

July 31, 2003

**PROPOSED RULE TO IMPLEMENT THE 8-HOUR OZONE
NATIONAL AMBIENT AIR QUALITY STANDARD**

FACT SHEET

ACTION

- The Environmental Protection Agency (EPA) is asking for public comment on draft regulatory text for the proposed 8-hour ozone implementation rule. This draft regulatory text accompanies the June 2, 2003 proposed rule to implement the 1997 National Ambient Air Quality Standards (NAAQS) for ozone – commonly called the 8-hour standard. The regulatory text –when published in final form–would be the legal mechanism to implement the 8-hour standard.
- EPA’s efforts to implement the 8-hour standard will enhance the regulatory framework for reducing the amount of ground-level ozone across the nation. By working with state and local governments, stakeholders, and the public to craft these regulations, a sound policy to improve air quality will result.
- Many proposed federal regulations have two main sections:
 - proposed rule – which contains the policy options
 - proposed regulatory text – containing the regulatory changes to the Code of Federal Regulations to implement the policy changes.
- The proposed rule to implement the 8-hour standard was published on June 2nd. It contains the background discussion for the draft regulatory text being released today.
- EPA plans to finalize the regulatory text when the Agency issues a final rule to implement the 8-hour ozone NAAQS in December 2003.
- The June 2nd rule proposes a roadmap for what areas need to do to attain the 8-hour standard. The rule also proposes options for how areas would transition from the 1-hour standard to the 8-hour standard. This rule does not identify or designate areas that do not meet the 8-hour standard.
- The draft regulatory text contains most of the major elements of the implementation approach in the June 2nd rule, e.g., the transition from the 1-hour to the 8-hour ozone NAAQS and how to implement the Clean Air Act’s provisions related to anti-backsliding. In the draft regulatory text, EPA is not yet addressing the options concerning new source review, i.e., the transitional program and the Clean Air Development Communities program. The attached regulatory text does not contain any language

implementing the new source review transitional option. Although EPA has proposed a transitional option, we are still developing the best method to implement it. At this time, we are considering three options that are described in the introduction to the regulatory text. For the Clean Air Development Communities program, EPA wants to review comments on the June 2 proposal before crafting a more specific supplemental proposal and regulatory text.

- In the June 2nd proposal, EPA identified options for how states should apply ozone control requirements when developing plans, known as state implementation plans or SIPs. A SIP shows how states will reduce emissions in order to attain and maintain clean air within their jurisdictions. States' plans must be reviewed and approved by EPA.
- In the June 2nd proposal, the Agency expressed a preference for those options that provide the most flexibility to state, local, and tribal air agencies. States, tribes, and local air agencies are best suited to address their unique air quality problems.
- The draft regulatory text issued today does not cover all of the options offered in the June 2nd proposal, but rather covers the EPA-preferred option being proposed for each feature or element of the June 2nd proposal or – where a preference was not stated – generally the more flexible option. This draft text demonstrates how the regulatory text would appear for that set of options.
- EPA chose to issue draft regulatory language for the preferred or more flexible options; however, this selection should not be interpreted as a decision by EPA to proceed with that option in the final rule, since comments are still being received and evaluated for the June 2, 2003 proposal.
- The EPA is providing a 30-day comment period on the draft regulatory text. Comments on the draft regulatory text may be submitted electronically, by mail, (by facsimile) or through hand delivery/courier. The comment period on the June 2nd proposal closed on August 1, 2003.
- This document is available for public inspection at EPA's website at: www.epa.gov/ttn/naaqs/ozone/o3imp8hr and at the Office of Air and Radiation (OAR) Docket Center, Docket Number OAR 2003-0079, respectively. Copies of the draft regulatory text can also be obtained from the Ozone Policy and Strategies Group, Office of Air Quality Planning and Standards (C539-02), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

BACKGROUND

- Ground level ozone pollution (commonly referred to as smog) is formed when volatile organic compounds (VOCs) react with nitrogen oxides (NOx) 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.
- In setting the revised ozone standard in 1997, 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.
- There is no legally mandated deadline for EPA to issue a strategy to implement the national 8-hour ozone air quality standard. However, after EPA issues a new or revised standard, the Clean Air Act allows the Agency two years to designate areas that do not meet the clean air standards.
- A number of events 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.
 - The Transportation Equity Act for the Twenty-first Century (TEA-21) revised the deadline to publish nonattainment designations to provide an additional year (to July 2000).
 - The VA-HUD appropriation bill that funded EPA in 2000 restricted the Agency's authority to spend money to designate areas until June 2001 or the date of the Supreme Court ruling on the standard, whichever came first.
- In February 2001 the Supreme Court upheld EPA's authority under the Clean Air Act to set National Ambient Air Quality Standards that protect the American public from harmful effects of air pollution. However, the Supreme Court also determined that EPA's originally proposed 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 DC Circuit Court rejected all remaining challenges to EPA's 1997

protective ambient air standards 8-hour ground-level ozone, paving the way to begin implementation of the requirements.

- EPA will designate areas for the 8-hour ozone standards by April 15, 2004.

FOR MORE INFORMATION

- To download a copy of the draft regulatory text from EPA's web site, go to Proposed Rule at: <http://www.epa.gov/ttn/naaqs/ozone/o3imp8hr/>.
- For more information, contact John Silvasi at 919/541-5666 or Denise Gerth at 919/541-5550.