

US EPA ARCHIVE DOCUMENT

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 October 12, 2010. 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. 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 today's **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 proposed rulemaking. 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 oxides, Volatile organic compounds.

Dated: July 21, 2010.

William Rice,

Acting Regional Administrator, Region 7.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended by:

■ a. Removing the entry under Chapter 5 for 10–5.290; and

■ b. Revising the entry under Chapter 6 for 10–6.400.

The revision reads as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * *	* * *	* * *	* * *	* * *
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri				
* * *	* * *	* * *	* * *	* * *
10–6.400	Restriction of Emission of Particulate Matter from Industrial Processes.	5/30/09	8/11/10 [insert FR page number where the document begins].	
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[FR Doc. 2010–19569 Filed 8–10–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2009–0913; FRL–9186–5]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the State Implementation Plan (SIP) and Operating Permits Program to revise the state definition of volatile organic compounds; clarify language and incorporate rules related to construction

permits to incorporate application fees and include a mechanism to use construction permits to accomplish other permitting needs; and clarify language related to open fires and explicitly include an exemption for fires used for religious activities. Approval of these revisions will ensure consistency between the state and Federally-approved rules.

DATES: This direct final rule will be effective October 12, 2010, without further notice, unless EPA receives adverse comment by September 10, 2010. If adverse comment is 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: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2009–0913, by one of the following methods:

1. www.regulations.gov. Follow the on-line instructions for submitting comments.

2. *E-mail:*
wolfersberger.chris@epa.gov.

3. *Mail or Hand Delivery:* Chrissy Wolfersberger, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2009–0913. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail information that you consider to be CBI or otherwise protected. The

www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. 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 either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. 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: Chrissy Wolfersberger at (913) 551-7864, or by e-mail at wolfersberger.chris@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following questions:

What is being addressed in this document?
What action is EPA taking?
What does Federal approval of a state regulation mean to me?

What is being addressed in this document?

EPA is approving revisions to the Nebraska SIP and Operating Permits Program which revise the state definition of volatile organic

compounds; incorporate rules related to construction permit application fees and include a mechanism to use construction permits to accomplish other permitting needs; and clarify language related to open fires.

Changes to Chapter 1 revise the definition of volatile organic compounds (VOCs) to adopt changes that EPA made on November 29, 2004. In the first action (69 FR 69298), EPA added four chemicals to the list of excluded compounds at 40 CFR 51.100(s)(1), on the basis that these compounds make a negligible contribution to tropospheric ozone formation. These are: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane; 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane; 1,1,1,2,3,3,3-heptafluoropropane; and Methyl formate.

In the second action (69 FR 69304), EPA modified the definition of VOC at 40 CFR 51.100(s)(5) to exclude t-butyl acetate as a VOC for purposes of VOC emission limitations or VOC content requirements. While EPA determined that t-butyl acetate has a negligible contribution to tropospheric ozone formation, and need not be considered in determining source compliance with restrictions on VOC emissions, it also concluded that the compound should still be subject to all recordkeeping, emissions reporting, modeling, and inventory VOC requirements. The EPA final rule was effective December 29, 2004. The Nebraska regulation does not retain the recordkeeping, emissions reporting, modeling, and inventory VOC requirements.

EPA has communicated with the state regarding this issue, and expects that Nebraska will revise its rule to retain the recordkeeping, emissions reporting, modeling, and inventory VOC requirements specified in the federal rule for sources using t-butyl acetate. Pending the state's revision of the rule, EPA is not approving the current submittal as it relates to t-butyl acetate. EPA is, however, approving the revision as it relates to the other compounds discussed above.

Changes to Chapter 17, construction permits, clarify various terms in the regulation, add cross-references, and delete redundant language. Additionally, Chapter 17, 003.01 adopts into Title 129 the construction permit application fee structure adopted by the Nebraska Legislature in 2004 at Neb. Rev. Stat. § 81-1505.06. EPA had determined that these primarily administrative changes are consistent with Federal requirements.

Changes to Chapter 17, 015 delineates the construction permit process to be used as a vehicle to accomplish other permitting needs when a construction permit is not actually required, including to establish enforceable limits to avoid otherwise applicable regulatory provisions, or to modify existing construction permits to incorporate modifications that cannot be processed otherwise. While EPA is approving this regulatory change as part of this SIP submission as consistent with EPA requirements, it should be noted that if this provision is used to establish requirements relating to another regulatory program required to be included in the SIP, such as a best available retrofit technology requirement to address Regional Haze, Nebraska would need to submit such requirements to EPA for SIP approval, in order to meet the requirements of the particular regulatory program. Therefore, EPA approval of this regulation does not imply approval of permit requirements which may be issued under the regulation.

Changes to Chapter 30 clarify language related to open fires, exemptions, and permits. Additionally, Chapter 30, 002.01 expands allowable exceptions to the Nebraska Department of Environmental Quality open fire ban to include fires set solely for religious activities. According to the state's documentation, this change was intended to end confusion about the allowability of fires used in Native American sweat lodge ceremonies in those areas where the state has jurisdiction. EPA believes that fires set solely for religious purposes are similar in terms of size, frequency, and emissions to fires set for recreational purposes, which are already exempted from the open fire ban. Therefore, this change is considered a clarification, and it is not expected to result in additional emissions increases or a SIP relaxation.

Changes to Chapter 30, 002.08 alter the wording to state that burning materials not authorized under a burn permit may result in withdrawal of the permit. The existing wording stating that burning unauthorized materials "will result in immediate withdrawal of the permit" is inconsistent with normal state enforcement procedures, which allow for case-by-case discretion. EPA notes that, in any event, burning of material not authorized under the permit would not be exempt from the open burning ban in the rule, and would, therefore, be a violation of the rule. Therefore, the change regarding withdrawal of permits does not affect the enforceability of the rule. EPA is

approving the rule revision on this basis.

What action is EPA taking?

With the exception of the exemption of t-butyl acetate as discussed above, we are taking final action to approve revisions to the Nebraska SIP and Operating Permits Program. Approval of this revision will ensure consistency between the state and the Federally-approved rules. EPA has determined that these changes will not relax the SIP or adversely impact air emissions and will not substantively change the operating permits program.

We are processing this action as a direct final action because the revisions make noncontroversial changes to the existing rules. 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.

What does Federal approval of a state regulation mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 October 12, 2010. 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. 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 today's **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 proposed 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 70

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

Dated: July 21, 2010.

William Rice,

Acting Regional Administrator, Region 7.

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

PART 52—[AMENDED]

■ 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(c) the table is amended by revising the entries for 129-1, 129-17, and 129-30 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				
129-1	Definitions	9/25/05	8/11/10 [insert FR page number where the document begins].	Requirements for t-butyl acetate are still in effect.
*	*	*	*	*
129-17	Construction Permits— When Required.	9/25/05	8/11/10 [insert FR page number where the document begins].	
*	*	*	*	*
129-30	Open Fires, Prohibited; Exceptions.	9/25/05	8/11/10 [insert FR page number where the document begins].	
*	*	*	*	*

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PART 70—[AMENDED]

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

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

Appendix A—[Amended]

■ 4. Appendix A to Part 70 is amended by adding paragraph (j) under the heading “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

* * *

(j) The Nebraska Department of Environmental Quality approved a revision to NDEQ Title 129, Chapter 1 on June 2, 2005, which became effective September 25, 2005. This revision was submitted on May 27, 2009. We are approving this program revision effective October 12, 2010.

* * *

[FR Doc. 2010-19566 Filed 8-10-10; 8:45 am]

BILLING CODE 6560-50-P

COUNCIL ON ENVIRONMENTAL QUALITY**40 CFR Part 1515**

RIN 0331-ZA01

Revision of Freedom of Information Act Regulations

AGENCY: Council on Environmental Quality.

ACTION: Final Rule.

SUMMARY: This document amends the Council on Environmental Quality’s (CEQ) regulations governing the disclosure of information pursuant to the requests made under the Freedom of Information Act (FOIA). These revisions also reflect the principles established by President Obama’s Presidential Memoranda on “Transparency and Open Government” and “Freedom of Information Act” issued on January 21, 2009 and Attorney General Holder’s Memorandum on “The Freedom of Information Act (FOIA)” issued on March 19, 2009. Additionally, the regulations have been updated to reflect CEQ’s policy and practices and reaffirm its commitment to providing the fullest possible disclosure of records to the public. The regulations provide for an online FOIA Requester Service Center and Reading Room; electronic FOIA requests; access to records published or released under FOIA in electronic format, provided the record is readily reproducible in that form or format; designation of a Chief FOIA Officer and FOIA Public Liaison; referral of requests to appropriate Federal agencies or consultation with another agency, if appropriate; review of requests in order of receipt; multi-tacking of FOIA requests based on the amount of time and work involved in processing requests; revision of CEQ’s initial determination period from 10 days to 20 days, beginning on the date CEQ receives a written request; assignment of individualized tracking numbers for certain requests; tolling of the time limit for CEQ to act on a request; expedited processing of FOIA requests upon showing a showing of compelling need; CEQ consultations with a requester to

determine if a FOIA request may be modified to allow for a more timely response, or to arrange an alternative time frame for a response; informing the requester of the volume of requested material withheld and the extent of deletions in records released in response to a FOIA request; increase in time for appeal from 45 to 60 days from the date of denial of a request; extension of the time limit to respond to a request in “unusual circumstances,” and aggregation of clearly related requests by a single requester or group of requesters. Further, CEQ’s fee structure is revised to include a method for computing fees based upon the classification of the requester and the base pay of the employee making the search, an increase of copying costs from \$0.10 to \$0.15 per page, and a provision for waiving fees. Additional administrative changes include reorganizing, renumbering, and renaming of the FOIA subsections and updating addresses and telephone numbers.

DATES: This final rule is effective September 10, 2010.

FOR FURTHER INFORMATION CONTACT: Elizabeth Moss, FOIA Coordinator, 722 Jackson Place, NW., Washington, DC 20503 or (202) 456-6550.

SUPPLEMENTARY INFORMATION: On November 13, 2009, the Council on Environmental Quality published a proposed rule that revised its existing regulations under the FOIA and added new provisions implementing the “Openness Promotes Effectiveness in our National Government Act of 2007” (OPEN Government Act of 2007), Public Law 110-175, 121 Stat. 2524 (Dec. 31, 2007) and the “Electronic Freedom of Information Act Amendments of 1996” (Electronic FOIA Amendments), Public