
December 2005
A Monthly Publication

Tom Enneking, Editor

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EPA Designates Nonattainment Areas: Target — Your Business, Your Way of Life

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Overview

In 2004, the United States Environmental Protection Agency ("EPA") released final nonattainment designations for ozone and fine particulate matter that are certain to impact the economic future of Ohio’s urban areas. In particular, the EPA designated 33 Ohio counties as nonattainment under the 2002 revised eight-hour ozone national ambient air quality standard ("NAAQS") and 32 counties under the fine particulate or PM 2.5 standard. The Reason Foundation estimates that it will cost Ohio \$4.9 billion per year to comply with the new NAAQS regulations ranking it third after California and Texas.

Some of the businesses that will be particularly impacted by the nonattainment designations are: electric utilities; mineral

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reference@cms.hamilton-co.org

Hours: Monday-Friday 7:30-4:30

<http://www.hamilton-co.org/cinlawlib/>

Law Library’s Web Page Undergoes a Redesign

If you’ve visited the Law Library’s webpage (<http://www.hamilton-co.org/cinlawlib/>) within the last week, you’ve likely noticed that we’ve made some changes. We’ve kept such things as the navigation bars in the top right corner of our webpage, but we’ve incorporated a number of new information boxes to assist in accessing our webpage. To better serve you, we would like to walk you through the redesign and show you the highlights.

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Differences that matter.

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Nonattainment, cont'd from page 1

production; cement and asphalt production; glass; metallurgical processes; wood, pulp and paper; chemical manufacturing; pharmaceuticals; petroleum refining; farming and agriculture; dry cleaners; trucking companies; printing operations and many more. Accordingly, a proactive legal and economic strategy is essential to ensure that your business is prepared to meet these new challenges.

Legal Background Designations and Their Impact on the Region's Economy

The Clean Air Act ("CAA") directs the EPA to issue NAAQS for pollutants that "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." In 1997, the EPA proposed new standards after scientific evidence suggested adverse health effects under the former NAAQS for ozone and particulate matter. After years of protracted litigation, the EPA finalized the new standards in 2002 and began the process of determining which areas of the country failed to meet the new standards, in other words, were "nonattainment areas." Ultimately, in April 2004, 474 counties in the United States were designated nonattainment areas for the new ozone standard and in December 2004, 224 counties nationwide were listed as nonattainment under the PM 2.5 standard.

When the EPA proposed the standards in 1997, then Governor George Voinovich predicted that the ozone standard alone would have the following impact on the United States: cost \$263 a year per family; increase the average consumer electric bill between 2.3 and 17.4 percent; terminate 58 new construction projects at a loss of \$2.3 billion; and result in the loss of 970,000 manufacturing jobs a year. In addition, a study conducted by George Mason University estimates the cost of the ozone

standard to be between \$54 billion and \$328 billion a year and the cost of the particulate matter standard to be as high as \$55 billion. In fact, the EPA's own studies show the cost of compliance with the ozone and fine particulate standards will exceed \$45 billion. Further, the designation of an area as nonattainment will make it difficult to retain and attract new businesses to the region as the potential regulatory impacts create a level of risk and uncertainty that could be unacceptable. Thus, the designation of a region as nonattainment is likely to cause the loss of jobs, restrict economic growth, and discourage plant location.

Nonattainment: Economic and Legal Challenges to Business

The CAA imposes stringent requirements on businesses and manufacturing facilities operating in nonattainment areas. For one thing, nonattainment areas are subject to heightened New Source Review ("NSR") permitting requirements. The NSR permitting program requires facilities to obtain permits prior to the construction of new major sources or before beginning a major modification of an existing source. Major sources within a nonattainment area that trigger NSR by conducting a major modification must comply with Lowest Achievable Emission Rate ("LAER") limitations. LAER requires the source to install the most effective control methods currently available, regardless of cost considerations and feasibility. Equally important, the CAA imposes lower emission threshold levels for modified sources. This means that there is less flexibility in increasing emissions without triggering NSR application. Facilities located in nonattainment areas also must obtain higher levels of emission offsets. Offsets are emission reductions, generally obtained from existing sources located in the vicinity of a proposed or modified source, which must

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"offset" the emissions increase from the new source or modification.

Additionally, the CAA imposes strict standards for existing sources operating in nonattainment areas. Specifically, an owner must employ Reasonable Available Control Technology ("RACT") if emissions exceed certain thresholds or fall within specified source categories regardless of any changes or modifications to existing equipment. Ultimately, Ohio will be implementing the RACT requirements during the state implementation plan ("SIP") process.

Nonattainment areas also are subject to a measure known as "transportation conformity" that requires planning to ensure that road construction and other transportation projects do not affect the area's ability to conform to the new standards. Meeting these requirements can potentially discourage construction and capital improvement projects in the area. In addition, nonattainment areas are subject to enhanced ambient air monitoring requirements.

Overall, businesses operating in nonattainment areas will have to carefully plan whether to expand operations or update existing equipment at their facilities. Without a proactive economic and legal strategy, businesses located in nonattainment areas will be placed at a competitive disadvantage with others conducting the same or similar operations in an attainment area.

Your Involvement in Shaping the State Implementation Plan is Crucial

The EPA is requiring that all states incorporate the new NAAQS into their respective SIPs. States with nonattainment areas must submit plans for meeting the eight-hour ozone standard by June 2007; the deadline for submitting PM 2.5 plans is

February 2008. In doing so, nonattainment areas must establish programs for reducing emissions from manufacturing facilities, cars, fuels, and consumer products and activities and determining RACT standards for impacted sources. The process of seeking input into the implementation of these programs and determining how the state of Ohio should meet these new standards is beginning. In order to be successful, your participation and influence is necessary as emission reduction measures needed to meet the standards will have significant economic impact on industry, including previously unregulated businesses, and may require lifestyle changes on those persons living and working in nonattainment areas.

For more information on this topic, please contact your Thompson Hine Environmental lawyer or:

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Editor's note: This article is intended to inform about legal matters of interest. It is not intended as legal advice. Readers should not act upon the information contained in it without professional counsel.



International Humanitarian Law Seminar



December 14th & 15th 2005

3.0 hours of Ohio & Kentucky CLEs This course has been approved for 3 CLE credit hours in professional instruction for lawyers licensed in Ohio and Kentucky.

Offered at two times:

Session 1

Wednesday, December 14, 2005
8:30 a.m. to 12:00 p.m.
Cincinnati Red Cross

Downtown Office Auditorium
720 Sycamore Street
Cincinnati, Ohio 45202

Session 2

Thursday, December 15, 2005
8:30 a.m. to 12:00 p.m.
Cincinnati Red Cross

North East Office Auditorium
10870 Kenwood Road
Cincinnati, Ohio 45242

About the Seminar

The War on Terrorism and International Humanitarian Law; Are they compatible? "All is fair in love and war" is not true. How much do you know about the Geneva Conventions that govern war? Recent world events have brought International Humanitarian Law questions closer to home than ever before.

Topics to be addressed:

- What are the Geneva Conventions? What rights do detainees/POWs have? How is military action governed by International Humanitarian Law? How are civilians protected? How is the International Red Cross/Red Crescent Movement related to Humanitarian Law?
- Join the Cincinnati Area Chapter, American Red Cross for a chance to learn more about this timely topic through interactive discussion and case studies.

Easy Ways to Register



Mail to:

Cincinnati Area Chapter
International Services Department
American Red Cross
720 Sycamore Street
Cincinnati, Ohio 45202
Checks payable to - American Red Cross



Fax to:

with credit card number
[513] 579-3067



Visit Online:

at www.cincinnatiaredcross.org



Phone:

with credit card number
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Pre-register
\$55

Walk-in registration
\$65

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- ❖ Extensive Ohio and Federal primary law collection in print and electronic formats
- ❖ Practice materials, including:
 - handbooks
 - rules
 - treatises
 - jury verdicts
- ❖ Borrowing privileges to nearly all materials in the Library's collection, including CLE materials.

Tech Tip: Quickly Adjusting Font Size

Are you frustrated by the font size on some web pages you visit? If you find a web page with text that is too small for you to read, use this handy tip. A quick way to increase the size of the text in your Internet Explorer browser would be to hold down the [Ctrl] key and scroll up on your mouse wheel to increase font size. If you would like to make the font smaller, hold down the [Ctrl] key and scroll down on your mouse wheel.



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Latest Updates

- [News & Journals](#)
11.18.2005
- [Jury Instructions](#)
11.17.2005
- [November Newsletter](#)
11.4.2005
- [CCH Newsletter Pilot Program](#) 11.1.2005

If you would like to access recent announcements from the Law Library, consult the **Latest Updates** box. You will find the most current information on the Journal Watch, News, the Newsletter, and other messages.

Get Started

- [Find Case Law](#)
- [Find a Lawyer](#)
- [Business Tools](#)
- [City Laws](#)
- [Court Rules](#)
- [Federal Courts & Laws](#)
- [Forms](#)
- [Hamilton County Courts](#)
- [Indiana Courts & Laws](#)
- [Journals & News](#)
- [Jury Instructions](#)
- [Law Libraries](#)
- [Ohio Courts & Laws](#)
- [Kentucky Courts & Laws](#)
- [Legal Statistics](#)

Perhaps the best place to begin research is the **Get Started** box. It has links to such resources as the Cincinnati Municipal Code, Forms, Local, State and Federal Courts, and jury instructions. For attorneys who practice in Indiana and Kentucky, we also have legal information for those states.

Events

November 2005						
S	M	T	W	T	F	S
	1	2	3	4	5	
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

One of the most interesting additions to the webpage is the calendar of **Events**. Simply click a highlighted date and you will be given information on that day's events.

Find Ohio Cases

Search all appellate opinions available from the [Ohio Supreme Court](#) Web site.

WebCite Citation
 OR

Keyword Search:

The **Find Ohio Cases** box allows you to search Ohio Appellate and Ohio Supreme Court Decisions from the Ohio Supreme Court's website. By clicking the title of the box, you can access links to national case law (from LexisOne), Kentucky case law and Indiana case law.

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The Law Library offers remote access to three datagbases, accessible from the **Members Content** box. Also included in this box are explanations of all the databases that we offer, as well as sign-up forms for our mailing lists.

Law Blog

- [Ohio commercial activity tax rule changes](#)
The Ohio Department of Taxation has announced two revisions in its Commercial Ac...
- [Kentucky income tax pension exclusion](#)
Kentucky's personal income tax: pension exclusion, CCH's State Tax Review report...

We use our **Law Blog** to disseminate legal information to our users without filling their inboxes with email. We post synopses of pertinent legal news, complete with sources and links. If you wish to view the full text of any specific item, simply follow the links. You can also examine previous posts as well as posts from July 2004 to present.

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Phishing, Pharming and now RATs?

Tom Enneking

In the world of Internet scams, computer users have to worry about, among numerous other things, pharming and phishing. Pharming involves the sending of an e-mail to a user claiming to be a real enterprise in an attempt to scam the user into surrendering private information. The e-mail directs the user to a Web site where they are asked to update their personal information, such as Social Security numbers and credit card numbers, which the legitimate organization already has. The Web site is a fake and set up only to steal the user's information. Phishing, on the other hand, redirects as many users as possible from legitimate commercial websites they had intended to visit and lead them to ones that appear authentic, but are counterfeit. As if we didn't have enough to worry about, we must now deal with RATs.

RATs, or remote access Trojans, are potentially destructive programs that provide hackers with backdoors into infected systems. These backdoors allow hackers to gain access to sensitive information, such as online banking passwords. Criminals may even glean such information from individual keystrokes as you input from your keyboard.

You may be infected and not even know it. Well-written RATs are tiny programs that consume almost no processor space. When activated, your computer will not act differently, but without special tools, there is no reliable way to detect the presence of RATs.

How Can You Protect Yourself from RATs?

Unfortunately, there is no single method you can use to protect your machine from a RAT infestation. However there are guidelines you can follow that can reduce your chances of falling into a rat trap:

Use a Firewall and Antivirus Software

The internet is crawling with viruses, spyware and other menaces, which is why firewalls and antivirus software are absolute necessities. A properly-employed firewall can prevent a hacker from snooping on your machine. Many operating systems, including the most recent version of Windows XP, come with an active firewall. Other firewall programs are not expensive, but they need to be left on at all times. You put yourself at risk by turning off your firewall or antivirus software, even for a few minutes.

Avoid the Avoidable

It is well known that the seedier side of the Internet, such as file sharing programs, games and pornography, is a major source for Trojan horses and viruses. By merely avoiding these temptations, you will make major strides in protecting your computer.

Email and Greeting Cards

Years of Internet usage have taught us that unsolicited email is a major source of danger. Electronic greeting cards are now causing problems. Clicking on a greeting card executes a program on your computer and is considered a prime mechanism of placing malicious software on your computer. To be safe, contact the sender to see if it is a genuine card and not a RAT.

Bank on Bankers

Online bankers are beginning to recognize the need for increased security. In fact, federal regulators told banks that by 2006, they must move beyond the user name-password combination to identify online customers on their websites. A number of banks, including Bank of America and ING, are including additional steps when you log onto their websites.

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Member Resources

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Member Services are outlined in the above box. From here, you may send an email directly to the Reference Desk with the **Ask a Librarian** link. You can also access FastCase, HeinOnline, and our CCH newsletter package. You can also access your online account from this point.

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Cincinnati, OH 45202**

ADDRESS CORRECTION REQUESTED

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If You Suspect a RAT . . .

Once on a computer, RATs are difficult to detect and remove. Such processes often require specialized software; antivirus software may catch some, but it will not find encrypted RATs. You are advised to seek the services of a professional.

Ever Vigilant

While the Internet is a useful tool, it also hosts a wealth of pitfalls. However, you can do much to limit the potential impact viruses, scams and RATs. By using a firewall and common sense, running antivirus software, and avoiding the “dark side” of the Internet, you will limit the chances of a RAT infestation on your computer.

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