

FACT SHEET
Alabama Opacity Rule Response to Petition for Reconsideration

ACTION

- On December 12, 2008, EPA received a Petition for Reconsideration from George E. Hays, Esq., on behalf of the Alabama Environmental Council, Sierra Club, Natural Resources Defense Council, and Our Children's Earth Foundation.
- The petition requests reconsideration of the October 15, 2008, final rule: "Approval and Promulgation of Implementation Plans: Alabama: Approval of Revisions to the Visible Emissions Rule" and raises both procedural and substantive issues.
- On January 15, 2009, the Environmental Protection Agency (EPA) responded to the petition from Mr. Hays, denying it on the procedural and substantive issues raised.
- A concurrent Petition for Review was also filed in the 11th Circuit Court of Appeals.

BACKGROUND

- On September 11, 2003, the Alabama Department of Environmental Management (ADEM) submitted a request for EPA approval of a State Implementation Plan (SIP) submittal containing proposed revisions to the Visible Emissions portion of the Alabama SIP, found at ADEM Administrative Code (AAC) Chapter 335-3-4-.01, "Visible Emissions," and pertaining to sources of particulate matter (PM) emissions.
- In an action published on April 12, 2007 (72 FR 18428), EPA proposed to approve the proposed revisions contingent upon Alabama submitting a revised SIP submittal addressing EPA's concerns regarding impacts of the rule changes on particulate matter emissions.
- On August 22, 2008, ADEM submitted the necessary revisions proposed by EPA in the April 2007 Federal Register notice to support final approval. ADEM also decided to include an additional limitation that limits subject sources to a daily opacity average of no more than 22 percent.

FOR ADDITIONAL INFORMATION

- Visit <http://www.epa.gov/region4/air/sips/index.htm> on EPA's website for the response to the petition and the notice of EPA's decision denying the petition.
- The final Alabama opacity rule revision published in the Federal Register on October 15, 2008 (73 FR 60957) is also available at www.regulations.gov, EPA's electronic public docket and comment system, under EPA docket No. EPA-R04-OAR-2005-AL-0002.
- Background information on the Alabama opacity rulemaking is available either electronically at www.regulations.gov or in hardcopy at the Regulatory Development Section, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

- Visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor materials will be processed through an X-ray machine as well. Visitors will be provided a badge that must be visible at all times.
 - Supporting information for this action can be accessed under Docket ID No. EPA-R04-OAR-2005-AL-0002.
-
- For general information about the petition for reconsideration or the Alabama opacity rule, please contact Dick Schutt of EPA's Region 4 Office at (404) 562- 9033, or schutt.dick@epa.gov