

any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress

and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 18, 2004.

**Jane M. Kenny**,  
*Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart FF—New Jersey

■ 2. Section 52.1581 is amended by adding paragraph (d) to read as follows:

#### § 52.1581 Control strategy: Carbon monoxide.

\* \* \* \* \*

(d) The 1997, 2007, and 2014 carbon monoxide conformity emission budgets for five counties in the New York/Northern New Jersey/Long Island carbon monoxide maintenance area and ten other counties representing other carbon monoxide maintenance areas included in New Jersey's May 21, 2004 SIP revision are approved.

■ 3. Section 52.1582 is amended by adding paragraph (j) to read as follows:

#### § 52.1582 Control strategy and regulations: Ozone.

\* \* \* \* \*

(j)(1) The revised 1997, 2005, 2007 and 2014 motor vehicle emission inventories calculated using MOBILE6 included in New Jersey's May 21, 2004 State Implementation Plan revision is approved.

(2) The 2005 conformity emission budgets for the New Jersey portion of the Philadelphia/Wilmington/Trenton nonattainment area and the 2005 and 2007 conformity emission budgets for the New Jersey portion of the New York/Northern New Jersey/Long Island nonattainment area included in New Jersey's May 21, 2004 State Implementation Plan revision are approved.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 58

[Docket # ID-04-003a; FRL-7801-6]

### Changing the Ozone Monitoring Season in Idaho From April Through October to May Through September

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Currently the ozone monitoring season for Idaho is April through October. Based on the ozone monitoring season in adjacent states with similar climatology, and analysis of existing ozone monitoring data collected in Boise, EPA is approving a change in the ozone monitoring season for Idaho to the months of May through September.

**DATES:** This direct final rule is effective October 29, 2004, unless EPA receives adverse comments by September 29, 2004. If relevant adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. ID-04-003, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [r10.aircom@epa.gov](mailto:r10.aircom@epa.gov).
- Fax: (206) 553-0110.
- Mail: Keith A. Rose, Office of Air, Waste and Toxics, Environmental Protection Agency Region 10, Mail code: OAQ-107, 1200 Sixth Ave., Seattle, Washington 98101.

- **Hand Delivery:** Environmental Protection Agency Region 10, Attn: Keith A. Rose, 9th Floor, 1200 Sixth Ave., Seattle, Washington 98101. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. ID-04-003. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** Docket materials are publicly available in hard copy at the Office of Air, Waste and Toxics, Environmental Protection Agency, Mail code: OAQ-107, 1200 Sixth Ave., Seattle, Washington 98101, open from 8 a.m.–4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number is (206) 553-1949.

Comments may be submitted either by mail or electronically. Written comments should be mailed to Keith A. Rose, Office of Air, Waste and Toxics (OAQ-107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Electronic comments should be sent either to [r10.aircom@epa.gov](mailto:r10.aircom@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the **SUPPLEMENTARY INFORMATION** section,

part I, General Information. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA, Region 10, Office of Air Waste and Toxics, 1200 Sixth Avenue, Seattle, WA.

**FOR FURTHER INFORMATION CONTACT:**

Keith A. Rose, State and Tribal Programs Unit, Office of Air, Waste and Toxics, (OAQ-107), EPA Region 10, 1200 Sixth Avenue, Seattle WA. 98101, telephone number: (206) 553-1949, or e-mail address at [rose.keith@epa.gov](mailto:rose.keith@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA. Please note that if EPA receives relevant adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

**I. General Information**

*A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting Confidential Business Information (CBI).* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The Agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

**II. Purpose of This Action**

The purpose of this action is to change the ozone monitoring season in Idaho from April through October to May through September.

**III. Justification for This Action**

Currently the ozone monitoring season for Idaho, as identified in 40 CFR 58, Appendix D, section 2.5, is April through October. The EPA guidance titled, "Guideline for Selecting and Modifying the Ozone Monitoring Season Based on an 8-Hour Ozone Standard" states that the ozone season should extend for months for which the maximum 8-hour ozone reading reaches the 8-hour standard (0.08 ppm). The guideline also states that the most recent six years of data should be used to prepare a histogram of maximum ozone concentrations by month to compare to the 8-hour standard. However, if a state which has not collected ozone data, and changes in the ozone monitoring season have been observed for States with similar climatology, then those changes in the ozone monitoring season should also be implemented for the State that does not collect adequate ozone data.

States adjacent to Idaho with similar climatology include Montana, Oregon, Utah, and Washington. According to 40 CFR 58, Appendix D, section 2.5, the ozone monitoring seasons identified for these states are shown in Table 1:

TABLE 1.—OZONE MONITORING SEASONS BY STATE

State	Monitoring season
Montana .....	June–September.
Utah .....	May–September.
Oregon .....	May–September.
Washington .....	May–September.

The longest ozone monitoring season for these states is May through September. This shows that the monitoring season for Idaho should be changed to May through September to be consistent with those states with similar climatology.

Although Idaho itself has not gathered sufficient ozone data to support a

change in monitoring seasons, EPA has evaluated the data which has been gathered in the state to ensure any changes in the ozone monitoring season based on the guidance will be consistent with information that has been collected. The only ozone monitoring site in Idaho where six years of ozone data exists is in the Craters of the Moon Monument, which is a Class 1 area. The purpose of the Craters of the Moon ozone site is to measure ozone trends and to track degradation of air quality in a Class 1 area. This monitor has not measured any exceedances of the ozone standard since monitoring began at this site in 1992. However, the Craters of the Moon site is not representative of ozone concentrations which occur in highly populated areas of Idaho, such as in the Treasure Valley, where the state capital of Boise is located. Ozone monitoring was initiated in the Treasure Valley in May 2000 by the Idaho Department of Environmental Quality (IDEQ). As an indication of how the Treasure Valley ozone concentrations compare to the 8-hour ozone standard (0.08 ppm), IDEQ compared the maximum 8-hour ozone concentration for each month during 2001, 2002, and 2003 to the ozone standard. The results of this comparison demonstrate that the ozone concentrations exceed 80% of the standard, but do not exceed the standard, only during the months of May through September. Based on this analysis, which conservatively compares the monitoring data to 80% of the standard, it is evident that ozone concentrations are only likely to exceed the 8-hour standard in the Treasure Valley during the months of May through September.

**IV. Final Action**

In this action, EPA is approving a change in the ozone monitoring season in Idaho. The reference to the ozone monitoring season for Idaho found in 40 CFR part 58, Appendix D, section 2.5, will be changed from April through October to May through September.

**V. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely changes the ozone monitoring season for Idaho which appears in 40 CFR Part 58, Appendix D, section 2.5. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 29, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 58**

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 15, 2004.

**Mike Gearheard,**

*Acting Regional Administrator, Region 10.*

■ Part 58, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 58—[AMENDED]**

■ 1. The authority citation for part 58 continues to read as follows:

**Authority:** 42 U.S.C. 7410, 7601(a), 7613, and 7619.

■ 2. In Appendix D section 2.5 the table entitled "Ozone Monitoring Season by State" is amended by revising the entry for "Idaho" to read as follows:

**Appendix D to Part 58—Network Design for State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS).**

\* \* \* \* \*  
2.5 \* \* \*

OZONE MONITORING SEASON BY STATE				
State	Begin month	End month		
Idaho	May	September.		

\* \* \* \* \*

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