

NOTICE OF RECONSIDERATION OF FINAL RULE TO IMPLEMENT THE 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARD – PHASE 1

FACT SHEET

ACTION

- On January 27, 2005, the Environmental Protection Agency (EPA) issued a Notice of Reconsideration of the Final Rule to Implement the 8-Hour National Air Quality Standard – Phase 1. This action is in response to a Petition for Reconsideration submitted by Earthjustice on behalf of seven environmental organizations.
 - In a letter dated September 23, 2004, EPA granted reconsideration of three issues raised in the Earthjustice Petition:
 1. the status of fee provisions for the 1-hour National Ambient Air Quality Standards under section 185 of the Clean Air Act
 2. the timing for determining which 1-hour National Ambient Air Quality Standards control requirements continue to apply as “applicable requirements” and
 3. whether new source review (NSR) requirements that applied for the 1-hour standard continue to apply once that standard is revoked.
 - In today's action, EPA is taking public comment on two of these issues. EPA is proposing:
 1. that fee provisions under section 185 of the Clean Air Act would no longer apply for a failure to attain the 1-hour standard once that standard is revoked. In general these fees apply to sources of air emissions in severe and extreme ozone nonattainment areas that fail to meet their attainment dates.
 2. to change from April 15, 2004 to June 15, 2004 the date for determining which 1-hour requirements remain “applicable requirements” to avoid air quality degradation.
 - EPA will reconsider the NSR issues in a separate action, but will take final action on all three issues by May 20, 2005.
 - In this action, EPA also is proposing two clarifications to its final rule to implement the national air quality standard for 8-hour ozone – phase 1.
 1. contingency measures for failure to make reasonable further progress or attain by an area's 1-hour attainment date should no longer be required of an area once the 1-hour standard is revoked.
 2. revise the definition of "applicable requirement" to include 1-hour attainment demonstrations.
- These issues were not raised in the Earthjustice Petition.
- 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. In that 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/.

- This action will not affect the issuance of Phase 2 of the final rule to implement the 8-hour ozone standard which will address, among other things, reasonably available control measures, reasonably available control technology, attainment demonstrations and modeling requirements. EPA expects to issue that final rule in March 2005.

BACKGROUND

- Ground level ozone pollution (commonly referred to as smog) is formed when volatile organic compounds (VOC) react with nitrogen oxides (NO_x) in the presence of sunlight.
- In 1997 EPA revised the national ambient air quality standards for ground-level ozone, setting it at 0.08 parts per million averaged over an 8-hour time frame.
- Litigation delayed the implementation of the new 8-hour ozone standard.
 - ▶ EPA's new standards were challenged by the American Trucking Association, the U.S. Chamber of Commerce and other state and business groups and the D. C. Circuit Court of Appeals upheld those challenges.
 - ▶ EPA sought review of the appeals court decision in the Supreme Court and in February 2001 the Supreme Court upheld EPA's authority under the Clean Air Act to set national air quality standards that protect the American public from harmful effects of air pollution. However, the Supreme Court also determined that EPA's original strategy for implementing the 8-hour standard was unreasonable and left it to EPA to develop a more appropriate strategy. The Supreme Court also sent the case back to the D.C. Circuit Court of Appeals on several issues.
 - ▶ In March 2002, the D.C. Circuit Court rejected all remaining challenges to the 8-hour ozone standard, paving the way to begin implementation of the requirements.
- In setting the revised 8-hour ozone standard, EPA considered information about ozone's chronic adverse health effects. Breathing elevated levels of ozone causes a wide range of health problems, including:
 - ▶ decreased lung function (primarily in children active outdoors);
 - ▶ increased respiratory symptoms (particularly in highly sensitive individuals);
 - ▶ increased hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma);
 - ▶ inflammation of the lungs; and

- ▶ possible long-term damage to the lungs.
- On April 15, 2004, the Administrator signed both the Phase 1 Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standards and the 8-Hour Ozone Designations. Both became effective on June 15, 2004.
- Following publication of the Phase 1 Rule, States, industry and environmental groups all filed challenges in the Court of Appeals. We also received three administrative Petitions for Reconsideration of the rule, requesting EPA to reconsider a number of aspects of the final rule.
- We are still reviewing the other two Petitions – one from the National Petrochemical and Refiners Association which deals with the 8-hour classification scheme and one from the American Petroleum Institute which deals with the 8-hour ozone attainment dates.

FOR MORE INFORMATION

- For more information on the final rule, go to EPA's web site at: www.epa.gov/airlinks. Click on the tab marked "ozone and particulate standards."