

US EPA ARCHIVE DOCUMENT

**PROPOSED NOTICE OF RECONSIDERATION OF PHASE 1 RULE TO
IMPLEMENT THE 8-HOUR OZONE NATIONAL AMBIENT AIR QUALITY
STANDARD – OVERWHELMING TRANSPORT CLASSIFICATION**

FACT SHEET

ACTION

- On March 21, 2006, the Environmental Protection Agency (EPA) requested public comment on several issues associated with the overwhelming transport classification available to certain areas designated “nonattainment” because they do not meet EPA’s 8-hour ozone national ambient air quality standard.
- The overwhelming transport classification will be used to identify nonattainment areas that can demonstrate that their air quality is affected by overwhelming transport of ozone and its precursors from sources beyond the nonattainment area’s boundaries. This classification is available only to basic nonattainment areas that meet the Clean Air Act definition of a “rural transport area.”
- Today’s proposed notice of reconsideration:
 - requests public comment on the overwhelming transport classification for 8-hour ozone nonattainment areas,
 - requests public comment on EPA’s draft overwhelming transport guidance, and
 - reopens the comment period on EPA’s proposed rule regarding how the Clean Air Act’s general requirements for nonattainment areas would apply to areas with an overwhelming transport classification.
- This action is in response to a Petition for Reconsideration submitted by Earthjustice on behalf of seven environmental organizations. In a January 2005 letter, EPA informed Earthjustice that it was granting reconsideration of the overwhelming transport classification issue they raised.
- A copy of the January 10, 2005 letter granting reconsideration of this issue and other documents related to the Petitions for Reconsideration are available at www.epa.gov/ttn/naaqs/ozone/o3imp8hr/.
- EPA will accept comments on this proposal for 30 days after the April 12, 2006 public hearing.

BACKGROUND

- 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 filed challenges in the Court of Appeals. EPA also received three administrative Petitions for Reconsideration of the rule, requesting EPA to reconsider a number of aspects of the final rule.
- In the January 10, 2005 letter to Earthjustice, EPA agreed to reconsider four issues but denied reconsideration of two issues – one addressing 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.
- On May 20, 2005 and June 30, 2005, EPA issued final rules addressing other issues raised in the Earthjustice Petition on which EPA had previously granted reconsideration. That final rule:
 - upheld 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.
 - changed 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.
- Also in response to the Earthjustice petition, in June 2005, EPA determined that NSR requirements applying to large sources in nonattainment areas for the 8-hour standard are to be based on the area's classification for the 8-hour standard and not on the area's higher classification under the revoked 1-hour standard. In addition, EPA determined that since the 1-hour standard is no longer in effect, States may remove 1-hour major NSR programs from their state implementation plans.
- EPA is 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.
- Ground level ozone pollution (commonly referred to as smog) is formed when volatile organic compounds (VOC) react with nitrogen oxides (NOx) in the presence of sunlight.
- In 1997, EPA revised the national ambient air quality standards for ground-level ozone and set the new standard 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 D.C. Circuit 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 so they would address several outstanding issues.
- In March 2002, the D.C. Circuit Court rejected all remaining challenges to the 8-hour ozone standard and paved the way to begin implementation of the requirements necessary for areas to attain and maintain the standard.
- 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), and
 - 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.

FOR MORE INFORMATION

- Interested parties can download the notice from EPA's web site on the Internet under recently signed rules at the following address: <http://www.epa.gov/ozonedesignations>.
- Today's proposed rule and other background information are also available either electronically in EDOCKET, EPA's electronic public docket and comment system, or in hardcopy at EPA's Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue, NW, Washington, D.C. (Docket ID No. OAR-2003-0079). The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566-1742.
- HOW TO COMMENT: Comments will be accepted for 30 days after the April 12, 2006 public hearing. All comments should be identified by Docket ID No. OAR-2003-0079 and submitted by one of the following methods:
 - Federal eRulemaking Portal (<http://www.regulations.gov>);

- EDOCKET (<http://www.epa.gov/edocket>);
- E-mail (a-and-r-docket@epa.gov);
- Facsimile ((202) 566-1741);
- Mail (Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460); or
- Hand delivery (Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue, NW, Washington, DC).