

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 action 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 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 April 28, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 27, 2009.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

■ Part 52 of 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 EE—New Hampshire

■ 2. Section 52.1534 is amended by adding paragraph (d) to read as follows:

§ 52.1534 Control strategy: Ozone.

* * * * *

(d) Approval—Revision to the State Implementation Plan submitted by the New Hampshire Department of Environmental Services on May 28, 2008. This revision establishes Year 2009 motor vehicle emission budgets of

15.31 tons per summer day of volatile organic compounds (VOC) and 28.53 tons per summer day of nitrogen oxides (NO_x) to be used in transportation conformity in the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area.

[FR Doc. E9-4134 Filed 2-26-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-RO7-RCRA-2008-0830; FRL-8778-1]

Nebraska: Final Authorization of State Hazardous Waste Management Program Revisions; Withdrawal of Immediate Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of immediate final rule.

SUMMARY: Because EPA received adverse comment, we are withdrawing the immediate final rule for Nebraska: Final Authorization of State Hazardous Waste Management Program Revisions, published on December 30, 2008.

DATES: Effective February 27, 2009, EPA withdraws the immediate final rule published at 73 FR 79661 on December 30, 2008.

FOR FURTHER INFORMATION CONTACT: Lisa Haugen, Immediate Office, Air and Waste Management Division, EPA Region 7, 901 North 5th Street, Kansas City, Kansas 66101, telephone (913) 551-7877, haugen.lisa@epa.gov.

SUPPLEMENTARY INFORMATION: Because EPA received adverse comment, we are withdrawing the immediate final rule for Nebraska: Final Authorization of State Hazardous Waste Management Program Revisions published on December 30, 2008 (73 FR 79661). We stated in that immediate final rule that if we received adverse comment by January 29, 2009, the immediate final rule would not take effect and we would publish a timely withdrawal in the **Federal Register**. We will address the comment in a subsequent final action. As stated in the immediate final rule and the parallel proposed rule, we will not institute a second comment period in this action.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste

transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of section 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926 and 6974(b).

Dated: February 23, 2009.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. E9-4231 Filed 2-26-09; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 401 and 405

[CMS-4064-RCN2]

RIN 0938-AM73

Medicare Program; Changes to the Medicare Claims Appeal Procedures; Continuation of Effectiveness and Extension of Timeline for Publication of Final Rule

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

ACTION: Interim final rule with comment period; continuation of effectiveness and extension of timeline for publication of final rule.

SUMMARY: This notice announces the continuation of effectiveness of a Medicare interim final rule with comment period and the extension of the timeline for publication of the final rule. This notice is issued in accordance with section 1871(a)(3)(C) of the Social Security Act (the Act), which allows an interim final rule to remain in effect after the expiration of the timeline specified in section 1871(a)(3)(B) of the Act (the "regular timeline") or, if applicable, at the end of each succeeding 1-year extension to the regular timeline, if prior to the expiration of the timeline, the Secretary publishes in the **Federal Register** a notice of continuation and explains why the regular timeline or any subsequent extension was not complied with.

DATES: *Effective Date:* February 27, 2009.

FOR FURTHER INFORMATION CONTACT: David Danek, (617) 565-2682. Arrah Tabe-Bedward, (410) 786-7129.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1871(a)(3)(A) of the Act requires the Secretary, in consultation with the Director of the Office of Management and Budget (OMB), to establish and publish a regular timeline for the publication of a final rule based on the previous publication of a proposed rule or an interim final rule. In accordance with section 1871(a)(3)(B) of the Act, such regular timeline may vary among different regulations, based on the complexity of the rule, the number and scope of the comments received, and other relevant factors. The timeline for publishing the final regulation, however, cannot exceed 3 years from the date of publication of the proposed or interim final rule, unless there are exceptional circumstances. After consultation with the Director of OMB, we published a notice in the **Federal Register** on December 30, 2004 (69 FR 78442) establishing a general 3-year timeline for finalizing a Medicare proposed and an interim final rule.

Section 1871(a)(3)(C) of the Act states that a Medicare interim final rule shall not continue in effect if the final rule is not published before the expiration of the regular timeline and, if applicable, before the expiration of each succeeding one-year period, unless the Secretary publishes at the end of the regular timeline and any subsequent 1-year extension a notice of continuation that includes an explanation of why the regular or previously extended timeline was not met. Upon publication of such a notice, the regular timeline or such timeline as previously extended for publishing the final rule is extended for 1 year.

II. Notice of Continuation

Section 521 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), amended section 1869 of the Act to provide for significant changes to the Medicare claims appeal procedures. On November 15, 2002, we published in the **Federal Register** a proposed rule (67 FR 69312) consistent with Section 521 of BIPA. An interim final rule with comment period implementing the BIPA provisions as well as further changes to the claim appeals procedures enacted in Title IX of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) appeared in the **Federal Register** in March 2005 (70 FR 11420). Under the regular timeline for publication of a final rule, we were required to publish a final rule responding to public comments on the interim final rule with comment period

no later than March 1, 2008. However, on February 29, 2008, we published in the **Federal Register** a continuation notice entitled "Medicare Program; Changes to the Medicare Claims Appeal Procedures; Continuation of Effectiveness and Extension of Timeline for Publication of Final Rule" to extend the timeline for publication of the final rule for 1 year until March 1, 2009 (73 FR 11043).

This notice announces an additional extension of the timeline for publication of the final rule and the continuation of effectiveness of the March 2005 interim final rule with comment period. We are not able to meet the timeline for publication of the final rule due to the need to allow an opportunity for full consideration of issues of law and policy raised in the regulation. We believe it is necessary and appropriate to delay publication of this final rule in order to afford the President's appointees and designees an opportunity to further review and consider the laws and policies that will be set forth in the final rule.

Therefore, this notice extends the timeline for publication of the final rule until March 1, 2010. In accordance with section 1871(a)(3)(C) of the Act, the interim final rule with comment period shall remain in effect through March 1, 2010 (unless the final rule is published and becomes effective before March 1, 2010).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 23, 2009.

Ashley Files Flory,

Deputy Executive Secretary to the Department.

[FR Doc. E9-4223 Filed 2-26-09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 27, 54, 73, 76, and 90

[MB Docket No. 09-17; FCC 09-11]

Implementation of the DTV Delay Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document issues the final rules in the Second Report and Order implementing the DTV Delay Act. It amends the requirements of the DTV Consumer Education Initiative, as well as extending the duration of certain

licenses and construction permits, to conform to the new, June 12, 2009, transition date. It announces the Commission's intent to apply the provisions of the Analog Nightlight Order to the period after June 12, 2009. And, it established March 17, 2009 as the date by which stations must notify the Commission of their planned timing to complete their transition and April 16, 2009 as the first date on which stations can terminate analog signals.

DATES: Effective February 27, 2009, except for §§§ 15.124, 54.418, and 76.1630, which are effective April 1, 2009.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For more information, please contact Nazifa Sawez, Nazifa.Sawez@fcc.gov, at 202-418-7059 or Shaun Maher, Shaun.Maher@fcc.gov, at 202-418-2324, of the Video Division, Media Bureau; or Evan Baranoff, Evan.Baranoff@fcc.gov, at 202-418-7142; Lyle Elder, Lyle.Elder@fcc.gov, at 202-418-2120; or Kim Matthews, Kim.Matthews@fcc.gov, at 202-418-2154, of the Policy Division, Media Bureau; or Eloise Gore, Eloise.Gore@fcc.gov, at 202-418-7200, of the Media Bureau. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams on (202) 418-2918, or via the Internet at PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order*, FCC 09-11, adopted and released on February 20, 2009. (The companion Notice of Proposed Rulemaking (NPRM) to this document is published elsewhere in this issue of the **Federal Register**.) The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the