

publication of this rule in the **Federal Register**. This is a technical correction to the CFR and is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects

40 CFR Part 9  
Environmental protection, Reporting and recordkeeping requirements.  
40 CFR Part 761  
Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls (PCBs), Reporting and recordkeeping requirements.

Dated: January 5, 1999.

**Susan H. Wayland,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 9—[AMENDED]

##### 1. In part 9:

a. The authority citation for part 9 continues to read as follows:

**Authority:** 7 U.S.C. 135 et seq., 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g4, 300g5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 et seq., 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

b. Section 9.1 is amended by adding new entries to the table in section number order to read as follows:

#### § 9.1 OMB approvals under the Paperwork Reduction Act.

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40 CFR Citation	OMB control No.
<b>Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions.</b>	
* * * * *	
761.30(a)(1)(vi) and (xii) .....	2070–0159
761.30(h)(1)(ii) and (iii) .....	2070–0159
761.30(i) .....	2070–0159
761.30(t)(3) .....	2070–0159
761.35 .....	2070–0159
761.40(k) and (l) .....	2070–0159
761.60(b)(5) .....	2070–0159
761.60(j) .....	2070–0159
761.61 .....	2070–0159
761.62 .....	2070–0159
761.65(a)(2) – (4) .....	2070–0159
761.65(c)(1)(iv), (c)(5), (c)(6) and (c)(8) .....	2070–0159
761.65(g)(9) .....	2070–0159

40 CFR Citation	OMB control No.
761.65(j) .....	2070–0159
* * * * *	
761.71 .....	2070–0159
761.72 .....	2070–0159
* * * * *	
761.77 .....	2070–0159
* * * * *	
761.79(d) .....	2070–0159
761.79 (f) .....	2070–0159
761.79 (h) .....	2070–0159
761.80(e) .....	2070–0159
761.80(i) .....	2070–0159
* * * * *	
761.125(a)(1) .....	2070–0159
761.180(a)(1)(iii) .....	2070–0159
761.180(a)(2)(ix) .....	2070–0159
761.180(a)(4) .....	2070–0159
761.180(b)(1)(iii) .....	2070–0159
761.180(b)(3) .....	2070–0159
* * * * *	
761.205(f) .....	2070–0159
* * * * *	
761.253 .....	2070–0159
761.274 .....	2070–0159
761.295 .....	2070–0159
761.314 .....	2070–0159
761.357 .....	2070–0159
761.359 .....	2070–0159
761.395 .....	2070–0159
761.398 .....	2070–0159
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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 58

[ORWA–010799–a; FRL–6220–3]

#### Modification of the Ozone Monitoring Season for Washington and Oregon

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is amending 40 CFR part 58, Appendix D, section 2.5, to shorten the ozone monitoring season in Washington and Oregon from April 1 through October 31 to May 1 through September 30.

**DATES:** This direct final rule is effective on March 22, 1999 without further notice, unless EPA receives adverse comment by February 19, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register**

and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be addressed to: Chris Hall, Office of Air Quality (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue (OAQ–107), Seattle, Washington 98101, and at Washington's Department of Ecology.

**FOR FURTHER INFORMATION CONTACT:** Chris Hall, Office of Air Quality (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1949.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 9, 1998, EPA released a new guidance document concerning ozone monitoring season selection and modification ("Guideline for Selecting and Modifying the Ozone Monitoring Season Based on an 8-Hour Ozone Standard," July 9, 1998. EPA–454/R–98–001). In the guidance, EPA's Office for Air Quality Planning and Standards ("OAQPS") evaluated the ozone monitoring data and seasons for each state, and provided a methodology for calculating new ozone monitoring seasons.

On November 19, 1998, the Washington Department of Ecology (Ecology) submitted a request to EPA Region 10 to shorten its ozone monitoring season per the guidance document's process and recommendations. Currently the ozone monitoring season for Washington is April 1 through October 31, as required by federal regulations which can be found in the "Ozone Monitoring Season by State" table found in 40 CFR part 58, Appendix D section 2.5, and as required by State Implementation Plan for Washington as approved by EPA. Since 1990 there has been no exceedance of the 8-hour NAAQS (0.08 ppm) in Oregon or Washington during the months of April and October. Ecology requested that EPA modify the monitoring season to May through September, in accordance with EPA's guidance.

A similar letter of request was submitted by the Oregon Department of Environmental Quality (DEQ) on December 1, 1998. In response to an earlier request from DEQ, EPA already had approved a modification of the Oregon 1-hour ozone monitoring season from May 1 through September 30. EPA's guidance suggested that a similar

monitoring period of May 1 through September 30 for the 8-hour standard would capture the high ozone values occurring during the spring and summer seasons in Oregon. EPA and DEQ analysis of monitoring data for the 11-year period dating back to 1988 found no exceedances during the months of April or October at Oregon ozone monitoring sites.

## II. Summary of Action

EPA is approving a modification to Oregon and Washington's ozone monitoring season. Under the change approved by this notice, the new season will begin on May 1 and end on September 30. EPA Region 10 is taking this action at the request of DEQ and Ecology after reviewing all ambient ozone monitoring data<sup>1</sup> for both Oregon and Washington over the past nine seasons (1990 through 1998).

EPA Region 10 has determined that this review meets the standards of EPA guidance provided in the July 9, 1998 "Guideline for Selecting and Modifying the Ozone Monitoring Season Based on an 8-Hour Ozone Standard." This guidance provides a basis for adjusting the months in which ozone monitoring for the 8-hour ozone standard is required. Analyses provided in the July 9, 1998, EPA guidance showed that between 1990 and 1995 no excursions of the 8-hour ozone standard had occurred at any of the monitoring sites in Oregon or Washington during the months of April or October, and conclude that ozone monitoring during these two months could be discontinued. EPA Region 10 agrees with the analyses of DEQ and Ecology with regard to the months of April and October. Based on the historical data review, the analysis of information contained in EPA's July 9, 1998, guidance, and the information provided by DEQ and Ecology in their requests, EPA Region 10 has determined that discontinuing monitoring in Oregon and Washington during the months of April and October will not result in the potential to miss days in which the 8-hour ozone standard is exceeded, and will result in significant cost savings for both agencies.

EPA notes that the analysis in the OAQPS guidance found no excursions of the 8-hour standard in Washington for the month of September, and suggested that monitoring in Washington could potentially be discontinued during this month as well. EPA Region 10's analysis of Washington ozone monitoring data through

September 1998 found one recorded excursion on September 1, 1998 (Tacoma). QA validation of this record had not yet been finalized. Additionally, EPA notes that Oregon and Washington share an ozone maintenance area (Vancouver-Portland), and that a number of excursions have been recorded at ozone monitoring sites in Oregon during September over the past nine seasons. Therefore, EPA Region 10 and Ecology believe that ozone monitoring data should continue to be collected during the month of September given the likelihood future excursions of the 8-hour standard in Washington could occur.

By this notice, EPA Region 10 is agreeing with the conclusions of DEQ and Ecology that ambient ozone monitoring in April and October can be discontinued. EPA believes that reductions in the required schedule will provide significant cost savings for both state agencies without reducing the effectiveness of their ozone monitoring program.

EPA is publishing this rule without a prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 22, 1999 without further notice unless the Agency receives adverse comments by February 19, 1999.

If EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 22, 1999 and no further action will be taken on the proposed rule.

## III. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

### B. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a

regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

### D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance

<sup>1</sup> For this review EPA Region 10 used all available data as entered into EPA's Aerometric Information Retrieval System (AIRS).

costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### *E. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the federal-state relationship under the Clean Air Act, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### *F. Unfunded Mandates*

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must

prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this approval action does not include a federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves preexisting requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

#### *G. Submission to Congress and the Comptroller General*

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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2).

#### *H. Petitions for Judicial Review*

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 March 22, 1999. 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, Ozone, Oregon, Reporting and recordkeeping requirements, Washington.

Dated: January 7, 1999.

**Chuck Clarke,**

*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. 7401 *et seq.*

2. Part 58, Appendix D, section 2.5: the table is amended by revising the entry for Oregon and Washington to read as follows:

#### **Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS) and Photochemical Assessment Monitoring Stations (PAMS)**

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#### **2.5 Ozone (O3) Design Criteria for SLAMS**

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#### **OZONE MONITORING SEASON BY STATE**

State	Begin Month	End Month
* * * * *		
Oregon .....	May .....	September
* * * * *		
Washington ..	May .....	September
* * * * *		

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 58**

[AD-FRL-6221-2]

RIN 2060-AF71

#### **Ambient Air Quality Surveillance for Lead**

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

**ACTION:** Final rule.

**SUMMARY:** Lead air pollution levels measured near the Nation's roadways