

## FACT SHEET

### NOTICE OF FINAL RULEMAKING TO RECONSIDER HOW NEW SOURCE REVIEW APPLIES UNDER THE PHASE 1 RULE IMPLEMENTING THE NATIONAL AIR QUALITY STANDARDS FOR 8-HOUR OZONE

#### ACTION

- On June 30, 2005 the Environmental Protection Agency (EPA) took final action to reconsider how New Source Review (NSR) applies in 8-hour ozone nonattainment areas. This action is in response to a Petition for Reconsideration submitted by Earthjustice on behalf of seven environmental organizations.
- This action completes our reconsideration of this matter. Specifically,
  1. NSR requirements applying to large sources in nonattainment areas for the 8-hour standard are based on the area's classification for the 8-hour standard, not on the area's classification under the revoked 1-hour standard.
  2. Since the 1-hour standard is no longer in effect, States may remove 1-hour major NSR programs from their state implementation plans and replace it with an NSR program that that is applicable to 8-hour standard.
- This action will not affect the issuance of Phase 2 of the final rule to implement the 8-hour ozone standard. Phase 2 will address, among other things, reasonably available control measures, reasonably available control technology, attainment demonstrations and modeling requirements. EPA expects to issue the Phase 2 final rule in the near future.

#### 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 completed the first phase of its rule for implementing the standard.
- In a September 23, 2004 letter, 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 will continue to apply as "applicable requirements" and
  3. whether new source review (NSR) requirements that applied for the 1-hour standard will continue to apply once that standard is revoked.

- EPA issued a final rule to address the first two issues on May 20, 2005. This action addresses the third issue.

**FOR MORE INFORMATION**

- For more information on the final rule, and information on the New Source Review program, go to EPA's website at [www.epa.gov/nsr](http://www.epa.gov/nsr) .