

on May 10, 1996, and Rules 1304 and 1306, adopted on June 14, 1996.

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#### 40 CFR Part 81

[NE-012-1012a; FRL-5655-6]

### Designation of Areas for Air Quality Planning Purposes; State of Nebraska

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

**ACTION:** Direct final rule.

**SUMMARY:** This document takes final action to correct a previous action published on November 6, 1991, that designated portions of Omaha, Nebraska, as nonattainment for the lead National Ambient Air Quality Standard (NAAQS) (see 56 FR 56694). Specifically, this action corrects a mistake made in designating the southern boundary of that nonattainment area.

**DATES:** This action is effective February 3, 1997 unless by January 3, 1997 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Comments may be mailed to Josh Tapp, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Josh Tapp at (913) 551-7606.

**SUPPLEMENTARY INFORMATION:** On January 24, 1991, the state of Nebraska submitted a letter which contained a recommendation for the EPA to designate a portion of Omaha as nonattainment for the lead NAAQS. In the letter, the state recommended the boundaries based on existing monitoring data. The specific boundaries listed in Nebraska's January 1991 letter are: Fourth Street on the south, Eleventh Street on the west, Avenue H and the Nebraska-Iowa border on the north, and the Missouri River on the east.

On August 27, 1996, the state of Nebraska submitted a letter which notified the EPA that its request in 1991

was not fully accurate. The southern boundary was originally defined based on the fact that data recorded at the monitor located at Fourth Street and Jones Street showed attainment of the lead standard. However, in its 1991 request, Nebraska incorrectly requested that the southern boundary be designated as Fourth Street which actually runs north and south. The August 1996 letter requests that the EPA correct the error by designating the southern boundary as Jones Street which runs east and west. The state supplied a map which clearly delineates the relationship of Fourth Street and Jones Street to the nonattainment area to support its request.

Under section 110(k)(6) of the Clean Air Act (CAA), the EPA may revise a previous designation when it determines that the designation was in error. The EPA has determined that its identification of the southern boundary of the Omaha lead nonattainment area was in error for the reasons stated above.

#### I. Final Action

Pursuant to section 110(k)(6) of the Clean Air Act, this is a direct final action which redefines the southern boundary of the Omaha lead nonattainment area as Jones Street.

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 a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective February 3, 1997 unless, by January 3, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action is effective February 3, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental

factors, and in relation to relevant statutory and regulatory requirements.

#### II. Administrative Requirements

##### A. Executive Order 12866

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 has exempted this regulatory action from E.O. 12866 review.

##### B. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

##### C. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as 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).

**D. Petitions for Judicial Review**

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 3, 1997. 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 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: November 14, 1996.

Dennis Grams,  
Regional Administrator.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 81—[AMENDED]**

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401—7671q.

**Subpart B—Nebraska**

2. Section 81.328 is amended by revising the lead table to read as follows:

**§ 81.328 Nebraska.**

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**NEBRASKA—LEAD**

Designated area	Designation		Classification	
	Date	Type	Date	Type
Douglas County (part): Portion of city of Omaha bounded by: Jones Street on the south, Eleventh Street on the west, Avenue H and the Nebraska-Iowa border on the north, and the Missouri River on the east. Rest of State Not Designated	1/6/92	Nonattainment		

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 367**

**RIN 2125-AD92**

**Single State Insurance Registration; Receipt Rule**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule; continued suspension of effectiveness.

**SUMMARY:** This document continues the suspension of the effectiveness of the final rule concerning a receipt provision of Single State Insurance Registration which was published at 60 FR 30011 on June 7, 1995. The rule had directed the Base States to make copies of their issued receipts which indicate that a motor carrier has filed the required proof of insurance and has paid the required fees. Affected parties then requested the Interstate Commerce Commission (ICC) to suspend the effectiveness of the final rule and to reinstate the earlier rule allowing the motor carriers to make the copies instead of the Base States. This request was granted. This action continues the extension of the current temporary receipt rule which was reinstated at 60 FR 39874 on August 4, 1995, until the

DOT adopts a final rule implementing a new motor carrier registration system.

**EFFECTIVE DATE:** Effective December 4, 1996, § 367.5, as revised at 60 FR 30011, June 7, 1995, and suspended at 60 FR 39875, August 4, 1995, is further suspended until January 1, 1998. Section 367.5, which was reinstated at 60 FR 39875, August 4, 1995, continues in effect December 4, 1996, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dixie E. Horton, Office of Motor Carrier Planning and Customer Liaison, (202) 366-4340, or Ms. Grace Reidy, Office of Chief Counsel, (202) 366-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** Since the Motor Carrier Act of 1935, Pub. L. 74-255, 49 Stat. 543, Congress has permitted the States to police unauthorized operations by interstate for-hire motor carriers. In 1965, Congress allowed the States to enforce this activity through a multi-filing system of operating authority registration, the so-called "bingo stamp" program. See Pub. L. 89-170, 79 Stat. 648. This program, (formerly 49 U.S.C. 11506, now section 14504), was administered at 49 CFR part 1023. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240, 105 Stat. 1914) created the Single State Registration System (SSRS) to replace the "bingo stamp" program.

Section 4005 of the ISTEA significantly amended 49 U.S.C. 11506 in creating the SSRS. Under the SSRS, a carrier: (a) Files proof of insurance with a single "registration" (or Base) State; (b) pays the Base State fees that are subject to allocation among all States in which the carrier operates and which participate in the system; and (c) keeps, in each of its commercial vehicles, a copy of the receipt issued by the Base State.

The ISTEA directed the ICC to issue implementing rules under which the SSRS would operate. In a decision in Ex Parte No. MC-100 (Sub-No. 6), *Single State Insurance Registration*, 9 I.C.C.2d 610 (1993), notice published at 58 FR 28932 on May 18, 1993, the ICC adopted final regulations that replaced the "bingo stamp" program regulations. These new SSRS regulations were challenged and upheld in court, with one exception concerning who makes the official copies of the Base State-issued receipt. *Nat'l Ass'n of Regulatory Util. Comm'rs v. ICC*, 41 F.3d 721 (D.C. Cir. 1994). The court ruled that the States, rather than the motor carriers, should make the copies of the Base State-issued receipt that must be kept in each vehicle. The court remanded this particular rule to the ICC for consideration. In a decision served June 6, 1995, notice published at 60 FR 30011 on June 7, 1995, the ICC adopted a revised final rule requiring the States to issue the official copies of the receipts, effective July 7, 1995.

By a petition filed July 11, 1995, the National Conference of State Transportation Specialists (NCSTS)