

FACT SHEET

FINAL RULE ON THE SEQUENCE OF MANDATORY SANCTIONS UNDER THE CLEAN AIR ACT

TODAY'S ACTION...

- ◆ Under authority of the Clean Air Act, the Environmental Protection Agency (EPA) is issuing a final rule governing the sequence of automatic sanctions that apply to States that have failed to correct certain deficiencies in their State implementation plans.
- ◆ Specifically, automatic sanctions apply to States that were required to submit plan revisions addressing areas that fail to meet the national air quality standards for certain pollutants, such as ozone. These areas have been designated as "nonattainment."
- ◆ Sanctions also apply to States that have failed to submit plan revisions for the Ozone Transport Region which is comprised of 12 northeastern States and Washington, D.C. The Ozone Transport Region was established under the Clean Air Act to address interstate transport of ground-level ozone, or smog.
- ◆ In conjunction with this rule, EPA is issuing a notice that identifies those areas that may be subject to sanctions by August 31, 1994. The notice also includes a discussion of how many of these areas expect to resolve the deficiencies in their State implementation plans.

BACKGROUND

- ◆ The Clean Air Act places much of the responsibility on States to achieve compliance with air quality standards. The principal vehicle for implementing these requirements is the State implementation plan. These plans require a complete analysis of the air quality in each State and a specific plan for achieving compliance deadlines.
- ◆ Between 1990 and November of 1993, the Clean Air Act required States to submit over 1700 State implementation plan revisions to EPA, covering various requirements for nonattainment areas. Most of these revisions were due by November 1992.
- ◆ On January 15, 1993, EPA sent "findings letters" to the States who failed to submit approximately 400 plan revisions

on time. The findings letters started "sanction clocks," which gave States 18 months to correct deficiencies by submitting a complete State implementation plan revision to EPA.

- ◆ As of January 1994, over 98 percent of the required submissions have been made and deemed "complete" by EPA, stopping the mandatory sanctions process. Any States with outstanding plan deficiencies, where the 18-month sanctions clock expires by late August, will be subject to sanctions thirty days following publication of this rule in the Federal Register.

HOW WILL THE REGULATION WORK?

- ◆ Under the Clean Air Act, automatic sanctions apply for any of the following findings: (1) State failure to submit a complete State implementation plan, (2) EPA disapproval of a State implementation plan, or (3) State failure to implement its plan.
- ◆ EPA can apply two sanctions to States: (1) a 2-to-1 emissions offset for newly constructed or modified "major" sources, which would require new or modified facilities to reduce emissions from other sources equal to twice the amount they project to emit (a modified facility may reduce emissions from other points or stacks within the same facility); and (2) a restriction on highway projects (this sanction may not apply to any project designed to improve highway safety, or reduce air pollution, such as public transportation programs).
- ◆ EPA is required to select one of these sanctions to apply 18 months after a findings letter has been issued to a State if the problem has not been resolved, and to apply the second sanction six months later if the problem has still not been corrected. Through this rulemaking, the 2-to-1 offset sanction applies first, and the highway funding restrictions applies 6 months later.
- ◆ The notice accompanying this rule identifies those areas whose 18-month sanction clocks expire by August 31, 1994 and whose State implementation plan deficiencies were not been corrected by July 15, 1994. These areas will face the offset sanction when the attached rule is effective. The notice also includes a discussion of how many of these areas expect to resolve their deficiencies between July 15, 1994 and late August 1994.

HOW WILL THE REGULATION IMMEDIATELY AFFECT STATES?

- ◆ Sanctions will automatically go into effect 30 days after EPA publishes this regulation in the Federal Register. These sanctions will apply to any State that was issued a findings letter where the 18-month sanctions clock has expired, and the State has not submitted a complete plan revision.
- ◆ In the future, whenever EPA issues a finding to a State, the Agency will have no discretion over whether sanctions apply, where a State has failed to correct a plan deficiency. However, following findings of a State plan disapproval or nonimplementation, the rule provides for the temporary deferral or lifting of sanctions where EPA had preliminarily determined that a plan deficiency had been corrected.
- ◆ This regulation eliminates the need for an individual rulemaking every time sanctions are required; the rule sets the order in which the two sanctions are applied to States who have not submitted State plan revisions addressing nonattainment area requirements under the Clean Air Act.
- ◆ In the future, EPA will notify States by letter or through the Federal Register to indicate any new areas that are subject to sanctions. EPA will periodically update the Technology Transfer Network (TTN) bulletin board to reflect the most current listing of areas subject to sanctions. If EPA decides to apply the highway sanction first, another rulemaking will be required.

FOR MORE INFORMATION...

Anyone with a computer and a modem can download the rule from the Clean Air Act board of EPA's electronic Technology Transfer Network bulletin board by calling (919) 541-5742. For further information about how to access the board, call (919) 541-5384. For further information about the rule, contact Chris Stoneman at (919) 541-0823.