



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2018-0188; FRL-9978-79-Region 7]

**Approval of Nebraska Air Quality Implementation Plan;
Particulate Emissions; Limitations and Standards**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) submitted on July 14, 2014, by the State of Nebraska. This proposed action will amend the SIP to include revisions to title 129 of the Nebraska Administrative Code, chapter 20 "Particulate Emissions; Limitations and Standards". The revisions make clear that the emission rates in the rule apply to applicable sources except when a more stringent Federal rule or limit in a construction permit exists. Other minor administrative revisions are also being made. Approval of these revisions will not impact air quality, ensures consistency between the State and Federally approved rules, and ensures Federal enforceability of the State's rules.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2018-0188 to <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7391, or by email at crable.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA Taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. What is Being Addressed in this Document?

EPA is proposing to amend Nebraska’s SIP to include revisions to title 129 of the Nebraska Administrative Code, chapter 20, “Particulate Emissions; Limitations and Standards”. The revisions being addressed in this action on chapter 20 were submitted with other title 129 chapters as part of the July 14, 2014 SIP submittal. EPA took final action on two title 129 chapters, chapter 1 “Definitions”, and chapter 15 “Operating Permit Modifications; Reopening for Cause”. In that action, EPA stated it would take action separately on chapter 20. See 83 FR 14762. EPA is now proposing action on chapter 20. The revisions to chapter 20 are described below.

Nebraska revised a clause under the chapter title from “(EXCEPTIONS DUE TO BREAKDOWNS OR SCHEDULED MAINTENANCE: SEE CHAPTER 35)” to “For exceptions due to breakdowns or scheduled maintenance: see Chapter 35 – COMPLIANCE; EXCEPTIONS DUE TO

STARTUP, SHUTDOWN, OR MALFUNCTION”, and added a space to distinguish between the title and the clause. In addition, the state removed a footnote to table 20-2 and made it a stand-alone section numbered 007 which explains how the values in table 20-2 were determined. And finally, the revision added section 008 which clarifies that the emission rates apply to all applicable sources unless a more stringent particulate matter emissions rate is specified in the underlying requirements of an applicable Federal rule or is specified within a construction permit issued pursuant to title 129.

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The revised chapter 20 was placed on public notice, along with other title 129 chapter revisions on January 6, 2014, and a public hearing was held by NDEQ on February 6, 2014. No comments regarding chapter 20 were received. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. What Action is EPA Taking?

EPA is proposing to approve the title 129, chapter 20, SIP revision submitted by NDEQ on July 14, 2014. We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

IV. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 7 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 (Public Law 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 CAA; 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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: May 21, 2018.

Karen A. Flournoy
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

Part 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart CC - Nebraska

2. Amend §52.1420 paragraph(c) by revising the entry for "129-20" in the Table titled "EPA-Approved Nebraska Regulations" to read as follows:

§52.1420 Identification of plan.

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(c) * * *

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
STATE OF NEBRASKA				
Department of Environmental Quality				
Title 129-Nebraska Air Quality Regulations				
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129-20	Particulate Emissions; Limitations and Standards.	5/13/2014	[date of final publication in the Federal Register] [final Federal Register citation]	
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