

representatives, or other authorized persons.

(b) You must retain all data relevant to the determination of royalty value. Document retention and recordkeeping requirements are found at §§ 207.5, 212.50, and 212.51 of this chapter. The MMS, Indian representatives, or other authorized persons may review and audit such data you possess, and MMS will direct you to use a different value if it determines that the reported value is inconsistent with the requirements of this subpart or the lease.

#### **§ 206.62 Does MMS protect information I provide?**

The MMS will keep confidential, to the extent allowed under applicable laws and regulations, any data or other information you submit that is privileged, confidential, or otherwise exempt from disclosure. All requests for information must be submitted under the Freedom of Information Act regulations of the Department of the Interior, 43 CFR part 2.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R07-OAR-2007-1128; FRL-8507-1]

#### **Approval and Promulgation of Implementation Plans; Nebraska; Interstate Transport of Pollution**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is revising the Nebraska State Implementation Plan (SIP) for the purpose of approving the Nebraska Department of Environmental Quality's (NDEQ) actions to address the "good neighbor" provisions of the Clean Air Act Section 110(a)(2)(D)(i). These provisions require each state to submit a SIP that prohibits emissions that adversely affect another State's air quality through interstate transport. NDEQ has adequately addressed the four distinct elements related to the impact of interstate transport of air pollutants. These include prohibiting significant contribution to downwind nonattainment of the National Ambient Air Quality Standards (NAAQS), interference with maintenance of the NAAQS, interference with plans in another state to prevent significant deterioration of air quality, and efforts of other states to protect visibility. The

requirements for public notification were also met by NDEQ.

**DATES:** This direct final rule will be effective February 15, 2008, without further notice, unless EPA receives adverse comment by January 16, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2007-1128, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. E-mail: [jay.michael@epa.gov](mailto:jay.michael@epa.gov).
3. Mail: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.
4. Hand Delivery or Courier: Deliver your comments to Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to Docket ID No. EPA-R07-OAR-2007-1128. 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 through <http://www.regulations.gov> or e-mail information that you consider to be CBI or otherwise protected. 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.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., 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 in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Michael Jay at (913) 551-7460, or by e-mail at [jay.michael@epa.gov](mailto:jay.michael@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is being addressed in this document?  
What action is EPA taking?

#### **What is being addressed in this document?**

EPA is revising the SIP for the purpose of approving the NDEQ's actions to address the requirements of the Clean Air Act (CAA) section 110(a)(2)(D)(i). This section requires each state to submit a SIP that prohibits emissions that could adversely affect another state. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to downwind nonattainment of the NAAQS, (2) interfere with maintenance of the NAAQS, (3) interfere with provisions to prevent significant deterioration of air quality, and (4) interfere with efforts to protect visibility.

EPA issued guidance on August 15, 2006, relating to SIP submissions to meet the requirements of section 110(a)(2)(D)(i). As discussed below, Nebraska's analysis of its SIP with respect to the statutory requirements is consistent with the guidance.

The NDEQ has addressed the first two of these elements by submitting a technical demonstration supporting the conclusion that emissions from

Nebraska do not significantly contribute to downwind nonattainment or interfere with maintenance of the NAAQS in another state. For  $PM_{2.5}$ , the state has relied upon existing EPA Clean Air Interstate Rule (CAIR) modeling that determined impacts from the state do not meet or exceed the  $0.2 \mu\text{g}/\text{m}^3$  average annual threshold that EPA established to determine significant impact on another state in the projection year 2010. The state indicated that in EPA's CAIR modeling, Nebraska's maximum downwind contribution to average annual nonattainment was  $0.07 \mu\text{g}/\text{m}^3$  (70 FR 25247). The state has relied on this result to demonstrate that emissions from the state do not contribute significantly to downwind nonattainment of the annual  $PM_{2.5}$  standard.

For 8-hour ozone, the state was unable to rely on EPA CAIR modeling to determine the state's impact on projected 8-hour ozone nonattainment in downwind states. The EPA CAIR 8-hour ozone modeling domain did not include the entire state. As a result, impacts from the state were not provided in the analysis. Therefore, the state has provided additional analysis, as part of the technical demonstration, to support a determination that the state does not contribute significantly to projected downwind 8-hour ozone nonattainment and maintenance in the year 2010.

The State's additional analysis includes a modeling demonstration that supports this conclusion. The modeling demonstration relies on the source apportionment technique, consistent with the technical analysis in support of CAIR, to evaluate the State's contribution to nearby downwind metropolitan statistical areas (MSAs) and nearby counties. These areas include Chicago and additional counties in Wisconsin along Lake Michigan, St. Louis, Kansas City, and Denver.

The determination of significance in the State's analysis was based upon three contribution factors as determined in CAIR:

- The magnitude of the contribution;
  - The frequency of the contribution;
- and
- The relative amount of contribution.

The source apportionment modeling analysis yielded consistent results showing Nebraska does not contribute significantly to downwind 8-hour ozone nonattainment in any of the receptor counties analyzed. For example, Nebraska's contribution to total nonattainment in Chicago is 0.36%, with a contribution average of 0.3 ppb, and a 1.74% relative contribution

during exceedance periods. By EPA's own metrics, these impacts are considered to be small and infrequent. Moreover, not a single metric of the three contribution factors was found to be above the significance threshold established by EPA for any of the downwind counties. (See Technical Support Document for the Final Clean Air Interstate Rule—Air Quality Modeling). Based on this information provided by the State, EPA believes the State has sufficiently demonstrated that emissions from the State do not significantly contribute to downwind nonattainment or interfere with maintenance of the NAAQS. Additional supporting information on Nebraska's modeling demonstration can be found in its technical support document provided in the docket.

The third element NDEQ addressed was prevention of significant deterioration (PSD). For 8-hour ozone, the state has met the obligation by confirming that major sources in the state are currently subject to PSD programs that implement the 8-hour ozone standard. For  $PM_{2.5}$ , the state has confirmed that the state's PSD program is being implemented in accordance with EPA's interim guidance calling for the use of  $PM_{10}$  as a surrogate for  $PM_{2.5}$  for the purposes of PSD review. Once  $PM_{2.5}$  guidance is finalized by EPA, NDEQ commits to transitioning from use of the interim  $PM_{2.5}$  guidance to the final  $PM_{2.5}$  implementation guidance after approval of the  $PM_{2.5}$  SIP revision. EPA proposed regulations to establish this guidance on September 21, 2007 (72 FR 54112).

It should be noted that Nebraska is currently designated with attainment for both the 8-hour ozone and  $PM_{2.5}$  National Ambient Air Quality Standards.

At this time, it is not possible for NDEQ to accurately determine whether there is interference with measures in another state's SIP designed to protect visibility, which is the fourth element that was addressed. Technical projects relating to visibility degradation are under development. Nebraska will be in a more advantageous position to address the visibility projection requirements once the initial regional haze SIP has been developed.

A public hearing with regard to this action was held by the state. No comments were received.

With this action, the non-regulatory text in 40 CFR 52.1420(e) is revised to reflect that NDEQ addressed the elements of the CAA section 110(a)(2)(D)(i) submittal.

## What action is EPA taking?

EPA is approving this revision submitted by Nebraska and is revising 40 CFR 52.1420(e) to reflect that the NDEQ has adequately addressed the required elements of the CAA section 110(a)(2)(D)(i) SIP. Please note that if EPA receives adverse comments on part of this rule, and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

## 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 13121, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this action 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.). Because this action approves pre-existing requirements under state law and does not impose 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 action 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

CAA. This action 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 approves a state rule implementing a Federal standard.

In reviewing state submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. 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 action 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. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 15, 2008. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 29, 2007.

**William Rice,**

*Acting Regional Administrator, Region 7.*

■ 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 CC—Nebraska

■ 2. In § 52.1420(e) the table is amended by adding an entry in numerical order to read as follows:

### § 52.1420 Identification of Plan.

\* \* \* \* \*

(e) \* \* \*

## EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(23) CAA 110(a)(2)(D)(i) SIP— Interstate Transport.	Statewide .....	5/18/07	12/17/07 [insert FR page number where the document begins].	

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Parts 385 and 395

[Docket No. FMCSA-2004-19608]

RIN-2126-AB14

#### Hours of Service of Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Interim final rule (IFR); request for comments.

**SUMMARY:** FMCSA amends the Federal Motor Carrier Safety Regulations effective December 27 to allow

commercial motor vehicle (CMV) drivers up to 11 hours of driving time within a 14-hour, non-extendable window from the start of the workday, following 10 consecutive hours off duty (11-hour limit). This interim rule also allows motor carriers and drivers to restart calculations of the weekly on-duty time limits after the driver has at least 34 consecutive hours off duty (34-hour restart). An IFR is necessary to prevent disruption to enforcement and compliance with the hours-of-service (HOS) rules when the stay expires, as well as possible effects on the timely delivery of essential goods and services. This IFR will ensure that a familiar and uniform set of national rules governs motor carrier transportation, while FMCSA gathers public comments on all aspects of this interim final rule, conducts peer review of our analysis, and considers the appropriate final rule

that addresses the issues identified by the Court. FMCSA is fully committed to issuing a final rule in 2008.

**DATES:** This rule is effective December 27, 2007. Comments must be received on or before February 15, 2008.

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2004-19608 by any of the following methods:

- **Web Site:** <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.
- **Fax:** 1-202-493-2251.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.
- **Hand Delivery:** Ground Floor, Room W12-140, DOT Building, 1200 New