

**Material Incorporated by Reference**

(j) You must use Bombardier Service Bulletin 215-3151, dated May 5, 2008; or Bombardier Service Bulletin 215-4394, dated May 5, 2008; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-5000; fax 514-855-7401; e-mail [thd.crj@aero.bombardier.com](mailto:thd.crj@aero.bombardier.com); Internet <http://www.bombardier.com>.

(3) You may review copies of the service information that is incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425-227-1221 or 425-227-1152.

(4) You may also review copies of the service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on February 17, 2009.

**Ali Bahrami,**

*Manager, Transport Airplane Directorate,  
Aircraft Certification Service.*

[FR Doc. E9-3864 Filed 2-26-09; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9441]

RIN 1545-B146

**Section 482: Methods To Determine Taxable Income in Connection With a Cost Sharing Arrangement***Correction*

In rule document E8-30715 beginning on page 340 in the issue of Monday, January 5, 2009 make the following correction:

**§1.482-7T [Corrected]**

On page 354, in §1.482-7T(b)(5), in the second column, in paragraph (5), in the second line, “(i) Situation in which Commissioner must treat arrangement as a CSA.” should read “(i) Situation in which Commissioner must treat arrangement as a CSA.”

[FR Doc. Z8-30715 Filed 2-26-09; 8:45 am]

BILLING CODE 1505-01-D

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R01-OAR-2008-0485; A-1-FRL-8771-3]

**Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; 2009 Motor Vehicle Emissions Budgets for the Boston-Manchester-Portsmouth (SE), New Hampshire, 8-Hour Ozone Nonattainment Area**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision contains 8-hour ozone transportation conformity emission budgets for the Boston-Manchester-Portsmouth (SE), New Hampshire, 8-hour ozone nonattainment area. This action is being taken under the Clean Air Act.

**DATES:** This direct final rule will be effective April 28, 2009, unless EPA receives adverse comments by March 30, 2009. If adverse comments are 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 Number EPA-R01-OAR-2008-0485 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [arnold.anne@epa.gov](mailto:arnold.anne@epa.gov).

3. *Fax:* (617) 918-0047.

4. *Mail:* “Docket Identification Number EPA-R01-OAR-2008-0485”, Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R01-OAR-2008-

0485. 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 Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Air Resources Division,

Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1668, fax number (617) 918-0668, e-mail [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

*Organization of this document.* The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Comparisons of Year 2002 Emissions to Year 2009
- III. Adequacy Process and SIP Approval
- IV. Transportation Conformity Motor Vehicle Emissions Budgets
- V. Basis for Approval
- VI. Final Action
- VII. Statutory and Executive Order Reviews

**I. Background and Purpose**

On April 30, 2004 (69 FR 23857), EPA designated as nonattainment any area that was violating the 1997 0.08 parts per million (ppm) 8-hour ozone national ambient air quality standard (NAAQS) based on the three most recent years (2001–2003) of air quality data.<sup>1</sup> Portions of Hillsborough, Merrimack, Rockingham and Strafford Counties in New Hampshire were designated as a moderate ozone nonattainment area (specifically, the Boston-Manchester-Portsmouth (SE), New Hampshire area). The rest of New Hampshire was designated as attainment of the 1997 8-hour ozone NAAQS. (See 40 CFR 81.330.) One year after the June 15, 2004 effective date of the 8-hour ozone designations, transportation and general conformity applied to the nonattainment area.

On March 18, 2008, EPA determined that the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area had attained the 1997 8-hour ozone NAAQS. (See 73 FR 14387.) This determination of attainment was based upon certified ambient air monitoring data that show the Boston-Manchester-Portsmouth (SE), New Hampshire area had monitored attainment of the 1997 ozone NAAQS since the 2002–2004 monitoring period. At present, quality controlled and

quality assured ozone data for 2008 available in the EPA Air Quality System (AQS) database, but not yet certified, show this area continues to attain the 1997 ozone NAAQS.

Under the provisions of EPA’s ozone implementation rule (see 40 CFR Section 51.918), this determination of attainment suspended the requirements for the Boston-Manchester-Portsmouth (SE), New Hampshire moderate ozone nonattainment area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other planning State Implementation Plans (SIPs) related to attainment of the 1997 8-hour ozone NAAQS for so long as the area continues to attain the 1997 ozone NAAQS. However, this action did not constitute a redesignation to attainment under CAA section 107(d)(3), because the area did not have an approved maintenance plan as required under section 175A of the CAA, nor a determination that the area had met the other requirements for redesignation. The classification and designation status of the area remains moderate nonattainment for the 1997 8-hour ozone NAAQS and transportation and general conformity continue to apply.

On May 28, 2008, the State of New Hampshire submitted a formal revision to its SIP containing 8-hour ozone transportation conformity emission budgets in tons per summer day, of volatile organic compounds (VOC) and oxides of nitrogen (NO<sub>x</sub>) for the year 2009 for the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area. This SIP revision was developed in accordance with EPA’s transportation conformity rule (69 FR 40028; July 1, 2004), which allows states with 8-hour ozone nonattainment areas to adopt early motor vehicle emissions budgets (MVEBs) that address the 8-hour ozone NAAQSs in advance of a complete SIP attainment demonstration. EPA’s clean air determination has stayed the state’s obligation to prepare an 8-hour ozone attainment SIP for the 1997 ozone standard. The submitted SIP revision establishes budgets to simplify the conformity process for New Hampshire Metropolitan Planning Organizations (MPOs) while increasing the level of protection for New Hampshire’s citizens during this interim period before MVEBs are established by an 8-hour ozone redesignation plan and its maintenance plan.

The 8-hour ozone motor vehicle emissions budgets for calendar year 2009 included in New Hampshire’s May 28, 2008 SIP revision cover the exact area of the 8-hr ozone nonattainment

area. Before these budgets were determined adequate (see Section III “Adequacy Process and SIP Approval” below), the four New Hampshire MPOs in the nonattainment area<sup>2</sup> were required to determine conformity jointly using: (1) The 2002 interim emissions budgets for that portion of the 8-hour ozone area located within the former Manchester 1-hour ozone nonattainment area; (2) the 2007 MVEBs for the former Boston-Lawrence-Worcester, Southern New Hampshire 1-hour ozone nonattainment area; and, (3) the 2003 MVEBs for the former Portsmouth-Dover-Rochester, New Hampshire 1-hour ozone nonattainment area.

**II. Comparisons of Year 2002 Emissions to Year 2009**

Inventory information developed for the New Hampshire 2002 Periodic Emission Inventory, as well as for 2009 emission projections, was prepared on a full county level, not on an individual town basis. Interagency consultation between EPA and the New Hampshire Department of Environmental Services established that emissions reductions calculated for the four full county inventories (point sources, area sources, non-road and on-road mobile) would be proportional to emissions reductions in the slightly smaller area of the Boston-Manchester-Portsmouth (SE), New Hampshire, 8-hour ozone nonattainment area. However, the actual 2009 MVEBs were developed on a town-by-town basis and correspond to the actual area of the 8-hour nonattainment area.

The total inventory of VOC for Hillsborough, Merrimack, Rockingham, and Strafford Counties is 231,636 pounds per summer weekday in calendar year 2002, and is projected to be 195,536 pounds per summer weekday in calendar year 2009. This represents an overall inventory reduction of 15.58% (36,099 pounds of VOC per summer weekday). Similarly, the total inventory of NO<sub>x</sub> for Hillsborough, Merrimack, Rockingham, and Strafford Counties is 280,757 pounds per summer weekday in calendar year 2002, and is projected to be 191,074 pounds per summer weekday in calendar year 2009. This represents an overall inventory reduction of 31.94% (89,683 pounds of NO<sub>x</sub> per summer weekday). On-road mobile VOC and NO<sub>x</sub> 2009 summer weekday emissions are expected to decrease significantly from 2002 levels

<sup>1</sup> On March 27, 2008 (73 FR 16436), EPA revised the 8-hour ozone standard. The new standard is set at 0.075 ppm. EPA has not yet made designations for the 2008 ozone standard.

<sup>2</sup> The four metropolitan planning organizations within 8-hr ozone nonattainment area are: the Nashua Regional Planning Commission; the Rockingham Planning Commission; the Southern New Hampshire Planning Commission, and the Strafford Regional Planning Commission.

(38.13% reduction of VOC and 36.24% reduction of NO<sub>x</sub>).

Table 1 below shows that VOC and NO<sub>x</sub> emissions in the southern New

Hampshire four counties (Hillsborough, Merrimack, Rockingham, and Strafford Counties) are expected to decrease

considerably from year 2002 to year 2009 for all source categories, except area sources.

TABLE 1—BASELINE AND FUTURE EMISSIONS FOR THE SOUTHERN FOUR COUNTIES OF NEW HAMPSHIRE  
[In pounds per summer weekday]

Sector	VOC				NO <sub>x</sub>			
	2002	2009	Change	% Change	2002	2009	Change	% Change
Point Sources .....	15,700	8,982	-6,718	-42.79	66,760	25,526	-41,234	-61.76
Area Sources .....	86,622	99,486	12,864	14.85	33,264	38,125	4,861	14.61
Non-Road Mobile .....	61,026	44,822	-16,204	-26.55	46,086	41,568	-4,518	-9.80
On-Road Mobile .....	68,286	42,246	-26,040	-38.13	134,647	85,855	-48,792	-36.24
Total .....	231,636	195,536	-36,099	-15.58	280,757	191,074	-89,683	-31.94

**III. Adequacy Process and SIP Approval**

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision on EPA's third set of transportation conformity amendments in response to a case brought by the Environmental Defense Fund. The decision held that conformity determinations could no longer be based on submitted SIP emission budgets, prior to a positive adequacy determination by EPA.

A May 14, 1999 EPA memorandum from Gay MacGregor to the Regional Division Directors provides guidance on how to review budgets for adequacy and the process for public comment and notification (posting on the Web). The May 14, 1999 guidance is available on EPA's conformity Web site at URL address: <http://www.epa.gov/otaq/stateresources/transconf/policy/epaguidf.pdf>. EPA provided additional guidance in its Final Rulemaking on July 1, 2004, (69 FR 40004-40081), "Transportation Conformity Rule Amendments for the New 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes; Final Rule."

EPA initiated the adequacy process for New Hampshire's motor vehicle emissions budgets on June 4, 2008, by announcing that New Hampshire had

submitted a 2009 MVEB SIP for 8-hour ozone on EPA's Web site "SIP Submissions Currently Under EPA Adequacy Review" <http://www.epa.gov/otaq/stateresources/transconf/cursips.htm>. The criteria by which EPA determines whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4)(i) through 93.118(e)(4)(vi) and 93.118(e)(5). On July 9, 2008, EPA notified the New Hampshire Department of Environmental Services (NH DES) that no comments were received during the thirty day public comment period, and that EPA had determined the 2009 motor vehicle emissions budgets submitted on May 28, 2008, to be adequate for transportation conformity purposes. EPA New England published a Notice of Adequacy in the **Federal Register** on July 28, 2008, (73 FR 43751), announcing our July 9, 2008 adequacy determination and making the motor vehicle emissions budgets effective on August 12, 2008. A copy of EPA's July 9, 2008 adequacy determination to NH DES and the **Federal Register** Notice of Adequacy are both posted in the electronic docket as well as on EPA's Web site "SIP Submissions that EPA has Found Adequate or Inadequate," at URL address: <http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm>.

This positive adequacy determination simplifies the administrative process for

demonstrating transportation conformity by establishing the 2009 VOC and NO<sub>x</sub> motor vehicle emissions budgets as conformity criteria for all 2009 and later evaluation years. In addition, New Hampshire's 2009 motor vehicle emissions budgets will help ensure maintenance of the 8-hour ozone NAAQS by limiting the transportation sector to a more restrictive year 2009 level of on-road VOC and NO<sub>x</sub> than currently allowed by transportation conformity's interim emission tests which are based on a combination of 2002 emissions, 2003 1-hour ozone MVEBs and 2007 1-hour ozone MVEBs in the 8-hour ozone nonattainment area.

Today's direct final rulemaking approves New Hampshire's adequate 2009 8-hour ozone motor vehicle emissions budgets into the New Hampshire SIP.

**IV. Transportation Conformity Motor Vehicle Emissions Budgets**

The 2009 8-hour ozone motor vehicle emissions budgets being approved are the on-road portion of the 2009 emissions projections. As illustrated in Table 2, below, the budgets are 15.31 tons per summer day for VOC and 28.53 tons per summer day for NO<sub>x</sub>. The State of New Hampshire Department of Transportation and Metropolitan Planning Organizations within the nonattainment area shall use these budgets for future transportation conformity determinations.

TABLE 2—2009 TRANSPORTATION CONFORMITY EMISSION BUDGETS

	VOC emissions (tons per summer day)	NO <sub>x</sub> emissions (tons per summer day)
Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area .....	15.31	28.53

## V. Basis for Approval

EPA's review of New Hampshire's SIP revision concludes that this SIP revision is consistent with EPA's Transportation Conformity Rule. Approval of New Hampshire's SIP revision is directionally sound since it would approve year 2009 motor vehicle emissions budgets which are more stringent than the year 2002 baseline emissions, and more stringent than the year 2003 and year 2007 1-hour ozone attainment demonstration MVEBs now used to evaluate transportation conformity in the Boston-Manchester-Portsmouth (SE), New Hampshire 8-hour ozone nonattainment area. The projected overall summer weekday inventory reduction in VOC emissions from 2002 to 2009 is approximately 15.6 percent, along with a 31.9 percent reduction in NO<sub>x</sub> emissions. This results from a projected 38 percent reduction in VOC emissions and a 36 percent reduction in NO<sub>x</sub> emissions from on-road mobile sources.

New Hampshire's projected reduction in VOC and NO<sub>x</sub> emissions will help ensure maintenance of the 8-hour ozone standard. The projected reduction in both on-road mobile sources and overall inventory is greater than the five to ten percent reduction that was provided as an example in the July 2004 conformity rule preamble (69 FR 40019; July 1, 2004). EPA believes that New Hampshire's May 28, 2008 SIP revision containing 2009 motor vehicle emissions budgets for the Southeast New Hampshire moderate 8-hour ozone nonattainment area should be approved since it will strengthen the existing SIP. Listed below are several factors that make New Hampshire's SIP package directionally sound.

1. On March 18, 2008, (73 FR 14387) the EPA determined that the Boston-Manchester-Portsmouth (SE), New Hampshire moderate 8-hour ozone nonattainment area had attained the 1997 8-hour NAAQS for ozone.

2. Certified ambient air monitoring data continues to show that the area is monitoring attainment for the 1997 8-hour ozone NAAQS.

3. There is a very large percent reduction projected in both VOC and NO<sub>x</sub> on-road emissions (38% and 36%, respectively). New Hampshire's June 7, 2007 submittal of its 2002 Periodic Inventory shows that on-road mobile sources made up 29 percent of the VOC inventory and 50 percent of the NO<sub>x</sub> inventory for the 8-hour ozone nonattainment area.

4. The 2009 motor vehicle emissions budgets are more stringent than existing 1-hour budgets that the area has been

using in conjunction with the interim emissions tests.

## VI. Final Action

EPA is approving New Hampshire's 2009 motor vehicle emissions budgets for the 8-hour ozone National Ambient Air Quality Standard, which were submitted on May 28, 2008, into the New Hampshire SIP. The VOC and NO<sub>x</sub> motor vehicle emissions budgets being approved are the on-road mobile source 2009 projections of 15.31 tons per summer day of VOC and 28.53 tons per summer day of NO<sub>x</sub>. These motor vehicle emissions budgets must be used to demonstrate that all transportation plans and transportation improvement programs in the Boston-Manchester-Portsmouth (SE), New Hampshire, 8-hour ozone nonattainment area result in emissions of VOC and NO<sub>x</sub> that do not exceed the 2009 motor vehicle emissions budgets.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective April 28, 2009 without further notice unless the Agency receives relevant adverse comments by March 30, 2009.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 28, 2009 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable

Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 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<sub>x</sub>) 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]

BILLING CODE 6560-50-P

## 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](mailto: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]

BILLING CODE 6560-50-P

## 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:**