

## ***CES RESEARCH NOTE***

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### **EPA Announces New Ozone Standard**

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Acting just ahead of a court-ordered deadline, EPA Administrator Steven Johnson announced March 12 the revision of the primary and secondary National Ambient Air Quality Standards for ozone. Both the primary and secondary standards were lowered from the existing 8-hour average level of 0.08 parts per million (ppm) to an 8-hour average level of 0.075 ppm.

More detailed information on the revised standards is available at [www.epa.gov/groundlevelozone/actions.html](http://www.epa.gov/groundlevelozone/actions.html).

As expected and confirmed in news reports following the announcement, neither the environmental nor the business community was pleased with this policy decision. Many environmentalists felt the standard should have been set lower and many in the business community felt it should have been left as it was.

Although considered inadequate by some in the environmental community, the new 0.075 ppm ozone standard is a serious stretch goal for the U.S. In its supporting documents EPA admits that even after application of all known controls, many areas will remain non-attainment for the standard beyond 2020 (including East Baton Rouge Parish in Louisiana), and that currently unknown technologies will need to be developed and implemented to bring these areas into attainment.

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Although seemingly a modest 0.05 ppm revision, EPA also announced that the standard would be set at three decimal places (e.g. 0.075 ppm) instead of the two decimal places (e.g. 0.08 ppm) of the previous standard. In the application of the standard for determining whether an area is in attainment for the standard, this is actually a 0.09 ppm lowering of the standard. For example, under the old standard, any reading from 0.080 to 0.084 ppm was rounded down and reported as 0.08 ppm for purposes of attainment determination. Thus, several years ago, when Shreveport had a “design value” of 0.084, it was considered to be in attainment of the 0.08 ppm standard (barely). The “design value,” the criterion for determining whether or not an area is in attainment of the standard, is the average of the fourth highest 8-hour average readings for each of three consecutive years.

The implementation of these new ozone standards will have profound effects on the state of Louisiana. Some of the more notable will be:

1. Louisiana (through the Louisiana Department of Environmental Quality – LDEQ) will have to research and develop new strategies and prepare a plan (State Implementation Plan – SIP) to submit to EPA demonstrating actions that will be taken for each ozone non-attainment area to come into compliance with the new standard. If EPA issues final designations in 2010 (as projected), the SIPs will be due no later than 2013. EPA will establish attainment dates in a later rule.
2. The state of Louisiana is in attainment for all air pollutants for which NAAQS have been established, except for ozone. And, for ozone, the state has made considerable progress with the number of parishes classified as non-attainment for ozone declining from around 20 in the late 1980s to the five Baton Rouge area parishes today. These five parishes have also made good progress in reducing number, severity, and duration of episodes of elevated ozone levels. With the implementation of the old 8-hour ozone standard in 2004, the Baton Rouge area was classified as having only a “marginal” ozone problem.

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LDEQ's most recent ozone monitoring data (2005-2007) show 16 parishes with design values above the new standard. Assuming EPA will employ the same general non-attainment area determination methods as in the past (based on Metropolitan Statistical Areas); Louisiana could now have as many as 26 parishes designated as non-attainment for ozone. The affected MSAs include: New Orleans-Metairie-Kenner, Baton Rouge, Lafayette, Shreveport-Bossier, Houma-Bayou Cane-Thibodaux, and Lake Charles. The Monroe MSA has a design value just 0.002 ppm below the new standard and could easily fall into non-attainment status over the next few summers as well. The parishes that will be newly designated as non-attainment under the new standard (expected in 2010) will become subject to many of the compliance burdens that the Baton Rouge area has experienced over the past two decades.

3. The public perception will be that there has been a degradation in the state's air quality. News articles will spin out of the newly affected MSAs, and local government, businesses and the public will become aware of new compliance requirements for their parishes. Many, for the first time, will see Air Quality Index reports for their area as well as air quality forecasts. In the Baton Rouge, New Orleans, and Shreveport areas where there is some familiarity with the AQI reporting, it will seem as more bad air days are being reported as the EPA adjusts the AQI criteria to reflect the new standard. Both EPA and LDEQ have a major task ahead of them to inform the public that the changes they are seeing related to air quality are not the result of the air getting more polluted, but simply the result of changing the standard.
4. For the Baton Rouge area, LDEQ will now be engaged in compliance activities related to three successive ozone standards. Because of the recent "anti-backsliding" ruling in *South Coast v EPA*, they will be challenged with requirements stemming from the "bump-up"

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classification of “severe” under the old 1-hour ozone standard. They must continue planning for attainment of the old 8-hour ozone standard in spite of the recent remand of EPA’s implementation rules. And, they must now begin the process of informing parishes that will be affected by the new standard what to expect as the new standard is implemented.

Areas affected by the new standards will in all probability have some time to plan and prepare for their new requirements. When the original 8-hour ozone standards were promulgated in 1997, they were extensively litigated and actual implementation didn’t begin until 2004. Given the huge uncertainties in cost, benefit, and attainability of the new standards, even more energetic and protracted litigation can be expected.