

FINAL NOTICE OF RECONSIDERATION OF CERTAIN ASPECTS OF THE PHASE 1 RULE IMPLEMENTING THE NATIONAL AIR QUALITY STANDARDS FOR 8- HOUR OZONE

FACT SHEET

ACTION

On May 20, 2005, the Environmental Protection Agency (EPA) took final action on the reconsideration of certain aspects of its final rule to implement Phase 1 of the 8-Hour National Ambient Air Quality Ozone Standard. This action is in response to a Petition for Reconsideration submitted by Earthjustice on behalf of seven environmental organizations.

In response to the petition, this final action:

- upholds the original decision to allow States to focus on attaining the 8-hour ozone standard. In setting the 8-hour ozone standard in 1997, EPA concluded that replacing the existing 1-hour standard with an 8-hour standard was appropriate to provide adequate and more uniform protection of public health from both short-term (1 to 3 hours) and prolonged (6 to 8 hours) exposures to ozone. Provisions of the Clean Air Act triggered by failure to attain the one-hour standard, including the Section 185 fees imposed on emissions sources, are no longer applicable.
- changes the date for determining which controls need to remain in place to avoid air quality degradation after the 1-hour standard is revoked, from April 15, 2004 to June 15, 2004. The Agency made this change to harmonize the dates for all the major requirements of the standard. The unintended result of this action will require one area of California (San Joaquin Valley) and one area of Texas (Beaumont/Port Arthur) to adhere to slightly more stringent emissions control standards. Between April 15, 2004 and June 15, 2004 the 1-hour ozone classification for these areas was bumped-up to a higher level, triggering the more stringent requirements.

This final action also clarifies that:

- States must continue to implement existing plans in order to protect air quality during the transition to the new 8-hour standard.
- States are no longer required to include in their state implementation plans (SIPs) contingency measures for failing to make “reasonable further progress” towards attaining the 1-hour standard or for failing to meet the 1-hour standard by the required date once that standard is revoked.

BACKGROUND

In 1997, EPA revised the national ambient air quality standards for ground-level ozone, setting the standard at 0.08 parts per million averaged over an 8-hour time frame. Litigation delayed the implementation of the new standard. On April 15, 2004, EPA designated areas under the new 8-hour standard and finalized the first phase of its rule for implementing the standard.

On June 29, 2004, Earthjustice submitted a petition for reconsideration requesting that EPA consider six issues. These issues were:

1. status of penalty fees under section 185 of the Clean Air Act,
2. the timing for determining which 1-hour ozone standard control requirements continue to apply,
3. whether new source review (NSR) requirements that applied for the 1-hour standard continue to apply once that standard is revoked.
4. overwhelming transport classification,
5. redesignation of areas to nonattainment, and
6. reformulated gasoline requirements.

In September 2004, EPA granted reconsideration of the first three issues. In a January 10, 2005 letter, EPA informed Earthjustice that it was granting reconsideration of the overwhelming transport classification issue they raised although no time frame has been set for action on that issue.

Also in the January 2005 letter EPA denied reconsideration of two issues – one dealing with the potential redesignation of 8-hour areas to nonattainment and the other related to reformulated gasoline requirements once the 1-hour air quality standard is revoked. A copy of that letter and other documents related to the Petitions for Reconsideration are available at www.epa.gov/ttn/naaqs/ozone/o3imp8hr/.

On February 3, 2005, EPA proposed action on two of the issues identified in the September 2004 letter: the fee provisions and the timing for determining which 1-hour control requirements remain "applicable requirements".

On April 4, 2005, EPA proposed action on a third issue identified in the September 2004 letter, whether NSR requirements that applied for the 1-hour standard would continue to apply once that standard is revoked. EPA will take final action on the NSR issues in a separate rule. EPA will finalize this rule by June 30, 2005.

ADDITIONAL INFORMATION

For more information on ozone designations and implementation, go to EPA's web site at: www.epa.gov/ozonedesignations.