



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 70**

**[EPA-R07-OAR-2018-0852; FRL-9989-07-Region 7]**

**Air Plan Approval and Approval of Operating Permits Program;  
Nebraska; Adoption of the 2015 Ozone Standard and Revisions to  
Definitions**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP), and Operating Permits Program for the State of Nebraska as submitted on August 22, 2018. This action proposes to adopt the 2015 primary and secondary National Ambient Air Quality Standards for Ozone, published in the **Federal Register** on October 26, 2015. The EPA is also proposing to approve revisions which are administrative in nature. These revisions include updating a reference to EPA's regulation used in the definition of "Global Warming Potentials", removing "Greenhouse Gases" from the definition of "Regulated Air Pollutant", and updating a reference to EPA's regulations used in the definition of "Volatile Organic Compound". Other typographical and reformatting 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:** You may send comments, identified by Docket ID No. EPA-R07-OAR-2018-0852 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Greg Crable, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551-7391; email address [crable.gregory@epa.gov](mailto:crable.gregory@epa.gov).

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

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### **I. Written Comments.**

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2018-0852, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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://www.epa.gov/dockets/commenting-epa-dockets>.

## **II. What is Being Addressed in this Document?**

The EPA is proposing to approve revisions to the State Implementation Plan (SIP) and the Operating Permit Program submitted on August 22, 2018, by the State of Nebraska. Nebraska's August 22, 2018, submittal included revisions to chapters 1, 4, 20, 28 and 34 of title 129. In this action, EPA is only addressing revisions to title 129 of the Nebraska Administrative Code, chapter 1 "Definitions"; chapter 4 "Ambient Air Quality Standards"; chapter 20 "Particulate Emissions; Limitations and Standards"; and chapter 34 "Emission Sources; Testing; Monitoring". The EPA is not acting on chapter 28 "Hazardous Air Pollutant; Emissions and Standards", although included in the state's submission, because the chapter is not approved in the Nebraska SIP.

The EPA is proposing revisions to the Nebraska SIP and Operating Permits Program for title 129, chapter 1 "Definitions". The revision to title 129, chapter 1, section 064, updates the reference for "Table A-1 - Global Warming Potentials", and the effective date of the reference. The revision to section 109 of chapter 1 corrects a typographical error clarifying the meaning of "person", ensuring consistency with the Federal definition. Nebraska Department of Environmental Quality (NDEQ) is removing section 130.05,

"Greenhouse gases" and section 130.05A from the definition of "Regulated Air Pollutant", as a result of the Supreme Court's invalidation of portions of the Greenhouse Gas Tailoring Rule. Finally, the revision to chapter 1, section 160, "Volatile Organic Compounds", updates the reference to the appropriate sections of the Federal regulation pertaining to these rules and the effective date of the reference.

The following are proposed revisions to the Nebraska SIP. Title 129, chapter 4, section 005, is proposed for revision by adopting the 2015 primary and secondary National Ambient Air Quality Standards for Ozone, (80 FR 65292, October 26, 2015), and by revising the reference to include appendix U to 40 CFR part 50 to be consistent with Federal regulations, and by updating the effective date of the reference.

Chapter 20, of title 129, is proposed for revision to correct references to and re-number tables 20-1 and 20-2 by moving the tables under the correct sections of the chapter for consistency. Text presently found in section 007 is being moved to section 001 and renumbered as new subsection 001.01. Section 007 is marked "Reserved".

Finally, chapter 34, of title 129 is proposed for revision by correcting the typographical error in section 002.02 in the effective date of 40 CFR part 60 appendices. This revision clarifies the effective date by replacing the date July 12, 2002 with July 1, 2002.

**III. 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 revised chapters were placed on public notice on May 1, 2017, and a public hearing was held by the State of Nebraska on June 13, 2017, where no comments were received. In addition, as explained above, the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

**IV. What Action is EPA Taking?**

The EPA is proposing to approve into the SIP and as applicable, into the Operating Permits Program, revisions to title 129, chapters 1, 4, 20 and 34 as submitted by NDEQ on August 22, 2018. 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.

## **V. Incorporation by Reference**

In this document, the EPA is proposing to include regulatory text in an EPA final rule 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 proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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).

## **VI. 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 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).

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**

### **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.

### **40 CFR Part 70**

Environmental protection, Air pollution control, Incorporation by reference, Administrative practice and procedure, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 8, 2019.

James B. Gulliford,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR parts 52 and 70 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. In §52.1420, paragraph (c), the table is amended by revising entries "129-1 Definitions", "129-4 Ambient Air Quality Standards", "129-20 Particulate Emissions; Limitations and Standards", and "129-34 Emission Sources; Testing; Monitoring" to read as follows:

**§52.1420 Identification of Plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Nebraska Regulations**

| <b>Nebraska citation</b>                          | <b>Title</b>                  | <b>State effective date</b> | <b>EPA Approval date</b>   | <b>Explanation</b> |
|---|-------------------------------|-----------------------------|--|--------------------|
| <b>State of Nebraska</b>                          |                               |                             |  |                    |
| <b>Department of Environmental Quality</b>        |                               |                             |  |                    |
| <b>Title 129-Nebraska Air Quality Regulations</b> |                               |                             |  |                    |
| 129-1   | Definitions                   | 7/15/2018                   | [Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule] |                    |
| * * * * *   |                               |                             |  |                    |
| 129-4   | Ambient Air Quality Standards | 7/15/2018                   | [Date of publication of the final rule in the Federal Register], [Federal Register                             |                    |

| Nebraska citation | Title  | State effective date | EPA Approval date  | Explanation |
|-------------------|--|----------------------|--|-------------|
|                   |  |                      | citation of the final rule]  |             |
| * * * * *         |  |                      |  |             |
| 129-20            | Particulate Emissions: Limitations and Standards | 7/15/2018            | [Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule] |             |
| * * * * *         |  |                      |  |             |
| 129-34            | Emission Sources; Testing; Monitoring            | 7/15/2018            | [Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule] |             |
| * * * * *         |  |                      |  |             |

\* \* \* \* \*

**Part 70 -- STATE OPERATING PERMIT PROGRAMS**

3. The authority citation for part 70 continues to read as follows:

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

4. Amend appendix A to part 70 by adding new paragraph (p) under "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department" to read as follows:

**Appendix A to Part 70 Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

*Nebraska; City of Omaha; Lincoln-Lancaster County Health Department*

\* \* \* \* \*

(p) The Nebraska Department of Environmental Quality submitted revisions to The Nebraska Administrative Code, title 129, chapter 1, "Definitions" on August 22, 2018. The state effective date is July 15, 2018. This revision is effective **[date 60 days after date of publication of the final rule in the Federal Register]**.

\* \* \* \* \*

[FR Doc. 2019-02832 Filed: 2/19/2019 8:45 am; Publication Date: 2/20/2019]