

TAC in that year was lower than the TAC in the year to be calculated).

(iii) To adjust for the ability of vessels to carryover up to 10 unused monkfish DAS from the previous fishing year to the current fishing year, adjustments to DAS usage shall be made by first reducing the landings for all permit holders who have used more than the annual DAS allocation specified in § 648.94(b)(1)(i) (e.g., 31 monkfish DAS) by the proportion of DAS exceeding that annual DAS allocation, and then resetting the upper limit of DAS usage at the annual DAS allocation.

(iv) Linear interpolation is then used to determine which DAS level would closest achieve the estimated landing levels for each permit category group under a given target TAC.

(4) *Council TAC Recommendations.* The Councils shall consider any target TAC(s) recommended by the MFMC as part of its annual review specified in paragraph (a) of this section, and then forward their target TAC recommendation to the Regional Administrator. If the Councils recommend target TAC(s) to the Regional Administrator, and the Regional Administrator concurs with this recommendation, the Regional Administrator shall promulgate the target TAC(s) and associated management measures through rulemaking consistent with the APA. If the Regional Administrator does not concur with the Councils' recommendation, then the Councils shall be notified in writing of the reasons for the non-concurrence.

(5) *Target TAC Overages*—(i) If monkfish landings exceed the annual target TAC for either management area by more than 10 percent but less than or equal to 30 percent during FY 2007, the Regional Administrator shall adjust the annual monkfish DAS allocation for the management area in which the overage occurred, through rulemaking consistent with the APA, for FY 2009 using catch and effort information for FY 2007 according to the procedures outlined in paragraph (b)(3) of this section.

(ii) If monkfish landings exceed the annual target TAC for either management area by more than 30 percent during FY 2007, the Regional Administrator shall reduce the annual monkfish DAS allocation to zero for FY 2009 for the management area in which the overage occurred, through rulemaking consistent with the APA.

(6) *Management measures for FY 2010 and beyond.* If a regulatory action is not implemented to establish management measures for the monkfish fishery for FY 2010 or subsequent years,

either through the annual review process or another type of regulatory action, the management measures in effect during FY 2009 (i.e., trip limits and DAS allocations) will remain in effect until new measures are implemented, with the following exception. If the monkfish DAS allocation is reduced to zero in either management area during FY 2009 as a result of the target TAC overage provision described in paragraph (b)(3) of this section, the annual DAS allocation and associated trip limits for that management area for FY 2010 and beyond will be equivalent to the annual monkfish DAS allocation and trip limits in effect during FY 2008, unless otherwise recommended by the MFMC through its annual review procedure specified in paragraph (a) of this section, or superceded by a subsequent regulatory action.

\* \* \* \* \*

[FR Doc. 07-4667 Filed 9-17-07; 3:23 pm]

BILLING CODE 3510-22-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-HQ-OAR-2003-0090; FRL-8469-8]

RIN 2060-AO05

### Extension of the Deferred Effective Date for 8-Hour Ozone National Ambient Air Quality Standards for the Denver Early Action Compact

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is taking final action to extend the deferral of the effective date of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) designation for the Denver Early Action Compact (EAC) from September 14, 2007 to November 20, 2007. The EAC areas have agreed to reduce ground-level ozone pollution earlier than the Clean Air Act (CAA) requires. On November 29, 2006, EPA extended the deferred effective date for the Denver EAC area from December 31, 2006, to July 1, 2007. In that final rulemaking, EPA noted that there was litigation regarding the deferral of the effective date for the Denver EAC and that the parties were discussing settlement. Thus, in the interest of maintaining the status quo while settlement discussion proceeded, EPA issued a brief further deferral of the effective date of the nonattainment designation until September 14, 2007. The parties are

continuing settlement discussions. EPA is issuing at this time a short further deferral of the effective date of Denver's designation for the 8-hour ozone standard from September 14, 2007 to November 20, 2007.

**DATES:** *Effective Date:* This final rule is effective on September 14, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2003-0090. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Docket, EPA/DC, EPA West Building, EPA Headquarters Library, Room 3334, located at 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room Hours of operation will be 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket is (202) 566-1742. The Air and Radiation Docket Information Center's e-mail address is [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), and Web address is: <http://www.epa.gov/oar/docket.html>. In addition, we have placed a copy of the rule and a variety of materials relevant to EAC areas on EPA's Web site at <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Driscoll, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-04, Research Triangle Park, NC 27711, phone number (919) 541-1051 or by e-mail at: [driscoll.barbara@epa.gov](mailto:driscoll.barbara@epa.gov) or Mr. David Cole, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C304-05, Research Triangle Park, NC 27711, phone number (919) 541-5565 or by e-mail at: [cole.david@epa.gov](mailto:cole.david@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does This Action Apply to Me?

This action applies only to the Denver EAC area.

**B. How Is This Document Organized?**

The information presented in this preamble is organized as follows:

**Outline**

- I. General Information
  - A. Does This Action Apply to Me?
  - B. How Is This Document Organized?
- II. What Is the Purpose of This document?
- III. What Action Has EPA Taken to Date for Early Action Compact Areas?
- IV. What Is the Final Action for the Denver Early Action Compact Area?
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  - K. Congressional Review Act
  - L. Petitions for Judicial Review

**II. What Is the Purpose of This Document?**

The purpose of this document is to issue a short further deferral of the effective date of the 8-hour ozone nonattainment designation for the Denver EAC area from September 14, 2007 to November 20, 2007.

**III. What Action Has EPA Taken to Date for Early Action Compact Areas?**

For discussions on EPA's actions to date with respect to deferring the effective date of nonattainment designations for certain areas of the country that are participating in the EAC program and Denver specifically please refer to the **Federal Register** dated June 28, 2007 (72 FR 35356). In addition, EPA's April 30, 2004, air quality designation rule (69 FR 23858) provides a description of the compact approach, the requirements for areas participating in the compact and the impacts of the compact on those areas.

Since the June 28, 2007, rulemaking, all compact areas submitted their 6 month progress reports by June 30, 2007 as required. These reports were reviewed and approved by EPA. You may find copies of all progress reports at <http://www.epa.gov/ttn/naaqs/ozone/eac/index.htm#List>.

**IV. What Is the Final Action for the Denver Early Action Compact Area?**

Rocky Mountain Clean Air Action (RMCAA) challenged our action deferring the effective date of the nonattainment designation of the Denver EAC area until July 1, 2007. 71 FR 69022 (November 29, 2006). *Rocky Mountain Clean Air Action v. EPA*, D.C. Cir. No. 07-1012. We are currently in settlement discussions with RMCAA. In order to allow the settlement process to continue, we are taking final action at this time to issue a short further deferral of the effective date of designation for Denver until November 20, 2007. By November 20, 2007, EPA will: (i) Evaluate the 8-hour ozone air quality data for the Denver EAC area from 2005, 2006 and the first three quarters of 2007; and, (ii) if the data do not indicate a violation of the 8-hour ozone standard, issue a final rule further extending the deferral of the effective date of the nonattainment designation until April 15, 2008; and, (iii) if the data indicate a violation, take no further action and the nonattainment designation will become effective November 20, 2007.

We are taking this action pursuant to our March 1, 2007 proposed rule whereby we proposed to extend the effective date of the designation until April 15, 2008. We incorporate by reference our responses to the comments received on that proposal, which were included in our June 28, 2007 final rule extending the deferral of the effective date for the Denver EAC area until September 14, 2007.

This action will be effective September 14, 2007. Because this action will relieve a restriction by further deferring the effective date of the nonattainment designation for the Denver EAC area, the requirement of section 553(d) of the Administrative Procedure Act that a rule not take effect earlier than 30 days following publication does not apply.

**V. Statutory and Executive Order Reviews****A. Executive Order 12866: Regulatory Planning and Review**

This action is not a "significant regulatory action" under the terms of Executive Order (E.O.) 12866 (58 FR 51735; October 4, 1993) and is therefore not subject to review under the E.O.

**B. Paperwork Reduction Act**

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule does not require the collection of any information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

**C. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. Rather, this rule would extend the deferred effective date of the nonattainment designation for the Denver area to implement control measures and

achieve emissions reductions earlier than otherwise required by the CAA in order to attain the 8-hour ozone NAAQS.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. In this final rule, EPA is deferring the effective date of nonattainment designation for the Denver EAC. Thus, this final rulemaking is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect

small governments because this rule does not contain Federal mandates.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the E.O. to include regulations that 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.”

This final rule does not have federalism implications. It will 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. The CAA establishes the scheme whereby States take the lead in developing plans to meet the NAAQS. This final rule would not modify the relationship of the States and EPA for purposes of developing programs to implement the NAAQS. Thus, E.O. 13132 does not apply to this final rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have “Tribal implications” as specified in E.O. 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time or has participated in a compact.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: “Protection of Children From Environmental Health 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 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 final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

#### *H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This final rule is not subject to E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under E.O. 12866.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA is not considering the use of any VCS. The EPA will encourage States that have compact areas to consider the use of such standards, where appropriate, in the development of their SIPs.

#### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629; Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing,

as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS. The level is designed to be protective with an adequate margin of safety.

#### K. Congressional Review Act

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. The 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). This rule will be effective September 14, 2007.

#### L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by November 20, 2007. 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 must 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* CAA Section 307(b)(2).

#### List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

**Authority:** 42 U.S.C. 7408; 42 U.S.C. 7410; 42 U.S.C. 7501–7511f; 42 U.S.C. 7601(a)(1).

Dated: September 12, 2007.

**Stephen L. Johnson,**  
*Administrator.*

■ For the reason set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

#### PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

#### Subpart C—Section 107 Attainment Status Designations

■ 2. Section 81.300 is amended by revising the last sentence in paragraph (e)(3)(i) to read as follows:

##### § 81.300 Scope.

\* \* \* \* \*

(e) \* \* \*  
(3) \* \* \*

(i) *General.* \* \* \* The Administrator shall defer until November 20, 2007 the effective date of a nonattainment designation of the Denver area.

\* \* \* \* \*

■ 3. In § 81.306, the table entitled "Colorado-Ozone (8-Hour Standard)" is amended by revising footnote 2 to read as follows:

##### § 81.306 Colorado.

\* \* \* \* \*

##### Colorado-Ozone (8-Hour Standard)

\* \* \* \* \*

<sup>2</sup> Early Action Compact Area, effective date deferred until November 20, 2007.

\* \* \* \* \*

[FR Doc. E7–18357 Filed 9–20–07; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 65

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

**DATES:** The effective dates for these modified BFEs are indicated on the

following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

**ADDRESSES:** The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also