

EPA Issues Guidance for Implementing 8-Hour Ozone Standard

A pair of guidance memoranda by John S. Seitz, director of the United States Environmental Protection Agency (EPA) Office of Air Quality Planning and Standards, dated March 28, 2000, provides instructions to states for identifying areas out of compliance with EPA's 8-hour ozone standard, which was ruled "unenforceable" by a federal court last year.

The guidance calls on all states to submit proposals for identifying areas not in compliance with the 8-hour ozone standard by June 30, 2000. Thereafter, EPA will approve or disapprove the states' recommendations. Although the United States Court of Appeals for the District of Columbia Circuit ruled that the 8-hour ozone standard issued by EPA was "unenforceable" in *American Trucking Associations v. EPA*, the guidance memoranda state that EPA interprets the court's opinion to allow EPA to proceed to designate areas as not in compliance with the 8-hour ozone standard. Being designated as an area not in compliance with an EPA air quality standard, a "nonattainment area," can create impediments to obtaining federal funding for transportation projects and can trigger more stringent air pollution control requirements under state regulations.

This article was prepared by S. Lee Johnson, a partner in our Environmental Department, and previously appeared in the June, 2000 edition of the Michigan Environmental Compliance Update, a monthly newsletter prepared by the Environmental Department and published by M. Lee Smith Publishers.