



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2019-0666; FRL-10008-62-Region 7]

Air Plan Approval; Nebraska; Lincoln-Lancaster County Health Department (LLCHD)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Nebraska that addresses the authority of the Lincoln-Lancaster County Health Department (LLCHD). This action will amend the Nebraska SIP by removing a portion of the SIP that addresses the authority of LLCHD regarding the Prevention of Significant Deterioration (PSD) Program; specifically: Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD) Lincoln-Lancaster County Health Department (LLCHD). This SIP revision will have no impact to air quality and eliminate confusion regarding the authority to issue PSD permits in Lancaster County.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0666. All documents in the docket are listed on the <https://www.regulations.gov> web site. 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 through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Will Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7714; email address stone.william@epa.gov

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to EPA.

Table of Contents

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

I. What is Being Addressed in this Document?

The EPA is approving a revision to Nebraska's SIP received from the State of Nebraska on July 23, 2019. Specifically, the EPA is amending the Nebraska SIP by removing a portion of the SIP as follows: Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD) Lincoln-Lancaster County Health Department (LLCHD).

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 submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided a public comment period for this SIP revision from May 20, 2019 to June 21, 2019, and at the same time, offered an opportunity for a public hearing. No comments or request for public hearing were received.

III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule opened January 3, 2020, the date of its publication in the *Federal Register* and closed on February 3, 2020. (85 FR 274, January 3, 2020.) During this period, EPA received two comments. The comments are not adverse and can be found in the docket. The comments are addressed below.

Comment 1:

I believe that it would be in the public's best interest to eliminate the confusion regarding the permits in Lancaster County, and have the local authorities be responsible for issuing the permits.

Response 1:

This action eliminates confusion regarding the authority to issue PSD permits in Lancaster County. As noted in the proposal, all PSD permits issued in the State of Nebraska, including those issued in Lancaster County, are issued pursuant to the authority of the State of Nebraska under title 129, chapter 19 PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY (PSD). However, under the delegation agreement between the State of Nebraska and LLCHD, LLCHD issues PSD permits in Lancaster County under the state's authority. Nothing in this action changes this delegation agreement, which is included in the docket for this action. The SIP revision removes a redundant regulation from the SIP and will have no effect on air permitting or air quality in Lancaster County, Nebraska.

Comment 2:

This comment noted that the State submission was not provided in the docket to allow the reviewer the ability to fully evaluate EPA's proposed action.

Response 2:

As a result of this comment, we provided the State's submission in the docket and reopened the public comment period from March 5, 2020 to April 6, 2020 to afford stakeholders an opportunity to comment on the proposed SIP revision (85 FR 12876, March 5, 2020). No additional comments were received during this period.

IV. What Action is the EPA Taking?

The EPA is taking final action to amend the Nebraska SIP by removing LLCHD Article 2. Section 19. Prevention of Significant Deterioration of Air Quality (PSD). The removal of this portion of the SIP will not impact air quality because the regulation duplicates the State's regulation, which applies in the same jurisdiction.

V. Incorporation by Reference

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Nebraska Regulations from the Nebraska State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VI. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. 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,
Incorporation by reference, Intergovernmental relations.

Dated: April 21, 2020.

James Gulliford,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA amends 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

§52.1420 [Amended]

2. In §52.1420, the table in paragraph (c) is amended by removing the entry "Section 19" under the headings "Lincoln-Lancaster County Air Pollution Control Program", "Article 2-Regulations and Standards".

[FR Doc. 2020-08760 Filed: 5/14/2020 8:45 am; Publication Date: 5/15/2020]