

EPA—APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Comments
<b>State of Nebraska Department of Environmental Quality</b>				
129-1	Definitions	4/1/02 7/10/02	[7/8/03 and FR citation].	
129-2	Definition of Major Source	7/10/02	[7/8/03 and FR citation].	
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129-4	Ambient Air Quality Standards	4/1/02 7/10/02	[July 8, 2003 and FR citation].	
129-5	Operating Permit	4/1/02 7/10/02	[7/8/03 and FR citation].	Section 001.02 is not SIP approved.
129-6	Emissions Reporting	4/1/02 7/10/02	[7/8/03 and FR citation].	
* * *				
129-17	Construction Permits—When Required.	7/10/02	[7/8/03 and FR citation].	Refer to January 23, 2002, NDEQ letter to EPA regarding change to 129-17-014. Approved by EPA on May 29, 2002.
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129-20	Particulate Emissions; Limitations and Standards (Exceptions Due to Breakdowns of Scheduled Maintenance: See Chapter 35).	4/1/02 7/10/02	[7/8/03 and FR citation].	
129-21	Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County.	7/10/02	[7/08/03 and FR citation].	
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**PART 70—[AMENDED]**

■ The authority citation for Part 70 continues to read as follows:

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

**Appendix A—[Amended]**

■ 2. Appendix A to Part 70 is amended by adding paragraph (f) 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

\* \* \* \* \*

(f) The Nebraska Department of Environmental Quality submitted the following program revisions on May 10, 2002, NDEQ Title 129, Chapters 1, 5, 6, and 29; and on November 5, 2002, NDEQ Title 129, Chapters 1, 2, 5, 6, and 31, approval effective September 8, 2003.

\* \* \* \* \*

[FR Doc. 03-17098 Filed 7-7-03; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[IA 186-1186a; FRL-7523-4]

**Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Iowa**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to Iowa's rule for controlling emissions from existing sources subject to the section 111(d) emission guidelines. This revision updates the adoption by reference of Federal requirements applicable to these sources. Approval of this revision will ensure that the state requirements are consistent with and equivalent to the Federal regulations.

**DATES:** This direct final rule will be effective September 8, 2003, unless EPA receives adverse comments by August 7, 2003. If adverse comments are received, EPA 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:** Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101, or e-mail him at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551-7603, or by e-mail at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Information regarding this action is presented in the following order:

- What is a 111(d) plan?
- What changes did the state make to its emission guidelines rule?
- What action are we taking?

**What Is a 111(d) Plan?**

Section 111(d) of the Clean Air Act (CAA or Act) requires states to submit plans to control certain pollutants (designated pollutants) at existing

facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

The state has adopted these requirements in state rule 567–23.5(1)—Emission guidelines, and has submitted a request that we approve an update of this rule pursuant to section 111(d).

#### What Changes Did the State Make to Its Emission Guidelines Rule?

The state adopted a revision to this rule, which was effective in the state on April 24, 2002. The introductory paragraph of 23.1(5)—Emission guidelines, adopts by reference an updated version of general requirements of 40 CFR part 60, which apply to all emission guidelines. This includes: reference test methods (appendix A), performance specifications (appendix B), determination of emission rate change (appendix C), quality assurance procedures (appendix F), and the general provisions (subpart A).

In this rule update, the state has simply updated the reference date to 40 CFR part 60, from November 24, 1998, to July 23, 2001. The revised rule now reads: 23.1(5)—Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations part 60 as amended through July 23, 2001, shall apply to the following affected facilities. The corresponding 40 CFR part 60 subpart designation is in parentheses. The control of the designated pollutants will be in accordance with federal standards established in sections 111 and 129 of the Act and 40 CFR part 60, subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (appendix A), performance specifications (appendix B), determination of emission rate change (appendix C), quality assurance procedures (appendix F) and the general provisions (subpart A) of 40 CFR part 60 also apply to the affected facilities.

The rule continues with paragraph 23.1(5)a—Emission guidelines for municipal solid waste landfills (subpart Cc), and paragraph 23.1(5)b, Emission guidelines for hospital/medical/

infectious waste incinerators (subpart Ce). Thus, the updated requirements of 40 CFR part 60, adopted by reference in the paragraph above, apply to these sources.

#### What Action Are We Taking?

We are approving Iowa's revision to rule 23.1(5). We are processing this action as a final action because the revision makes a routine change to the existing rule which is noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This 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 111(d) submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a submission, to use VCS in place of a submission that otherwise satisfies the provisions of the CAA. 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 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.*).

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 rule 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 September 8, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 62**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 26, 2003.

**William Rice,**

*Acting Regional Administrator, Region 7.*

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 62—[AMENDED]**

■ 1. The authority citation for part 62 continues to read as follows:

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

**Subpart Q—Iowa**

■ 2. Subpart Q is amended by adding a new § 62.3840 under the undesignated center heading to read as follows:

**§ 62.3840 Standards of Performance for New Stationary Sources.**

Rule 567–23.1(5), Emission guidelines, which adopts by reference 40 CFR part 60, subpart A and appendices A–C, and F, as amended through July 23, 2001, is approved.

[FR Doc. 03–17101 Filed 7–7–03; 8:45 am]

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