

program two recently adopted sets of revisions to Title 129. The first revision set was submitted to us on May 10, 2002, and included revisions to Chapters 1, 4, 5, 6, 20, 29, and 34. The second set of revisions was submitted on November 5, 2002, and included revisions to Chapters 1, 2, 4, 5, 6, 17, 20, 21, and 31. An overview of the revisions are discussed below.

#### *Revisions Submitted on May 10, 2002*

**Chapter 1—Definitions.** A definition of “deviation” was added since this term is used in other rules; an exception clause was added to the definition of “incineration,” which exempts “a furnace used by law enforcement personnel to dispose of ammunition, fireworks or similar flammable or explosive materials”; and the definition of “Volatile organic compound (VOC)” was revised to add “methyl acetate” to the list of exempt VOCs. This revision is consistent with EPA’s list of exempt VOCs at 40 CFR 51.100(s).

**Chapter 4—Ambient Air Quality Standards.** In 1997 EPA promulgated new standards for fine particulate matter (PM<sub>2.5</sub>) and ozone. The state has adopted these ambient standards and also the data interpretation procedures of Appendix I and Appendix N of 40 CFR part 50 for ozone and particulate matter.

**Chapter 5—Operating Permits.** Revisions to this rule include clarifying the applicability of non-major sources to the Class II operating permits program; clarifying the deferral of sources from the Class I operating permits program; and clarifying the reporting requirements for certain emergency generators. The revision to Section 001.02 will not be acted on because this section relates only to the Class II permit program and was not previously Federally approved.

**Chapter 6—Emissions Reporting, When Required.** The annual deadline for submitting the emissions inventory reporting form was changed from July 1 to April 1.

**Chapter 20—Particulate Emissions; Limitations and Standards (Exceptions Due to Breakdowns or Scheduled Maintenance: See Chapter 35).** An exception was added, in conjunction with the revision to the “incinerator” definition in Chapter 1, which exempts from the opacity requirements of Chapter 20 incinerators used by law enforcement personnel to dispose of ammunition or explosive materials. Also, paragraph 007 was revised to clarify the applicability of the rule.

**Chapter 29—Operating Permit Emissions Fees.** A provision of this rule was revised to remove a sunset

provision subjecting certain electric generation units to a lower emission fee. These units will now pay emissions fees beginning with calendar year 2001 emissions.

**Chapter 34—Emission Sources; Testing; Monitoring.** Paragraph 005 was revised to decrease from forever, to five years, the time period for which certain large steam generators, requesting exemption from operating a continuous opacity monitoring system, must have a clean opacity compliance record.

Upon review by EPA, it was determined that this revision is inconsistent with the provisions of 40 CFR part 51, Appendix P—Minimum Emission Monitoring Requirements, paragraph 2.1.1.2. That paragraph provides a limited exemption from opacity monitoring for sources which have “never” been found in violation of a visible emission standard. The state revision allows the exemption for sources which have not been found in violation for the past five years, which is less stringent than the Federal requirement. Consequently, we are taking no action on this provision of the state submittal. The state has agreed to revise its rule to make it consistent with the Federal provision in the near future.

#### *Revisions Submitted on November 5, 2002*

**Chapter 1—Definitions.** The following definitions were clarified: “applicable requirement,” “fuel burning equipment,” and the exemption for “incinerators” from opacity limits is only for incinerators owned and operated by law enforcement agencies being solely used to dispose of ammunition, fireworks, or similar flammable or explosive materials. A definition for “Maximum Achievable Control Technology (MACT)” was added to define the MACT emission limitations for new and existing sources.

**Chapter 2—Definition of Major Source.** Fugitive emissions must be considered when determining if a source is major for hazardous air pollutants with this revision and the major source definition was revised to be consistent in both Title V and the NSR/PSD programs.

**Chapter 6—Emissions Reporting; When Required.** Sources are now allowed to submit their own form if acceptable to the Department and it was clarified that appropriate methods need to be used in calculating actual emissions.

**Chapter 17—Construction Permits; When Required.** The change consistently clarified that fugitive emissions must be included in calculating levels of hazardous air

pollutants and defines the source categories that must include fugitive emissions when determining the net change in potential emissions.

**Chapter 20—Particulate Emissions; Limitations and Standards (Exceptions Due to Breakdowns or Scheduled Maintenance: See Chapter 35).** This revision clarifies that furnaces exempted from the opacity standard for disposal of ammunition and other flammable or explosive materials applies only when being solely used for this purpose.

**Chapter 31—Compliance Assurance Monitoring.** The reference to Title 40 of the Code of Federal Regulations was updated to July 1, 2001.

The revisions to Chapters 4, 5, and 21 are administrative in nature, including correcting typographical errors and deleting obsolete references.

Further discussion and background information is contained in the technical support document prepared for this action, which is available from the EPA contact listed above.

#### **Have the Requirements for Approval of a SIP Revision and Part 70 Program Revision Been Met?**

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this notice, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. Finally, the submittal meets the substantive requirements of Title V of the 1990 CAA Amendments and 40 CFR part 70.

#### **What Action Is EPA Taking?**

EPA is processing this action as a direct final action because the revisions make routine changes to the existing rules which are noncontroversial, and make regulatory revisions required by state statute. 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.

**Final action:** EPA is approving as an amendment to the Nebraska SIP revisions to Title 129, Chapters 1, 4, 5, 6, 20, and 34 (except Chapter 5, 001.02), submitted on May 10, 2002, and revisions to Title 129, Chapters 1, 2, 4, 5, 6, 17, 20, and 21, submitted on November 5, 2002, pursuant to section 110.