

LegalLookout: EPA Proposes Tighter PM Standards

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by Lynn L. Bergeson

EPA has been busy addressing particulate matter (PM), a mixture of very fine particles and/or liquid droplets to which exposure is, according to the agency, directly linked to health problems.

Proposed NAAQS standard

In January, EPA proposed revisions to the primary and secondary national ambient air quality standards (NAAQS) for PM. The proposed revisions address both fine particles of 2.5 micrometers in diameter and smaller (PM_{2.5}); and inhalable, coarse particles that are smaller than 10 micrometers in diameter, but larger than PM_{2.5} (PM_{10-2.5}). The proposal addresses two types of standards: primary standards, intended to protect public health, and secondary standards, intended to protect public welfare, such as crops, vegetation, wildlife, buildings and national monuments, and visibility. According to EPA, studies have found an association between exposure to PM and health problems including asthma, chronic bronchitis, reduced lung function, heart attack, and premature death in people with heart or lung disease.

EPA is proposing revisions to many aspects of the PM NAAQS. The proposal includes lowering the level of the 24-hour fine particulate standard from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$, retaining the level of the annual fine standard at 15 $\mu\text{g}/\text{m}^3$, and setting a new 24-hour standard for inhalable coarse particles at 70 $\mu\text{g}/\text{m}^3$.

The proposal sets a general timeline for implementing the standards. If EPA issues, in final, the new standards in September 2006, as required by court order, states would make recommendations by November 2007 for areas to be designated attainment and nonattainment. EPA would make the final designations for PM_{2.5} by November 2009, and those designations would become effective in April 2010. States would have until April 2013 to submit state implementation plans (SIP) outlining how states will reduce pollution to meet the standards. States would have until April 2015 to meet the standards. For PM_{10-2.5}, final designations would not be made until May 2013, and the designations would become effective in July 2013. States would have to meet the standards by July 2018. In some cases, a state could receive additional time to meet the standard, up to July 2023.

Implementation issues ANPR

On Feb. 3, 2006, EPA issued an advance notice of proposed rulemaking (ANPR) for implementation of the NAAQS for PM. By engaging stakeholders early in the process, EPA hopes to be in a position to address the many cost implications associated with meeting more stringent PM standards. It is not only industry that is concerned about these new standards, states are equally under the gun to develop implementation plans and prepare to demonstrate attainment in as many areas as possible.

EPA is being very solicitous of input on many issues associated with the implementation of revised PM standards. It highlights and provides EPA's preliminary thinking on how to address some of the key New Source Review issues related to the PM coarse standard and the transition from a PM₁₀ to a PM coarse standard.

EPA's efforts to identify issues early in the process, and to solicit input at the very beginning of the process is commendable. Business interests are urged to engage early, regularly, and effectively in the opportunities presented by the proposed rule and the ANPR. That is the good news. The bad news is because EPA is being so careful and solicitous about how best to go about crafting and implementing the new PM standards, failure to engage now will be very prejudicial to any interest wishing to challenge any rule down the road. It will be very difficult to argue EPA failed to provide adequate opportunity to comment on issues of critical importance given the advance work that is now in play.

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