

We note that ARM 17.8.321(15) indicates that COMS will be the primary measure of compliance with the opacity limits in the rule, but that EPA Method 9 may be used as a measure of compliance when there is a reason to believe the COMS data are not accurate or when COMS data are unavailable. We do not believe this language was intended to preclude the use of Method 9 readings as credible evidence of compliance in circumstances other than those specified in the rule, and we propose to interpret the rule accordingly.

Because the above provisions will not reduce the stringency of the existing federally-approved SIP, we consider them to be consistent with the requirements of section 110(l) of the Act. Therefore, we are proposing to approve ARM 17.8.321(11) through (16).

d. ARM 17.8.304(4)(f)

As part of the April 14, 1999 submittal to us, the Governor submitted revisions to ARM 17.8.304, the Visible Air Contaminants Rule. On May 19, 1995, MBER added subsection (f) to ARM 16.8.1404(4) (now codified as ARM 17.8.304(4)(f)). ARM 17.8.304(4)(f) excludes recovery furnaces at kraft pulp mills from the statewide general opacity requirements. We are proposing to disapprove the addition of this paragraph because we are proposing to disapprove ARM 17.8.321(9). If we were to approve the addition of paragraph (4)(f), and disapprove the State's new opacity requirements in ARM 17.8.321(9), kraft pulp mill recovery furnaces installed between November 23, 1968 and September 4, 1976 would not be subject to any EPA-approved SIP opacity limits.

IV. Proposed Action

We are proposing action on the revisions to ARM 17.8.304, "Visible Air Contaminants," and ARM 17.8.321, "Kraft Pulp Mill Rule," that the Governor of Montana submitted to us on April 14, 1999, and on the recodification of the Kraft Pulp Mill Rule that the Governor submitted to us on September 19, 1997.

We are proposing to approve the recodification of, and revisions to, the Kraft Pulp Mill Rule found in ARM 17.8.321(1) through (7) (formerly codified ARM 16.8.1413(1) through (7)). We are also proposing that ARM 17.8.321(1) through (7), if approved, will replace the old codified version of the Kraft Pulp Mill Rule (ARM 16.8.1413(1) through (7), effective December 31, 1972) that is currently in the SIP. We are also proposing to

approve the provisions in ARM 17.8.321(8) and (10) through (16).

We are proposing to disapprove the provisions of the Kraft Pulp Mill Rule found in ARM 17.8.321(9). We are also proposing to disapprove ARM 17.8.304(4)(f).

EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before we take final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to us as discussed in prior sections of this proposed rule.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve and disapprove state law as meeting and not meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule 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 rule proposes to approve and disapprove 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 proposed rule 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

proposes to approve and disapprove portions of a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 4, 2008.

Carol Rushin,

Deputy Regional Administrator, Region 8.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383, 384, 390, and 391

[Docket No. FMCSA-1997-2210]

RIN 2126-AA10

Medical Certification Requirements as Part of the Commercial Driver's License; Availability of Supplemental Document

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

ACTION: Proposed rule; availability of supplemental document.

SUMMARY: This notice advises the public that FMCSA is placing in the public docket an additional document that the Agency may rely on in support of a final rule to integrate information regarding the medical certification status of a driver into the commercial driver's license (CDL) process. FMCSA published a notice of proposed rulemaking (NPRM) on this matter on November 16, 2006. Because the involved state cost analysis document was completed after publication of the NPRM and subsequent public comment period, the Agency now docketed and invites comment on it.

DATES: Comments on the document are due by July 28, 2008.

ADDRESSES: You may submit comments, identified by docket number FMCSA-1997-2210, by one of the following methods: Internet, facsimile, regular mail, or hand delivery. Please do not submit the same comments by more than one method. FMCSA encourages use of the Federal eRulemaking portal. It provides the most efficient and timely method of receiving and processing your comments.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation; 1200 New Jersey Avenue, SE.; Washington, DC 20590-0001.
- *Hand Delivery:* Ground floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number (FMCSA-1997-2210) or Regulatory Identification Number (RIN 2126-AA10) for this action. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Refer to the Privacy Act heading at <http://www.regulations.gov> for further information.

Privacy Act: Anyone is able to search the electronic form of all comments

received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://DocketsInfo.dot.gov>.

Submitting Comments:

- You can find electronic submission and retrieval help and guidelines under the "help" section of the Web site.
- For notification that FMCSA received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments on line.
- All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address or on the Web site.
- Comments received after the comment closing date will be available in the docket and will be considered to the extent it is practical.

FMCSA will continue to put relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Director, Medical Programs, FMCSA, Room W64-224, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Telephone: (202) 366-4001. E-mail address: FMCSAMedical@dot.gov. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On November 16, 2006, FMCSA published an NPRM on how the Agency proposes to integrate information regarding the medical certification status of a driver of a commercial motor vehicle into the CDL process (71 FR 66723). This rulemaking is required by section 215 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106-159,

113 Stat. 1767, December 9, 1999; set out as a note to 49 U.S.C. 31305).

For a full explanation of this proposal, please see the preamble to the NPRM. The docket for this rulemaking (FMCSA-1997-2210) contains the NPRM and all of the background information for this rulemaking, including comments.

This notice calls attention to an additional docketed document which was not used in developing the NPRM that FMCSA may rely on in support of its final rule. Placing this document in the docket now is necessary because it only became available after the NPRM was published and after conclusion of the comment period established in the NPRM.

The Agency has placed the state cost analysis document referenced below in the docket for this rulemaking and will accept comments on this document until July 28, 2008.

The document that FMCSA is placing in the docket is titled: State Cost Analysis to Implement Notice of Proposed Rulemaking (NPRM) dated November 16, 2006 titled "Medical Certification Requirements as Part of the CDL," prepared for the U.S. Department of Transportation by the North American Driver Safety Foundation, October 2007. Several States asserted in their comments to the NPRM that they believe the Agency underestimated State costs for complying with the proposed rule. They requested FMCSA to gather additional data from States on the anticipated costs for this proposal. In response, the Agency arranged to survey a sample of nine States to evaluate whether the costs to States to implement this rule would be different than those used in the NPRM. This report describes what cost information was collected and how that additional cost information was analyzed to better estimate the national costs of implementing the requirements outlined in the NPRM.

Issued on: June 20, 2008.

John H. Hill,

Administrator.

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