

Proposed Rules

Federal Register

Vol. 86, No. 52

Friday, March 19, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2021-0171; FRL-10021-33-Region 7]

Air Plan Approval; Nebraska; Revisions to Title 115 of the Nebraska Administrative Code; Rules of Practice and Procedure

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) submitted by the State of Nebraska on September 24, 2020. This proposed action will amend the SIP to revise title 115 of the Nebraska Administrative Code “Nebraska Rules of Practice and Procedure.” Title 115 describes the procedures the Nebraska Department of Environment and Energy (NDEE), formerly the Nebraska Department of Environmental Quality (NDEQ), will follow for proceedings under the Administrative Procedure Act. These proceedings include contested cases, rulemaking petitions, and declaratory rulings among others. In addition, title 115 contains procedures related to submission and review of confidentiality claims for trade secrets, public hearing requirements for permits, and other fact-finding hearings not covered in other more program specific regulatory titles. These proposed changes consolidate five chapters into a single chapter by removing duplicative language and incorporating by reference model rules of agency procedure promulgated by the Attorney General for agency use in accordance with the Administrative Procedure Act. The proposed revisions also update language; renumber chapters; and make minor wording changes. The proposed changes do not substantively change any existing statutory or regulatory requirement or impact the stringency of the SIP or air quality, do not revise

emission limits or procedures, nor do they impact the State’s ability to attain or maintain the National Ambient Air Quality Standards.

DATES: Comments must be received on or before April 19, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2021-0171 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:

William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” refer to the EPA.

Table of Contents

- I. Written Comments
- II. What is being addressed in this document?
- III. Have the requirements for approval of a SIP revision been met?
- IV. What action is EPA taking?
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2021-0171, 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?

EPA is proposing to amend Nebraska’s SIP to include revisions to title 115 of the Nebraska Administrative Code. The EPA is proposing to approve revisions to the Nebraska SIP received on September 24, 2020. The revisions are to Title 115—Nebraska Rules of Practice and Procedure. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

EPA is proposing approval of these revisions as they do not substantively change any existing statutory or regulatory requirement. These revisions do not impact the stringency of the SIP or air quality.

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 state provided public notice of the revisions from February 28, 2019, to April 2, 2019, and held a public hearing on April 3, 2019. The state received no comments. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

IV. What action is the EPA taking?

The EPA is proposing to amend the Nebraska SIP by approving the State’s request to revise Title 115—Nebraska Rules of Practice and Procedure. Approval of these revisions will ensure consistency between state and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

The EPA is 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 action, the EPA is proposing to include regulatory text in a final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the 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 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, 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 (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 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 the 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 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: March 9, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 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

- 2. In § 52.1420:
 - a. The table in paragraph (c) is amended by revising the entries “115-1”, “115-2”, and “115-3”; and
 - b. The table in paragraph (c) is amended by removing the entries “115-4”, “115-5”, “115-6”, “115-7”, “115-8”, “115-9”, and “115-10”.

The revisions 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 115—Rules of Practice and Procedure				
115-1	Adoption of Model Rules.	6/24/2019	[Date of publication of the final rule in the Federal Register , [Federal Register citation of the final rule].	
115-2	Confidentiality for Trade Secrets.	6/24/2019	[Date of publication of the final rule in the Federal Register , [Federal Register citation of the final rule].	
115-3	Public Hearings	6/24/2019	[Date of publication of the final rule in the Federal Register , [Federal Register citation of the final rule].	
* * * * *				

* * * * *

[FR Doc. 2021-05321 Filed 3-18-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 147**

[EPA-HQ-OW-2020-0595; FRL 10019-85-OW]

State of Michigan Underground Injection Control (UIC) Class II Program; Primacy Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is proposing to approve the State of Michigan's Underground Injection Control Class II (UIC) Program for primacy. EPA determined that the State's program is consistent with the provisions of the Safe Drinking Water Act (SDWA) at Section 1425 to prevent underground injection activities that endanger underground sources of drinking water. The Agency's approval allows Michigan to implement and enforce its state regulations for UIC Class II injection wells located within the State. Michigan's authority excludes the regulation of injection well Classes I, III, IV, V and VI, and all wells in Indian country, as required by rule under the SDWA. The Agency requests public comment on this proposed rule and supporting documentation. In the "Rules and Regulations" section of this **Federal Register**, the Agency published EPA's approval of the State's program as a direct final rule without a prior proposed rule. If the Agency receives no adverse comment on the direct final rule, EPA will not take further action on this proposed rule.

DATES: Written comments must be received by April 19, 2021.

ADDRESSES: You may submit comments, identified by Docket ID No. EPA-HQ-OW-2020-0595, through the Federal eRulemaking Portal at: <https://www.regulations.gov/>. Follow the online instructions for submitting comments. All submissions received must include the Docket ID No. for this rulemaking. Comments received may 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 "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of

this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at: <https://www.epa.gov/dockets>.

EPA is offering one virtual public hearing so that interested parties may also provide oral comments on the proposed rulemaking. For more information on the virtual public hearing and to register to attend, please visit: <https://www.epa.gov/npdes/>. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2322; fax number: (202) 564-3754; email address: carey.kyle@epa.gov, or Anna Miller, UIC Section, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886-7060; email address: miller.anna@epa.gov.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

I. Public Participation

Submit your written comments, identified by Docket ID No. EPA-HQ-OW-2020-0595, at <https://www.regulations.gov/>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. 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. Contact EPA if you want to submit CBI; see **FOR INFORMATION CONTACT** section of this document. 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. 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>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19.

II. The Proposed Rule

EPA proposes to approve Michigan's UIC Program primacy application for Class II injection wells located within the State (except all wells in Indian country), because it meets all requirements under SDWA for such programs. The proposed rule would grant Michigan primary enforcement authority to prevent Class II (oil and gas-related) underground injection activities that endanger underground sources of drinking water. Accordingly, the Agency proposes to codify the State's program in the Code of Federal Regulations (CFR) at 40 CFR part 147. EPA will continue to administer the UIC Program for injection well Classes I, III, IV, V and VI, and for all wells in Indian country.

EPA has published a direct final rule in the "Rules and Regulations" section of the **Federal Register**, approving the State's program because EPA views this approval as noncontroversial and anticipates no adverse comment. For the Agency's rationale for approval and additional supplementary information, please see the preamble to the direct final rule. If EPA receives no adverse comment on the direct final rule, the Agency will not take further action on this proposed rule. If EPA receives adverse comment on the direct final rule, the Agency will withdraw the direct final rule and it will not take effect. The Agency would then consider and address all public comments in any subsequent final rule based on this proposed rule. The Agency does not intend to institute a second comment period. Any parties interested in commenting must do so at this time.