

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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STATE OF MISSISSIPPI, <u>et al.</u> ,)	
)	
Petitioners,)	
)	No. 08-1200 and consolidated cases
v.)	(Ozone NAAQS Litigation)
)	
UNITED STATES ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Respondent.)	
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**EPA’S NOTICE THAT IT IS
RECONSIDERING THE RULE CHALLENGED IN THESE CASES**

Respondent United States Environmental Protection Agency (“EPA”) provides this notice to the Court and the parties in accordance with the Court’s Order (dated March 19, 2009), which order held these consolidated cases in abeyance and directed EPA to notify the Court and the parties of the action it has or will be taking with respect to the Ozone NAAQS Rule challenged in these consolidated cases and the Agency’s schedule for undertaking such action. The Order further directs the parties to file motions to govern future proceedings in this case 30 days after this notice is filed. Accordingly, no action is required by the Court at this time.

Petitioners challenge in these consolidated cases a regulation promulgated by

EPA under the Clean Air Act entitled the “National Ambient Air Quality Standards for Ozone” (hereinafter “Ozone NAAQS Rule”), 73 Fed. Reg. 16,436 (March 27, 2008). EPA has determined that it will administratively reconsider this rule. Specifically, EPA has concerns regarding whether the revisions to the primary and secondary NAAQS adopted in the Ozone NAAQS Rule satisfy the requirements of the Clean Air Act, and thus EPA will reconsider the Ozone NAAQS Rule through notice and comment rulemaking. EPA's schedule for this rulemaking is to sign the Notice of Proposed Rulemaking by December 21, 2009, and to sign the Final Action by August 31, 2010.

In the upcoming weeks EPA will discuss this notice to the Court with the other parties in an effort to reach agreement on a proposal to govern future proceedings in these consolidated cases, which in accordance with the Court’s Order will be filed within 30 days of this notice.

Respectfully submitted,

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Dated: September 16, 2009

CERTIFICATE OF SERVICE

I certify that, on September 16, 2009, I filed the attached notice through the Court's electronic filing system and that I caused a copy of the foregoing filing to be served by U.S. Mail, postage pre-paid, to the following counsel:

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