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Environmental Alert

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EPA Proposes Revised Ozone Standard

On Jan. 6, Environmental Protection Agency Administrator Lisa Jackson announced that the EPA is proposing to revise downward the primary National Ambient Air Quality Standard (NAAQS) for ozone. The primary standard was established to protect human health. The agency also proposes to develop a new secondary standard, established to protect public welfare. The net effect of this revision will be to subject many more sources of ozone-related contaminants, as well as the counties in which they are located, to much more stringent regulatory requirements, affecting growth and development.

EPA proposes to lower the primary ozone NAAQS from 0.075 parts per million (ppm) to a level somewhere between 0.060 and 0.070 ppm. The proposed new secondary ozone NAAQS (designed to protect vegetation and ecosystems), would be based upon a complex time weighting index. EPA's proposal stems from a decision by the Obama administration to reconsider the 2008 EPA decision to lower the ozone NAAQS from 0.08 ppm to the current 0.075 ppm level. EPA's adoption of a primary ozone NAAQS within the range identified in the proposal would significantly impact the number of areas in the country that will have to develop emission reduction programs.

This proposal, if adopted, would be the fifth different primary ozone NAAQS since the 1970s. Each time the standard is revised, the states have to determine which, if any, of the areas within the state have air quality that does not meet the standard. For these areas that are designated "nonattainment," the states must submit, for EPA approval, plans identifying how emissions will be sufficiently reduced to allow those areas to attain the NAAQS.

Reducing ozone levels normally requires reduction in nitrogen oxides (generated by combustion sources such as power plants and motor vehicle engines) and volatile organic compounds (generated by a wide variety of sources including manufacturing, commercial and residential activities). These reductions frequently are expensive to accomplish. A nonattainment designation also makes it more difficult for an area to acquire many new or expanded sources because the permitting requirements for those new or expanded sources are significantly more onerous.

Based upon the latest approved air quality monitoring data (2006-2008), EPA indicates that there are 322 counties in the country that have monitors demonstrating nonattainment with the existing 0.075 ppm ozone NAAQS. If the standard were lowered to 0.070 ppm, there would be 515 counties with monitored levels indicating nonattainment. Using the same data results in 608 counties exceeding a 0.065 ppm standard and 650 counties exceeding a 0.060 ppm standard. Under EPA's proposal, the attainment/nonattainment designations would be made relying upon data from 2008-2010, which has the potential to reduce the number of counties with monitors exceeding the revised standard due to numerous regulations in effect that will reduce emissions from current levels. Nevertheless, the number of nonattainment areas would significantly increase. Moreover, nonattainment areas frequently include not just the county where the monitoring occurs, but also other, nearby counties as well. As a result, there would be not only new nonattainment areas with multiple counties, but also existing nonattainment areas with new, additional counties in them.

Under the proposal, the nonattainment areas would be designated in summer 2011 and the plans for demonstrating attainment would be due to EPA by December 2013. The deadline for achieving attainment of the revised ozone standard will vary from 2014 to 2031, depending on the size of the exceedance of the standard.

EPA's proposal will be published in the Federal Register, which will start a sixty-day public comment period. EPA will also accept oral comments at hearings on Feb. 2 in Arlington, Virginia and Houston, Texas, and Feb. 4 in Sacramento California.

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