

**NOTICE OF RECONSIDERATION OF THE
FINAL RULE TO IMPLEMENT PHASE 2 OF THE 8-HOUR OZONE
NATIONAL AMBIENT AIR QUALITY STANDARD**

FACT SHEET

ACTION

- On May 31, 2007 the Environmental Protection Agency (EPA) announced its final decisions with respect to its reconsideration of three provisions in the final Phase 2 8-hour ozone implementation rule.
- EPA reconsidered:
 - The determination that certain electric generating units (EGUs) meet the 8-hour ozone state implementation plan (SIP) requirement for applying reasonably available control technology (RACT) for nitrogen oxide (NO_x) emissions, if they:
 1. comply with rules implementing the Clean Air Interstate Rule (CAIR); and
 2. are located in states where all required CAIR emissions reductions are achieved from EGUs.
 - EPA also took comments on extending the submission date from September 15, 2006 to June 15, 2007 for the RACT SIPs for the sources affected by this determination.
 - A new source review (NSR) requirement allowing sources to use emission reductions from source shutdowns and curtailments as offsets.
 - An NSR provision addressing when requirements for the lowest achievable emission rate (LAER) and emission offsets may be waived.
- After considering public comments received on the issues, EPA has decided to make two revisions to the positions EPA took on the three issues in the November 29, 2005 final rule to implement the 8-hour ozone national ambient air quality standard.
- First, EPA has determined that compliance with CAIR satisfies NO_x RACT requirements for EGUs in areas where EPA's emissions analysis shows that CAIR is projected to achieve greater emissions reductions than application of source-by-source RACT. Other areas may still rely on the presumption that compliance with the CAIR satisfies NO_x RACT requirements when supporting information is not present. This presumption is rebuttable and the State may choose to provide supporting analyses and will have to respond to any comments received during the comment period that address the presumption.
- Second, EPA has revised the deadline for states in the CAIR region to submit certain NO_x RACT SIPs for EGUs. The new deadline is the effective date of this rule, or the date on which attainment demonstrations are due, whichever is later.

BACKGROUND

- EPA issued the ozone implementation rule in 2 phases:
 - Phase 1 covers: Classifications, transition/anti-backsliding, revocation of 1-hour std., attainment dates, attainment date extensions, timing of emission reductions needed for attainment. It was published April 30, 2004.
 - Phase 2 covers the remainder of rule elements: e.g., Reasonably Available Control Technology, Reasonable Further Progress, attainment demonstrations; 8-hr New Source Review. It was published November 29, 2005.
- After finalizing the phase 2 rule, EPA received a petition from the Natural Resources Defense Council (NRDC) under section 307(d) of the Clean Air Act to reconsider the three specific aspects of this final rule identified above.
- In response to that petition, EPA published a proposed notice of reconsideration on December 19, 2006 and asked for public comment on those issues identified by the NRDC petition which EPA believed had not been adequately discussed in the June 2, 2003 proposal which preceded the November 29, 2005 final rule to implement the 8-hour ozone national ambient air quality standard
- After considering the comments received on the December 19, 2006 proposed notice of reconsideration, EPA is issuing the final notice of reconsideration today.

FOR MORE INFORMATION

- To download a copy of this notice, go to EPA's World Wide Web site at:
<http://www.epa.gov/ozonedesignations/regs.htm>
- Today's action and other background information are also available electronically at www.regulations.gov, EPA's electronic public docket and comment system. The docket number for this action is Docket ID no. EPA-HQ-OAR-2003-2003-0079.
- Today's action is also available at the EPA Docket Center (EPA/DC) Public Reading Room. Please call (202) 566-1744 between the hours of 8:30 A.M. and 4:30 P.M. Eastern Standard Time for more information.
- For more information on the final rule, contact William L. Johnson at 919-541-5245 or johnson.williamL@epa.gov.