

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 July 14, 2020. 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 5–14–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2020–0036; FRL–10008–54–Region 7]

Air Plan Approval; Nebraska; Approval of State Implementation Plan and Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to

approve the removal of Nebraska Administrative Code title 129, chapter 8, section 007.06 from Nebraska’s State Implementation Plan (SIP) and title V provisions. Nebraska submitted this revision to the EPA on July 19, 2019. Title 129, chapter 8 contains Nebraska’s operating permit program and is approved under title V and EPA’s regulations. The EPA’s approval of this action makes the State rule consistent with Federal regulations and strengthens the SIP and the title V program.

DATES: This final rule is effective on June 15, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0036. All documents in the docket are listed on the <https://www.regulations.gov> website. 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: Lachala Kemp, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7214; email address kemp.lachala@epa.gov.

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

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I. What is being addressed in this document?

The EPA is taking final action to approve the removal of title 129, chapter 8, section 007.06 from the Nebraska Administrative Code of the previously approved SIP. Section 007.06 stated that permits used under title 129 chapter 8 superseded all other previously issued operating or construction permits. This section, which was previously approved in Nebraska’s SIP, is inconsistent with the EPA’s interpretation of the title V

program. Title V permits include all SIP-approved permit terms, but do not supersede, void, replace or otherwise eliminate their legal existence and enforceability. This removal of this provision confirms that construction permits are not vacated when an operating permit is issued. Removal of this provision is appropriate, consistent with Federal regulations and strengthens both the title V program and the SIP. The EPA is taking final action for approval of this revision.

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 public notice on this SIP revision from February 28, 2019 to April 3, 2019 and received one comment from EPA on March 5, 2019, supporting the revision. In addition, as explained above the revision meets the substantive SIP requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

III. The EPA’s Response to Comments

The public comment period on the EPA’s proposed rule opened February 13, 2020, the date of its publication in the **Federal Register** and closed on March 16, 2020 (85 FR 8240, February 13, 2020). During this period, EPA received one comment. The comment was not substantive or adverse and can be found in the docket.

IV. What action is the EPA taking?

EPA is taking final action to approve the removal of title 129, chapter 8, section 007.06 from the Nebraska title V program and SIP because it is inconsistent with EPA’s interpretation of the title V program.

V. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Nebraska Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through 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).

Therefore, these materials have been approved by the 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 the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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, the 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, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 70

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

Dated: April 20, 2020.

James Gulliford,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the 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. In § 52.1420, the table in paragraph (c) is amended by revising the entry “129-8” 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				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
129-8	Operating Permit Content	6/24/2019	5/15/2020, [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. Appendix A to part 70 is amended by adding paragraph (q) under “Nebraska; City of Omaha; Lincoln-Lancaster County Health Department” to read as follows:

¹ 62 FR 27968 (May 22, 1997).

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

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

(q) The Nebraska Department of Environment and Energy submitted revisions to NDEQ Title 129 Chapter 8 “Operating Permit Content” on July 19, 2019. The State effective date is June 24, 2019. The revision effective date is June 15, 2020.

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[FR Doc. 2020-08654 Filed 5-14-20; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2016-0137; FRL-10008-15-Region 5]

Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Muncie, Indiana Lead Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the April 14, 2016, request from the Indiana Department of Environmental Management (IDEM) to redesignate the Muncie nonattainment area to attainment for the 2008 national ambient air quality standards (NAAQS) for lead. EPA is also approving the State’s maintenance plan and attainment year emission inventory for lead. EPA is approving these actions in accordance with the Clean Air Act (CAA) and EPA’s implementation regulations and guidance regarding the 2008 lead NAAQS.

DATES: This final rule is effective on May 15, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2016-0137. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (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 either through www.regulations.gov or at the

Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Mary Portanova at (312) 353-5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5954, portanova.mary@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed action and what are EPA’s responses to those comments?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

I. What is being addressed by this document?

On May 30, 2017 (82 FR 24553), EPA issued a direct final approval and associated proposed rulemaking (82 FR 24635) addressing Indiana’s April 14, 2016 submittal of a redesignation request, maintenance plan, and attainment year lead emissions inventory for the Muncie lead nonattainment area. The main source of lead emissions in the Muncie area is the Exide Technologies secondary lead smelter. See the direct final action for the full discussion of our basis for approval. Because we received adverse comments on the direct final approval, we withdrew the direct final approval on July 10, 2017 (82 FR 31722). Below, we address the comments that we received, and finalize our proposed rulemaking action.

II. What comments did we receive on the proposed action and what are EPA’s responses to those comments?

EPA received a set of comments from one party during the public comment period on the May 30, 2017 action. The comments, and EPA’s response to each comment, are as follows:

Comment: The commenter stated that the proposal “incorrectly states that the 2015 ambient monitoring data is the most recent available. That is not true and it wasn’t even true when the Acting Regional Administrator signed the rule. EPA has a legal and moral obligation to not provide false information in **Federal**

Register notices. Thus, EPA should publish a supplemental proposal that includes the 2016 ambient monitoring data which was final by no later than May 1, 2017.”

EPA Response: Indiana submitted its redesignation request to EPA on April 14, 2016. The State included Muncie lead monitoring data from 2013–2015 in its submittal. At the time of Indiana’s submittal, these data represented the most recent available full three years of monitoring data, and EPA used them in evaluating Indiana’s redesignation request.

Indiana is required to certify and submit to EPA each year of air quality monitoring data by May 1 of the following year. For 2016 data, the deadline for state certification was May 1, 2017. The Regional Administrator signed the proposal to redesignate the Muncie area on May 4, 2017. During the time that EPA staff were reviewing Indiana’s submittal and preparing the notice of proposed rulemaking, monitoring data for 2016 was not yet certified, and the “most recent” fully certified data during this time was the data through 2015, which showed attainment of the 2008 lead NAAQS. The 2008 lead NAAQS are met when the maximum arithmetic three-month mean concentration for a three-year period is less than or equal to 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). See 40 CFR 50.16. The maximum three-month average lead concentration over three years is also known as the design value. Although the 2016 data was certified a few days before EPA’s notice of proposed rulemaking was signed, the 2015 monitor data was clearly the most recent certified, quality-assured data available at the time of the State’s redesignation request and during EPA’s review process, and the 2013–2015 design value was the appropriate measure for evaluating the State’s redesignation request and proposing action. As the preliminary 2016 data continued to show attainment of the 2008 lead NAAQS, EPA did not delay its action on the redesignation.

Moreover, air quality monitoring data at the Muncie lead monitor continues to show that the area is attaining the 2008 lead NAAQS, providing further support for EPA’s finding that the area has attained the NAAQS under CAA section 107(d)(3)(E)(i). Table 1 below includes all fully certified and preliminary data available for the area and shows that the area’s lead design value is well below the level of the NAAQS.

EPA does not agree that a supplemental proposal is required under these circumstances. The CAA contemplates that EPA publish a