

*F. Small Business Regulatory Enforcement Fairness Act of 1996*

Under 5 U.S.C. 801(a)(1)(A) added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Intergovernmental relations, Particulate matter, Ozone, Sulfur oxides.

Dated: December 16, 1996.

A. Stanley Meiburg,

*Acting Regional Administrator.*

Part 52 of chapter I, title 40, *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. 7401-7671q.

**Subpart RR—Tennessee**

2. Section 52.2220 is amended by adding paragraph (c)(145) to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(145) Revisions to Division Rule 1200—Stationary Sources—General Requirements, submitted by the Tennessee Department of Environmental Protection on May 3, 1995.

(i) Incorporation by reference.

(A) Division of Air Pollution Control Rule 1200-3-9-.02(11)(a), effective September 21, 1994.

(B) Memphis City Code Section 16-77, reference 1200-3-9-.02(11)(a), effective October 28, 1994.

(ii) Other materials. None.

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**40 CFR Part 58**

[FRL-5683-4]

**Modification of the Ozone Monitoring Season; Alabama, Georgia, and Mississippi**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Previously, the ozone monitoring season in Region 4 was twelve months in Florida; March—November in Georgia, Alabama, and Mississippi; and April—October in North Carolina, South Carolina, Tennessee, and Kentucky. Based on review of ozone monitoring data, Region 4 has determined that the appropriate ozone monitoring ozone season should be April 1–October 31 for all Region 4 states except Florida. Florida will continue to have a twelve month monitoring season.

**EFFECTIVE DATE:** March 17, 1997.

**ADDRESSES:** Copies of documents concerning this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

The Region 4 office may have additional background documents not available at the other locations.

Environmental Protection Agency, Region 4, Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Dick Schutt, (404) 562-9033.

Alabama Department of Environmental Management, 1751 Congressman W. L. Dickinson Drive, Montgomery, Alabama 36109. (334) 271-7861.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. (404) 363-7000.

Air Division, Office of Pollution Control, Mississippi Department of Environmental Quality, P.O. Box 10385, Jackson, Mississippi, 39289-0385. (601) 961-5171.

Bureau of Environmental Health, Jefferson County Department of Health, P.O. Box 2648, Birmingham, Alabama 35202. (205) 930-1225.

The City of Huntsville, Department of Natural Resources & Environmental Management, 305 Church Street, Huntsville, Alabama 35801. (205) 535-4206.

**FOR FURTHER INFORMATION CONTACT:** Dick Schutt at 404/562-9033.

**SUPPLEMENTARY INFORMATION:** 40 CFR 58.13(a)(3) provides that ambient air quality data must be collected except periods or seasons exempted by the Regional Administrator. EPA Region 4 has analyzed ozone monitoring data for all of the Region 4 states except Florida during the years 1991–1995. Air monitoring stations in the seven states recorded ozone values at or above .100 ppm on only three days between November 1–April 14. Based on this data, the EPA has determined that the appropriate ozone monitoring season should be April 1–October 31 for all Region 4 states except Florida. Florida will continue to have a twelve month monitoring season.

Therefore, pursuant to 40 CFR 58.13(a)(3), by letter dated September 5, 1996, from John H. Hankinson, EPA Region 4 Administrator, the EPA changed the Alabama, Georgia, and Mississippi ozone monitoring season to be April 1–October 31.

The ozone monitoring season for Region 4 states will be re-evaluated when the national ambient air quality standard for ozone is revised. The ozone monitoring season will be revised, if necessary at that time.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. EPA certifies that this rule will not have an impact on any number of small entities.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 14, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for 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) of the CAA, 42 U.S.C. 7607(b)(2).)

Under 5 U.S.C. 801(a)(1)(A) added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations.

Dated: January 21, 1997.

A. Stanley Meiburg,  
*Acting Regional Administrator.*

Part 58 of chapter 1, title 40 of the *Code of Federal Regulations* is amended as follows.

**PART 58—[AMENDED]**

1. The authority citation for part 58 is revised to read as follows:

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

Appendix D—[Amended]

2. In Appendix D, the table in section 2.5 is amended by revising the entries for Alabama, Georgia, and Mississippi to read as follows:

Appendix D—Network Design for State and Local Air 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
Alabama .....	Apr .....	Oct.
* * *	* * *	* * *
Georgia .....	Apr .....	Oct.
* * *	* * *	* * *
Mississippi .....	Apr .....	Oct.
* * *	* * *	* * *

[FR Doc. 97-3520 Filed 2-12-97; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

RIN 1018-AD69

**Migratory Bird Hunting; Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds; Supplemental**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rule.

**SUMMARY:** The Fish and Wildlife Service (hereinafter Service) is supplementing the rule prescribing the late open season, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons in South Dakota that appeared in the Federal Register on September 27, 1996 (61 FR 50738).

**DATE:** Effective on February 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358-1714.

**SUPPLEMENTARY INFORMATION:** In the September 27, 1996, Federal Register (61 FR 50738), the Service published a final rule prescribing the late open season, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons and certain other migratory bird seasons in the conterminous United States. Public comment was received on the proposed rules for the seasons and limits contemplated herein. These comments were addressed in the Federal Registers dated August 29, 1996, (61 FR 45836) and September 26, 1996 (61 FR 50662). This supplement involves no change in substance in the contents of the prior proposed and final rules. In the case of South Dakota, the State has elected to select the remaining allowable hunt days permitted under the existing frameworks for snow geese.

Dated: February 3, 1997

George T. Frampton, Jr.  
*Assistant Secretary for Fish and Wildlife and Parks.*

**PART 20—[AMENDED]**

For the reasons set out in the preamble, title 50, chapter I, subchapter B, Part 20, subpart K is amended as follows:

1. The authority citation for Part 20 continues to read as follows:

AUTHORITY: 16 U.S.C. 703-712; and 16 U.S.C. 742 a-j.

**§ 20.105 [Amended]**

2. In Section 20.105, paragraph (e) is amended by revising the Season Dates for South Dakota, subheading Light Geese, to read "Sept. 28-Dec. 22 & Feb. 18-Mar. 10."

[FR Doc. 97-3657 Filed 2-12-97; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 217 and 222**

[Docket No. 960730211-7020-02; I.D. 072296B]

RIN 0648-AJ03

**North Atlantic Right Whale Protection**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

**SUMMARY:** Disturbance is identified in the Final Recovery Plan for the Northern Right Whale (Recovery Plan) as among the principal human-induced factors impeding recovery of the northern right whale (*Eubalaena glacialis*) (NMFS, 1991). NMFS is issuing this interim final rule to restrict approaches within 500 yards (460 m) of a right whale, whether by vessel, aircraft or other means, in an attempt to reduce the current level of disturbance and the potential for vessel interaction and injury. This rule requires right whale avoidance measures if a vessel or aircraft is within the 500-yard (460 m) restricted area. Generally, vessels are required to immediately depart from the area at a slow, safe speed in a direction away from the whale. Exceptions are provided for emergency situations, where certain authorizations are provided for aircraft operations (unless the aircraft is conducting whale watch activities), for certain right whale disentanglement/rescue efforts and investigations, and for a vessel restricted in its ability to maneuver and unable to comply with the right whale avoidance measures.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Margot Bohan, NMFS/FPR, 301-713-2322; Doug Beach, NMFS/Northeast Regional Office, 508-281-9254; or