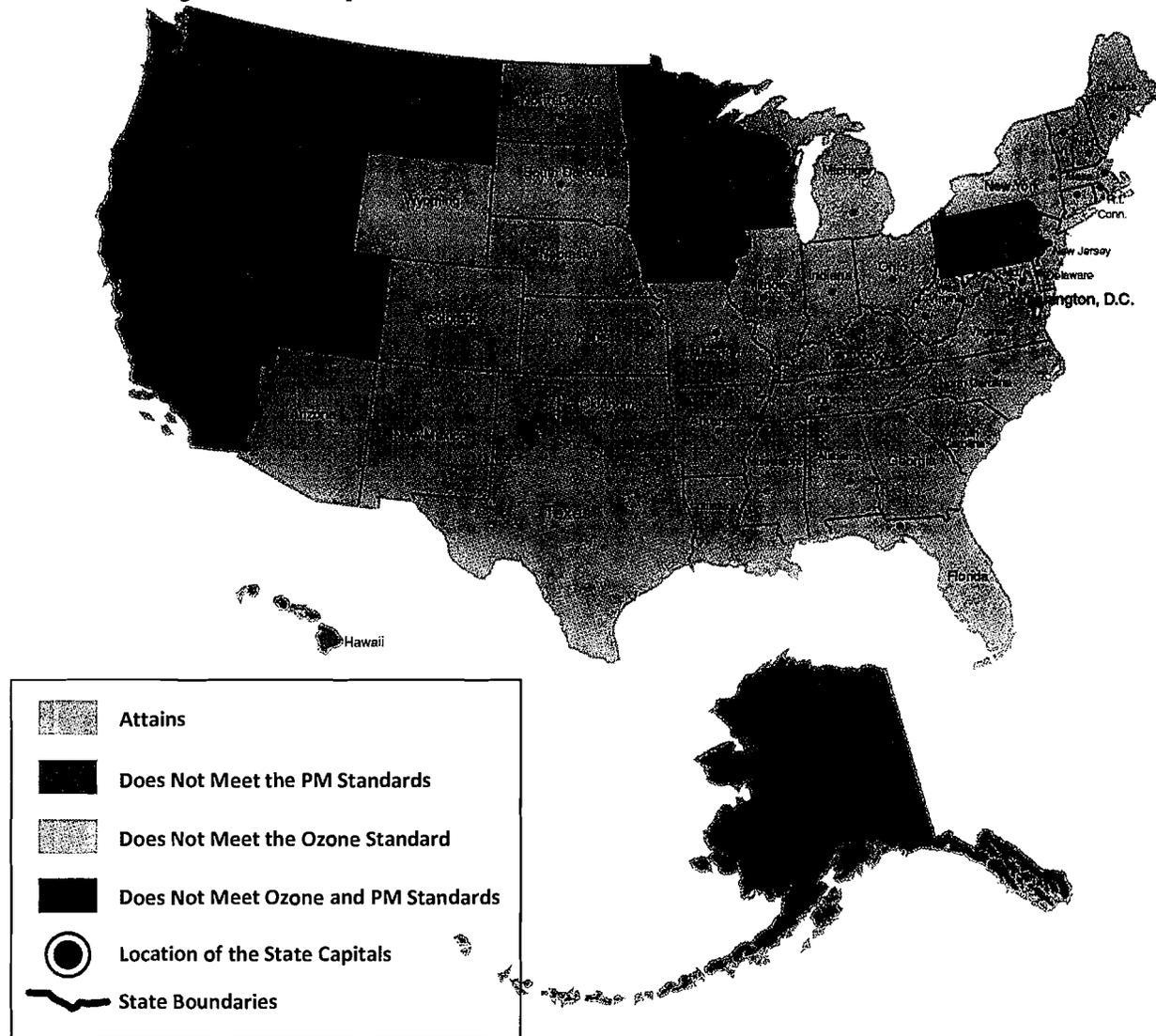


Indiana Department of Environmental Management

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Air Quality Compared to CAIR Goals 2008 to 2010



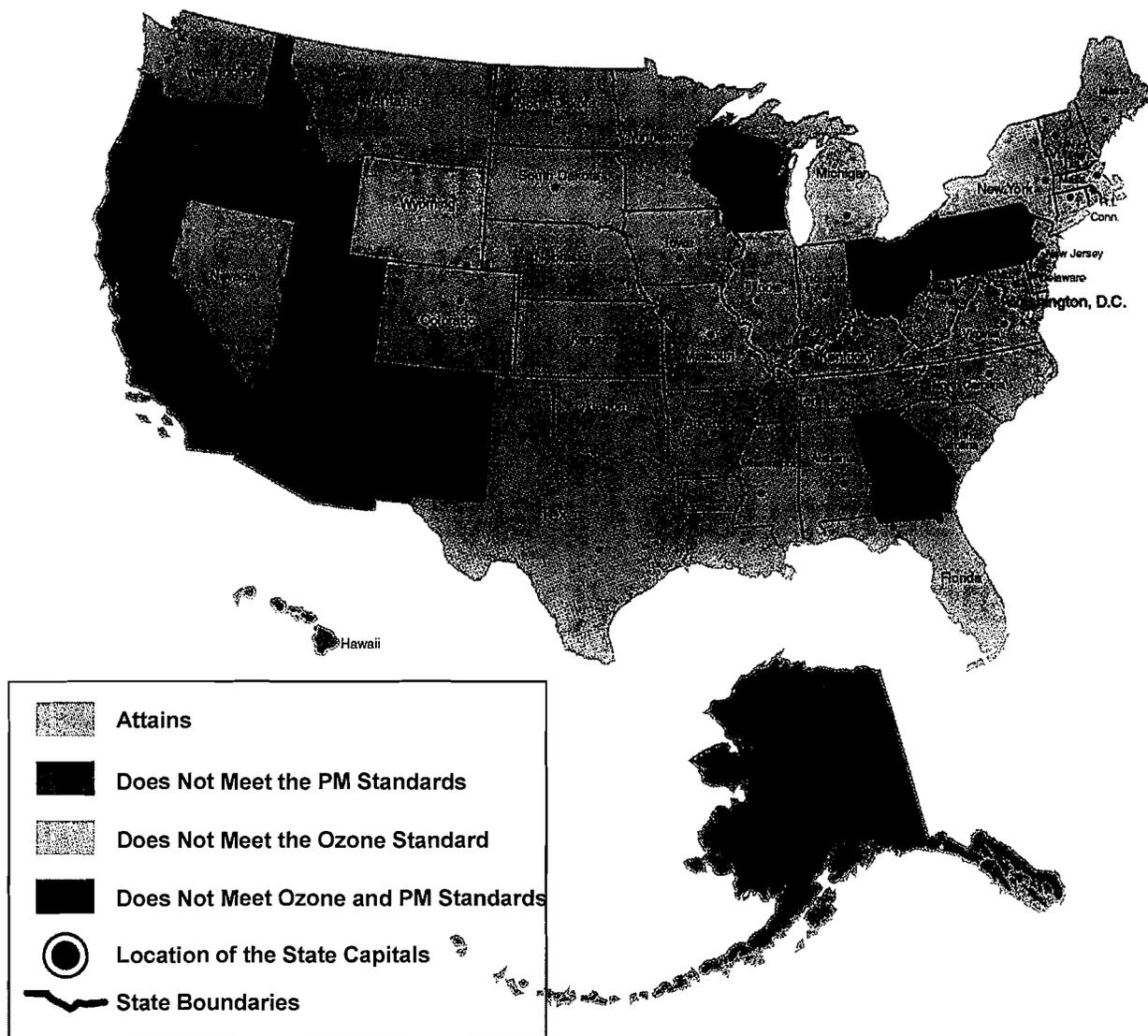


Protection of Downwind States

- **CAUTION!!!** While CAIR adequately addresses the air quality standards that existed when it was developed, U.S. EPA has since lowered the ozone standard and the annual PM_{2.5} standard, and is looking to further lower the ozone standard.
- The next map shows the current lower ozone standard compared to the measured air quality for the 2009-2011 period.



Ozone and Particulate Air Quality 2009 to 2011





Protection of Downwind States

- Indiana will continue to work with U.S. EPA to ensure that Indiana sources do not significantly contribute to air quality issues in downwind states, and that Indiana sources are not unfairly required to implement controls when the air quality problems are better addressed by sources in or near the location of the actual air quality issue.



Indiana Department of Environmental Management

Protecting Hoosiers and Our Environment Since 1986



Questions?

Tom Easterly
Commissioner

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