



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2016-0556; FRL-9953-61-Region 7]

Approval of Nebraska's Air Quality Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State Implementation Plan (SIP) for the State of Nebraska as submitted on March 6, 2014, and July 14, 2014. This action will amend the SIP to include revisions to title 129 of the Nebraska Air Quality Regulations, chapter 4, "Ambient Air Quality Standards"; chapter 19, "Prevention of Significant Deterioration of Air Quality"; and chapter 22, "Incinerators; Emission Standards". This amendment makes the state regulation consistent with the National Ambient Air Quality Standards (NAAQS) for particulate matter 10 micrometers or less (PM₁₀), fine particulate matter 25 micrometers or less (PM_{2.5}), Sulfur dioxide, Nitrogen dioxide, Carbon monoxide, Ozone, and Lead, as of the date of the state submittal. This action also makes formatting and grammatical corrections to title 129, chapters 19 and 22.

DATES: This direct final rule will be effective [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], without further notice, unless EPA receives adverse comment by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

If EPA receives adverse comment, we 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 No. EPA-R07-OAR-2016-0556, to <http://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. 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 <http://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?

I. What is Being Addressed in this Document?

EPA is approving revisions into the SIP to include amendments to title 129 of the Nebraska Air Quality Regulations as they apply to chapter 4, "Ambient Air Quality Standards"; chapter 19, "Prevention of Significant Deterioration of Air Quality"; and chapter 22, "Incinerators; Emission Standards". Chapter 4 is amended making it consistent with the Federal standards found at 40 CFR part 50, in regards to the NAAQS for all six criteria air pollutants, as of July 14, 2014. The amendments submitted on March 6, 2014, make formatting and

grammatical corrections to chapters 19 and 22. For additional information on the revisions to chapter 4, 19 and 22 see the detailed discussion table in the docket.

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

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What Action is EPA Taking?

EPA is approving the state's request submitted on July 14, 2014, to revise the SIP to include revisions to the National Ambient Air Quality Standards for all six criteria pollutants consistent with the Federal standards, as of the date of the state's submittal. Per the state's March 6, 2014, submittal EPA is also approving minor formatting and grammatical corrections to chapters 19 and 22.

We are publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA does not anticipate adverse comment because the revisions to the existing rules are routine and consistent with the Federal regulations, thereby,

strengthening the SIP. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to revise title 129 of the Nebraska Air Quality Regulations, chapters 4, 19 and 22 if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Nebraska Regulations described in the direct final amendments to 40 CFR part 52 set forth below. Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by

reference by the Director of the Federal Register in the next update to the SIP compilation.¹ EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

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 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

¹ 62 FR 27968 (May 22, 1997).

- 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).

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 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: September 27, 2016.

Mike Brincks,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, 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

2. Section 52.1420(c) is amended by revising entries for 129-4, 129-19 and 129-22 to read as follows:

§ 52.1420 Identification of plan.

* * * * *

(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				
* * * * *				
129-4	Ambient Air Quality Standards	5/13/14	[Insert <u>Federal Register</u> date of publication], [Insert <u>Federal Register</u> citation]	This revision to Chapter 4 amends the ambient air quality standards for PM ₁₀ , PM _{2.5} , SO ₂ , NO ₂ , CO, O ₃ , and Pb making them consistent with National Ambient Air Quality Standards (NAAQS) found at 40 CFR part 50, as of the date of the state's submittal, July 14, 2014.
* * * * *				
129-19	Prevention of Significant Deterioration	12/9/13	[Insert <u>Federal Register</u>	

Nebraska citation	Title	State effective date	EPA approval date	Explanation
	of Air Quality		date of publication], [Insert <u>Federal Register</u> citation]	
* * * * *				
129-22	Incinerators; Emission Standards	12/9/13	[Insert <u>Federal Register</u> date of publication], [Insert <u>Federal Register</u> citation]	
* * * * *				

* * * * *