

agencies or persons as he/she may designate.

Dated: November 3, 2010.

Michael G. Ensich,

Chief, Operations and Regulatory, Directorate of Civil Works.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[EPA-HQ-OAR-2008-0338; FRL-9223-6]

Notice of Data Availability Regarding Potential Changes to Required Ozone Monitoring Seasons for Colorado, Kansas, and Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability (NODA).

SUMMARY: The EPA is providing notice that it is supplementing the record to the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements, published July 16, 2009. The EPA has placed in the docket for the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements (Docket ID No. EPA-HQ-OAR-2008-0338) additional ambient ozone monitoring data for the period January 1, 2007, through April 30, 2010, for the states of Colorado, Kansas, and Utah that cover time periods outside of the current required ozone monitoring seasons. The data for these states consist of daily maximum 8-hour ozone concentrations. These data have become available since original analyses were completed for the proposal, which relied on ambient data covering the period 2004–2006. EPA is specifically considering how these more recent data could impact changes to the current and proposed required ozone monitoring seasons for Colorado, Kansas, and Utah.

DATES: Comments must be received on or before December 10, 2010. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on submitting comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0338, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments. Attention Docket ID No. EPA-HQ-OAR-2008-0338.

- **Fax:** (202) 566-1741.

- **Mail:** EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2008-0338, U.S. Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include 2 copies.

- **Hand Delivery:** U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OAR-2008-0338. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0338. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.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 <http://www.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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. 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, will be publicly

available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA East Building Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For questions regarding the additional ambient ozone data, contact Lewis Weinstock, Air Quality Assessment Division/Ambient Air Monitoring Group (C304-06), Research Triangle Park, NC 27711; telephone number: 919-541-3661; fax number: 919-541-1903; e-mail address: weinstock.lewis@epa.gov.

SUPPLEMENTARY INFORMATION:

Outline

1. What is the purpose for this action?
2. What information is EPA making available for review and comment?
3. How does this information relate to the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements?
4. Where can I get this information?
5. What issue is EPA taking comment on?
6. What should I consider as I prepare my comments for EPA?
7. Submitting Confidential Business Information (CBI)

1. What is the purpose for this action?

This NODA provides for public review and comment on ambient ozone monitoring data for the period January 1, 2007, through April 30, 2010, for the states of Colorado, Kansas, and Utah.

2. What information is EPA making available for review and comment?

EPA is making available for review and comment ozone monitoring data for the states of Colorado, Kansas, and Utah that were obtained during the months outside of the current ozone monitoring seasons required by 40 CFR part 58, Appendix D, Table D-3. The data include a listing of days when ozone concentrations reached an 8-hour average level of at least 0.060 parts per million (ppm) during the following months: Colorado (January, February, October, November, December); Kansas (January, February, March, November, December); and Utah (January, February, March, April, October, November, December). These data were obtained from EPA's Air Quality System (AQS) and represent data from monitors

utilizing approved Federal Equivalent Methods.

3. How does this information relate to the Proposed Rule—Ambient Ozone Monitoring Regulations: Revisions to Network Design Requirements?

On July 16, 2009, EPA published a proposed rule (74 FR 34525) to revise the ozone monitoring network design requirements. EPA proposed to modify minimum monitoring requirements in urban areas, add new minimum monitoring requirements in non-urban areas, and to extend the length of the required ozone monitoring season in some states.

In its proposal, EPA used ambient ozone monitoring data obtained from monitors operating outside (*i.e.*, before and after) the current required ozone monitoring season to assess whether ambient ozone concentrations could approach or exceed the level of the primary (8-hour) National Ambient Air Quality Standards (NAAQS) during these periods when monitoring is not currently required. EPA's analysis utilized data for the period 2004–2006, representing data from approximately 530 monitors which were operated on a year-round basis. These data were analyzed for two indicators: (1) The number of exceedences of the NAAQS (*i.e.*, daily maximum 8-hour ozone averages above 0.075 ppm) in the months falling outside the currently required ozone monitoring season for each area, and (2) occurrences of daily maximum 8-hour ozone averages of at least 0.060 ppm, representing a value of 80 percent of the 0.075 ppm NAAQS. In the proposal, we noted that the operation of ozone monitors during such periods of time when ambient levels reach at least 80 percent of the NAAQS ensures that persons unusually sensitive to ozone are alerted to the occurrence of elevated ozone concentrations in their area, and protects against the potential for undocumented NAAQS exceedences. The availability of these additional data support many objectives including more comprehensive real-time air quality reporting to the public, ozone forecasting programs, and the verification of real-time air quality forecast models.

As EPA completes revised analyses to support the upcoming ozone monitoring final rule, certain patterns of out-of-season elevated 8-hour average ozone concentrations, which were not recognizable during 2004–2006, have become apparent in newer data. These patterns include a greater frequency of occurrences of daily maximum 8-hour ozone averages of at least 0.060 ppm

before and after the currently required ozone monitoring seasons for the aforementioned states than was observed in the 2004–2006 dataset. Accordingly, EPA is making these newer data available for the specific states that have such patterns.

4. Where can I get this information?

All of the information can be obtained through the Air Docket and at <http://www.regulations.gov> (see ADDRESSES section above for docket contact information).

5. What issue is EPA taking comment on?

EPA requests comment on the interpretation of the newer ambient 8-hour average ozone monitoring data for the states of Colorado, Kansas, and Utah in the context of determining the final ozone monitoring season requirements for these states. Specifically, do the patterns of elevated 8-hour average ozone concentrations that occurred both before and after the current required ozone monitoring seasons for these states support the revised seasons proposed in the July 16, 2009, rulemaking for these states? Do these patterns support alternative required monitoring seasons different from what was proposed in the July 16, 2009, rulemaking for these states? Issues for consideration with regard to Colorado, Kansas, and Utah are whether the current ozone season requirements should be maintained, whether the proposed changes to seasons should be finalized as proposed or revised, and whether changes should be made for these states that were not originally proposed in the July 2009 rule.

6. What should I consider as I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information or data you used that support your views.
4. Provide specific examples to illustrate your concerns.
5. Offer alternatives.
6. Make sure to submit your comments by the comment period deadline identified.
7. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided

the name, date, and **Federal Register** citation related to your comments.

7. Submitting Confidential Business Information (CBI)

Do not submit information you are claiming as CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part of the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. 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.

List of Subjects in 40 CFR Part 58

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

Dated: November 3, 2010.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 455

[CMS-6034-P]

RIN 0938-AQ19

Medicaid Program; Recovery Audit Contractors

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide guidance to States related to Federal/State funding of State start-up, operation and maintenance costs of Medicaid Recovery Audit Contractors (Medicaid RACs) and the payment methodology for State payments to Medicaid RACs in accordance with section 6411 of the Affordable Care Act. In addition, this rule proposes requirements for States to assure that adequate appeal processes are in place for providers to dispute adverse