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[FR Doc. 2017–21111 Filed 10–4–17; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 70

**[EPA–R07–OAR–2017–0485; FRL–9968–78–Region 7]**

## Approval of Nebraska's Air Quality Implementation Plan, Operating Permits Program, and 112(l) Program; Revision to Nebraska Administrative Code

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP), Operating Permits Program, and 112(l) program submitted on July 14, 2014, by the State of Nebraska. This action amends the SIP to revise two chapters, ''Definitions'' and ''Operating Permit Modifications; Reopening for Cause''. Specifically, these revisions incorporate by reference the list of organic compounds exempt from the definition of volatile organic compound (VOC) found in the Code of Federal Regulations; notification requirements for the operating permit program are being amended to be consistent with the Federal operating permit program requirements; the definition of ''solid waste'' is being revised by the state, however, because the state's definition is inconsistent with the Federal definition, EPA is not approving this definition into the SIP. Finally, the state is extending the process of ''off-permit changes'' to Class I operating permits. Additional grammatical and editorial changes are being made in this revision. 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:** This direct final rule will be effective December 4, 2017, without further notice, unless EPA receives adverse comment by November 6, 2017. 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–2017–0485, to *https://www.regulations.gov.* Follow the online instructions for submitting comments. 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://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?

Nebraska's July 14, 2014, submission requested revisions to seven chapters of ''Title 129—Nebraska Air Quality Regulations''. This action will amend the SIP to include revisions to two of those chapters, title 129 of the Nebraska Administrative Code, chapter 1 ''Definitions'', and chapter 15 ''Operating Permit Modifications; Reopening for Cause''. Of the remaining five chapters, EPA previously approved revisions to two of the chapters in separate direct final rulemakings published in the **Federal Register**. Chapter 4, ''Ambient Air Quality Standards'' was approved on October 11, 2016, and chapter 34 ''Emission Sources; Testing; Monitoring'' was approved on October 7, 2016. EPA will take action separately on two other chapters, chapter 20 ''Particulate Emissions; Limits and Standards'' and chapter 18 ''New Performance Standards''. The final chapter, chapter 28 ''Hazardous Air Pollutants; Emissions Standards'', submitted as part of the July 14, 2014, SIP submission, is not approved in the Nebraska SIP and therefore EPA will take no further action for this chapter.

EPA is approving revisions to the Nebraska SIP and Operating Permits Program in title 129, chapter 1 ''Definitions''. The definition of VOC contained in section 160 of chapter 1 ''Definitions'' is being revised. Specifically, section 160 of chapter 1 contains a definition of VOC that provides exceptions to the definition based upon a list of organic compounds, which have been determined to have negligible photochemical reactivity. Because it is difficult to stay current in regard to the list of compounds, the revision EPA is approving removes the list at section 160, and references the list contained in the Code of Federal Regulations at 40 CFR 51.100(s)(1) and (5). In addition, revisions to chapter 1, section 139, are being made to the SIP and the Operating Permits Program to change the notification requirements for ''Section 502(b)(10) changes'' to require facilities to provide written notification at least 7 days in advance, rather than 30 days. This revision makes the notification requirements consistent with the Federal operating permit program requirements. In addition, Nebraska requested revisions to the definition of ''solid waste'' at chapter 1, section 144, to make it consistent with the definition of ''solid waste'' included in the Nebraska Environmental Protection Act and other applicable regulations in Nebraska.[1] Neb. Rev. Stat. 81–1502(26). The definition as proposed by the Nebraska Department of Environmental Quality (NDEQ) is not consistent with the definition of ''solid waste'' in Federal law and regulations. Therefore, EPA is not approving Nebraska's proposed revision to the definition of ''solid waste'' into the State Implementation Plan or Operating Permits Program. Finally, other grammatical and numerical edits are being made in this chapter.

EPA is approving revisions to the Nebraska SIP, Operating Permits Program and 112(l) program for chapter 15 ''Operating Permit Modifications; Reopening for Cause'', which extends ''off-permit changes'' to Class I and II

[1] The definition of ''solid waste'' in the Nebraska Environmental Protection Act was updated in 2013 as a result of Legislative Bill 203 to exclude ''slag'' from the definition. This revision further clarifies that ''slag'' is a by-product of value and therefore is excluded from the definition of ''solid waste.''

operating permits as allowed under the Federal program. Section 007 of chapter 15 is being revised and updated allowing changes within a permitted facility without a permit revision if the change meets certain specified criteria. The revised process allows certain minor revisions to be made without requiring all applicable administrative procedures for full permit issuance. These changes ensure that chapter 15 conforms to applicable Federal regulations. Finally, revisions to chapter 15 amend the minimum number of days to submit a written notification of a change from thirty days to seven days under certain circumstances when changing Class I and II operating permits, and makes various grammatical revisions for clarity and consistency purposes.

## 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 revised chapters were placed on public notice and a public hearing was held by the State on January 6, 2014, where no comments were received. In addition, as explained in this preamble, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## III. What action is EPA taking?

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, chapters 1 and 15. 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. Should EPA receive 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.

## IV. 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 Nebraska Regulations described in the direct final 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* and/or at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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.[2]

## V. 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 under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). 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 rulemaking 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 rulemaking would approve 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).

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).

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). Thus Executive Order 13132 does not apply to this action. 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 rulemaking 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 approves a state rule implementing a Federal standard.

In reviewing SIP 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA when it reviews a state submission, to use VCS in place of a state 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 action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Burden is defined at 5 CFR 1320.3(b).

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

[2] 62 FR 27968 (May 22, 1997).

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 December 4, 2017. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the final rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**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, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 25, 2017.

**Cathy Stepp,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, EPA amends 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. Amend § 52.1420(c) by revising ''129–1'' and ''129–15'' 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** | | | | |
| 129–1 | Definitions | 5/13/14 | 10/5/17, [Insert **Federal Register** citation]. | The proposed definition of ''solid waste'' is not approved into the SIP. The second sentence beginning at ''Solid waste'' and ending at ''discarded material'', is not approved into the SIP. |
| * | * | * | * | * |
| 129–15 | Operating Permit Modifications; Reopening for Cause. | 5/13/14 | 10/5/17, [Insert **Federal Register** citation]. | |

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## 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 (o) 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

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

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(o) The Nebraska Department of Environmental Quality submitted revisions to the Nebraska Administrative Code, title 129, chapter 1, ''Definitions'' and chapter 15, ''Operating Permit Modifications; Reopening for Cause'' on July 14, 2014. The state effective date is May 13, 2014. This revision is effective December 4, 2017.

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[FR Doc. 2017–21383 Filed 10–4–17; 8:45 am]

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 161020985–7181–02]**

**RIN 0648–XF733**

## Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; reallocation.

**SUMMARY:** NMFS is exchanging unused flathead sole and rock sole Community Development Quota (CDQ) for yellowfin