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**LIBRARY OF CONGRESS****Copyright Office****37 CFR Part 253**

[Docket No. 2003-3 CARP NCBRA]

**Cost of Living Adjustment for Performance of Musical Compositions by Colleges and Universities****AGENCY:** Copyright Office, Library of Congress.**ACTION:** Final rule.

**SUMMARY:** The Copyright Office of the Library of Congress announces a cost of living adjustment of 2% in the royalty rates paid by colleges, universities, or other nonprofit educational institutions that are not affiliated with National Public Radio for the use of copyrighted published nondramatic musical compositions in the BMI, ASCAP and SESAC repertoires. The cost of living adjustment is based on the change in the Consumer Price Index from October, 2002 to October, 2003.

**EFFECTIVE DATE:** January 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of published nondramatic musical works and published pictorial, graphic, and sculptural works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five-year intervals. 17 U.S.C. 118(c).

The most recent proceeding to consider the terms and rates for the section 118 license occurred in 2002. 67 FR 15414 (April 1, 2002). Final regulations governing the terms and rates of copyright royalty payments with respect to certain uses by public broadcasting entities of published nondramatic musical works, and published pictorial, graphic, and sculptural works for the license period beginning January 1, 2003, and ending December 31, 2007, were published in the **Federal Register** on December 17, 2002. 67 FR 77170 (December 17, 2002).

Pursuant to these regulations, on December 1 of each year the Librarian shall publish a notice of the change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published prior to the previous notice, to the most recent Index published prior to December 1, of that year. 37 CFR 253.10(a). The regulations also require that the Librarian publish a revised schedule of rates for the public performance of musical compositions in the ASCAP, BMI, and SESAC repertoires by public broadcasting entities licensed to colleges and universities, reflecting the change in the Consumer Price Index. 37 CFR 253.10(b). Accordingly, the Copyright Office of the Library of Congress is hereby announcing the change in the Consumer Price Index and performing the annual cost of living adjustment to the rates set out in § 253.5(c).

The change in the cost of living as determined by the Consumer Price Index (all consumers, all items) during the period from the most recent Index published before December 1, 2002, to the most recent Index published before December 1, 2003, is 2% (2002's figure was 181.3; the figure for 2003 is 185.0, based on 1982-1984=100 as a reference base). Rounding off to the nearest dollar, the royalty rates for the use of musical compositions in the repertoires of ASCAP, BMI, and SESAC are \$254, \$254, and \$82, respectively.

**List of Subjects in 37 CFR Part 253**

Copyright, Radio, Television.

**Final Regulation**

■ For the reasons set forth in the preamble, part 253 of title 37 of the Code of Federal Regulations is amended as follows:

**PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING**

■ 1. The authority citation for part 253 continues to read as follows:

**Authority:** 17 U.S.C. 118, 801(b)(1) and 803.

■ 2. Section 253.5 is amended by revising paragraphs (c)(1) through (c)(3) as follows:

**§ 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.**

\* \* \* \* \*

(c) \* \* \*

(1) For all such compositions in the repertory of ASCAP, \$254 annually.

(2) For all such compositions in the repertory of BMI, \$254 annually.

(3) For all such compositions in the repertory of SESAC, \$82 annually.

\* \* \* \* \*

Dated: November 21, 2003.

**Marybeth Peters,***Register of Copyrights.*

[FR Doc. 03-29824 Filed 11-28-03; 8:45 am]

BILLING CODE 1410-33-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[NE-193-1193; FRL-7592-1]

**Approval and Promulgation of Air Quality Implementation Plans; Nebraska Update to Materials Incorporated by Reference****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by Nebraska that are incorporated by reference (IBR) into the state implementation plan (SIP). The regulations affected by this update have been previously submitted by the state agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information Center, and the Regional Office.

**EFFECTIVE DATE:** This action is effective December 1, 2003.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101; Office of Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW (Mail Code 6102T), Washington, DC 20460, and Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Evelyn VanGoethem at (913) 551-7659, or by e-mail at [vangoethem.evelyn@epa.gov](mailto:vangoethem.evelyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the state can revise as necessary to address the unique air pollution problems in the state. Therefore, EPA from time to time

must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of **Federal Register** (OFR). The description of the revised SIP document, IBR procedures and "Identification of plan" format are discussed in further detail in the May 22, 1997, **Federal Register** document.

On February 12, 1999, EPA published a document in the **Federal Register** (64 FR 7091) beginning the new IBR procedure for Nebraska. Today EPA is updating the IBR material.

EPA is also making minor corrections to the table in § 52.1420(c) as follows:

On February 14, 1996 (61 FR 5701), EPA approved and incorporated by reference revisions to Lincoln-Lancaster County Air Pollution Control Program, Article 2, Section 9. We are correcting the state effective date for Section 9, Article 2 to reflect that previous approval.

On February 14, 1996 (61 FR 5701), EPA approved and incorporated by reference revisions to City of Omaha, Chapter 41, Article IV, for 41–61. We are correcting the entries for 41–61 to reflect that previous approval.

EPA has determined that today's rule falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment is "unnecessary" and "contrary to the public interest" since the codification only reflects existing law. Immediate notice in the CFR benefits the public by updating citations.

#### 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 by the Office of Management and Budget. For this reason, 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 rule 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 rule approves 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, 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). 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 Clean Air Act. This rule 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 rule does

not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 30, 2004. 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. 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.

Dated: November 17, 2003.

**Martha R. Steincamp,**

*Acting Regional Administrator, Region 7.*

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

#### PART 52—[AMENDED]

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

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

#### Subpart CC—Nebraska

■ 2. In § 52.1420 paragraphs (b), (c), (d) and (e) are revised to read as follows:

#### § 52.1420 Identification of plan.

\* \* \* \* \*

(b) *Incorporation by reference.* (1) Material listed in paragraphs (c), (d) and (e) of this section with an EPA approval date prior to November 5, 2003, was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c), (d) and (e) of this section with EPA

approval dates after November 5, 2003, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region VII certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) are an exact duplicate of the officially promulgated state rules/regulations which have been approved as part of the SIP as of November 5, 2003.

(3) Copies of the materials incorporated by reference may be

inspected at the Environmental Protection Agency, Region VII, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW. (Mail Code 6102T), Washington, DC 20460.

(c) EPA-approved regulations.

EPA-APPROVED NEBRASKA REGULATIONS

Nebraska citation	Title	State effective date	EPA approval date	Explanation
<b>STATE OF NEBRASKA</b>				
<b>Department of Environmental Quality</b>				
<b>Title 129—Nebraska Air Quality Regulations</b>				
129-1	Definitions	11/20/02	09/05/03, 68 FR 52694.	
129-2	Definition of Major Source	07/10/02	07/08/03, 68 FR 40530.	
129-3	Region and Subregions	6/26/94	1/04/95, 60 FR 372.	
129-4	Ambient Air Quality Standards	04/01/02	07/08/03, 68 FR 40530.	
129-5	Operating Permit	11/20/02	09/05/03, 68 FR 52694	Section 001.02 is not SIP approved.
129-6	Emissions Reporting	11/20/02	09/05/03, 68 FR 52694.	
129-7	Operating Permits—Application	8/22/2000	5/29/02, 67 FR 37327.	
129-8	Operating Permit Content	8/22/2000	5/29/02, 67 FR 37327.	
129-9	General Operating Permits for Class I and II Sources.	5/29/95	10/18/95, 60 FR 53872.	
129-10	Operating Permits for Temporary Sources.	9/7/97	1/20/00, 65 FR 3134.	
129-11	Operating Permits—Emergency; Defense.	5/29/95	10/18/95, 60 FR 53872.	
129-12	Operating Permit Renewal and Expiration.	5/29/95	2/09/96, 61 FR 4899.	
129-13	Class I Operating Permit—EPA Review; Affected States Review; Class II Permit.	5/29/95	10/18/95, 60 FR 53872.	
129-14	Permits—Public Participation	5/29/95	10/18/95, 60 FR 53872.	
129-15	Operating Permit Modification; Reopening for Cause.	5/29/95	10/18/95, 60 FR 53872.	
129-16	Stack Heights; Good Engineering Practice (GEP).	12/15/1998	5/29/02, 67 FR 37327.	
129-17	Construction Permits—When Required.	07/10/02	07/08/03, 68 FR 40530	Refer to January 23, 2002, NDEQ letter to EPA regarding change to 129-17-014. Approved by EPA on May 29, 2002.
129-19	Prevention of Significant Deterioration of Air Quality.	12/15/1998	5/29/02, 67 FR 37327	
129-20	Particulate Emissions; Limitations and Standards (Exceptions Due to Breakdowns or Scheduled Maintenance: See Chapter 35).	04/01/02 07/10/02	07/08/03, 68 FR 40530.	
129-21	Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County.	07/10/02	07/08/03, 68 FR 40530	
129-22	Incinerators; Emission Standards	9/7/97	1/20/00, 65 FR 3134	
129-24	Sulfur Compound Emissions, Existing Sources Emission Standards.	6/26/94	1/04/95, 60 FR 372	
129-25	Nitrogen Oxides (Calculated as Nitrogen Dioxide); Emissions Standards for Existing Stationary Sources.	9/7/97	1/20/00, 65 FR 3134	
129-30	Open Fires, Prohibited; Exceptions	11/20/02	09/05/03, 68 FR 52694	
129-32	Dust; Duty to Prevent Escape of	6/26/94	1/04/95, 60 FR 372	
129-33	Compliance; Time Schedule for	6/26/94	1/04/95, 60 FR 372	
129-34	Emission Sources; Testing; Monitoring.	8/22/2000	5/29/02, 67 FR 37327	

## EPA-APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Explanation
129-35 .....	Compliance; Exceptions Due to Startup, Shutdown, or Malfunction.	9/7/97	1/20/00, 65 FR 3134 .....	
129-36 .....	Control Regulations; Circumvention, When Excepted.	6/26/94	1/04/95, 60 FR 372 .....	
129-37 .....	Compliance; Responsibility .....	6/26/94	1/04/95, 60 FR 372 .....	
129-38 .....	Emergency Episodes; Occurrence and Control, Contingency Plans.	6/26/94	1/04/95, 60 FR 372 .....	
129-39 .....	Visible Emissions from Diesel-powered Motor Vehicles.	6/26/94	1/04/95, 60 FR 372 .....	
129-40 .....	General Conformity .....	5/29/95	2/12/96, 61 FR 5297 .....	
129-41 .....	General Provision .....	12/15/1998	5/29/02, 67 FR 37327.	
129-42 .....	Consolidated with Chapter 41 .....	5/29/95	2/09/96, 61 FR 4899.	
129-43 .....	Consolidated with Chapter 41 .....	5/29/95	2/09/96, 61 FR 4899.	
129-44 .....	Consolidated with Chapter 41 .....	5/29/95	2/09/96, 61 FR 4899.	
Appendix I ..	Emergency Emission Reductions .....	6/26/94	1/04/94, 60 FR 372.	
Appendix II	Hazardous Air Pollutants (HAPS) .....	9/7/97	1/20/00, 65 FR 3134.	

## Title 115—Rules of Practice and Procedure

115-1 .....	Definitions of Terms .....	8/08/93	1/04/95, 60 FR 372.	
115-2 .....	Filing and Correspondence .....	8/08/93	1/04/95, 60 FR 372.	
115-3 .....	Public Records Availability .....	8/08/93	1/04/95, 60 FR 372.	
115-4 .....	Public Records Confidentiality .....	8/08/93	1/04/95, 60 FR 372.	
115-5 .....	Public Hearings .....	8/08/93	1/04/95, 60 FR 372.	
115-6 .....	Voluntary Compliance .....	8/08/93	1/04/95, 60 FR 372.	
115-7 .....	Contested Cases .....	8/08/93	1/04/95, 60 FR 372.	
115-8 .....	Emergency Proceeding Hearings .....	8/08/93	1/04/95, 60 FR 372.	
115-9 .....	Declaratory Rulings .....	8/08/93	1/04/95, 60 FR 372.	
115-10 .....	Rulemaking .....	8/08/93	1/04/95, 60 FR 372.	
115-11 .....	Variances .....	8/08/93	1/04/95, 60 FR 372.	

## Lincoln-Lancaster County Air Pollution Control Program Article 1—Administration and Enforcement

Section 1 ....	Intent .....	5/16/95	2/14/96, 61 FR 5701.	
Section 2 ....	Unlawful Acts—Permits Required ....	5/16/95	2/14/96, 61 FR 5701.	
Section 3 ....	Violations—Hearing—Orders .....	5/16/95	2/14/96, 61 FR 5701.	
Section 4 ....	Appeal Procedure .....	5/16/95	2/14/96, 61 FR 5701.	
Section 5 ....	Variance .....	5/16/95	2/14/96, 61 FR 5701.	
Section 7 ....	Compliance—Actions to Enforce—Penalties for Non-Compliance.	5/16/95	2/14/96, 61 FR 5701.	
Section 8 ....	Procedure for Abatement .....	5/16/95	2/14/96, 61 FR 5701.	
Section 9 ....	Severability .....	5/16/95	2/14/96, 61 FR 5701.	

## Article 2—Regulations and Standards

Section 1 ....	Definitions .....	8/11/98	1/20/00, 65 FR 3134.	
Section 2 ....	Major Sources—Defined .....	8/11/98	1/20/00, 65 FR 3134.	
Section 4 ....	Ambient Air Quality Standards .....	5/16/95	2/14/96, 61 FR 5701.	
Section 5 ....	Operating Permits—When Required	8/11/98	1/20/00, 65 FR 3134.	
Section 6 ....	Emissions Reporting—When Required.	8/11/98	1/20/00, 65 FR 3134.	
Section 7 ....	Operating Permits—Application .....	8/11/98	1/20/00, 65 FR 3135.	
Section 8 ....	Operating Permit—Content .....	8/11/98	1/20/00, 65 FR 3135 .....	
Section 9 ....	General Operating Permits for Class I and II Sources.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 10 ..	Operating Permits for Temporary Services.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 11 ..	Emergency Operating Permits—Defense.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 12 ..	Operating Permit Renewal and Expiration.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 14 ..	Permits—Public Participation .....	5/16/95	2/14/96, 61 FR 5701 .....	
Section 15 ..	Operating Permit Modifications—Reopening for Cause.	8/11/98	1/20/00, 65 FR 3135 .....	
Section 16 ..	Stack—Heights—Good Engineering Practice (GEP).	5/16/95	2/14/96, 61 FR 5701 .....	
Section 17 ..	Construction Permits—When Required.	8/11/98	1/20/00, 65 FR 3135 .....	
Section 19 ..	Prevention of Significant Deterioration of Air Quality.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 20 ..	Particulate Emissions—Limitations and Standards.	3/31/97	1/20/00, 65 FR 3135 .....	

EPA-APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Explanation
Section 22 ..	Incinerator Emissions .....	5/16/95	2/14/96, 61 FR 5701 .....	
Section 24 ..	Sulfur Compound Emissions—Existing Sources—Emission Standards.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 25 ..	Nitrogen Oxides (Calculated as Nitrogen Dioxide)—Emissions Standards for Existing Stationary Sources.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 32 ..	Dust—Duty to Prevent Escape of ....	3/31/97	1/20/00, 65 FR 3135 .....	
Section 33 ..	Compliance—Time Schedule for .....	5/16/95	2/14/96, 61 FR 5701 .....	
Section 34 ..	Emission Sources—Testing—Monitoring.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 35 ..	Compliance—Exceptions Due to Startup Shutdown or Malfunction.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 36 ..	Control Regulations—Circumvention—When Expected.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 37 ..	Compliance—Responsibility of Owner/Operator Pending Review by Director.	5/16/95	2/14/96, 61 FR 5701 .....	
Section 38 ..	Emergency Episodes—Occurrence and Control—Contingency Plans.	5/16/95	2/14/96, 61 FR 5701 .....	
Appendix ....	Emergency Emission Reduction Regulations.	5/16/95	2/14/96, 61 FR 5701 .....	

**City of Omaha  
Chapter 41—Air Quality Control  
Article I In General**

41-2 .....	Adoption of State Regulations with Exceptions.	4/1/98	1/20/00, 65 FR 3135.	
41-4 .....	Enforcement—Generally .....	5/29/95	2/14/96, 61 FR 5701.	
41-5 .....	Same Health Department .....	5/29/95	2/14/96, 61 FR 5701.	
41-6 .....	Residential Exemptions .....	5/29/95	2/14/96, 61 FR 5701.	
41-9 .....	Penalties .....	5/29/95	2/14/96, 61 FR 5701.	
41-10 .....	Civil Enforcement .....	5/29/95	2/14/96, 61 FR 5701.	

**Article II—Permitting of Air Contaminant Sources**

41-23 .....	Prerequisite to Approval .....	5/29/95	2/14/96, 61 FR 5701.	
41-27 .....	Signature Required; Guarantee .....	5/29/95	2/14/96, 61 FR 5701.	
41-38 .....	Funds .....	5/29/95	2/14/96, 61 FR 5701.	
41-40 .....	Fees—When Delinquent .....	5/29/95	2/14/96, 61 FR 5701.	

**Article IV—Waste Incinerators Division 1. Generally**

41-60 .....	Definitions .....	5/29/95	2/14/96, 61 FR 5701.	
41-61 .....	Violations .....	5/29/95	2/14/96, 61 FR 5701.	

**Article IV—Waste Incinerators Division 2. Emissions**

41-70 .....	New or Modified Facilities .....	5/29/95	2/14/96, 61 FR 5701.	
41-71 .....	Existing Facilities .....	5/29/95	2/14/96, 61 FR 5701.	
41-72 .....	Emission Testing .....	5/29/95	2/14/96, 61 FR 5701.	

**Article IV—Waste Incinerators Division 3. Design**

41-80 .....	New or Modified Waste Incinerators	5/29/95	2/14/96, 61 FR 5701.	
41-81 .....	Existing Incinerators .....	5/29/95	2/14/96, 61 FR 5701.	

(d) EPA-approved state source-specific permits.

**EPA-APPROVED NEBRASKA SOURCE—SPECIFIC PERMITS**

Name of source	Permit No.	State effective date	EPA approval date	Explanation
(1) Gould, Inc. ....	677	11/9/83	1/31/85, 50 FR 4510.	

EPA-APPROVED NEBRASKA SOURCE—SPECIFIC PERMITS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanation
(2) Asarco, Inc. ....	1520	6/6/96	3/20/97, 62 FR 13329 .....	The EPA did not approve paragraph 19.

(e) EPA-approved nonregulatory provisions and quasi-regulatory measures.

EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(1) Air Quality Implementation Plan .....	Statewide .....	1/28/72	5/31/72, 37 FR 10842.	
(2) Confirmation That the State Does Not Have Air Quality Control Standards Based on Attorney General's Disapproval..	Statewide .....	4/25/72	5/31/72, 37 FR 10842.	
(3) Request for Two-Year Extension to Meet the Primary NO <sub>x</sub> Standard..	Omaha .....	1/24/72	7/27/72, 37 FR 15080.	
(4) Clarification of Section 11 of the State's Plan..	Statewide .....	2/16/72	7/27/72, 37 FR 15080.	
(5) Letters Clarifying the Application of the States Emergency Episode Rule..	Omaha .....	10/2/72	5/14/73, 38 FR 12696.	
(6) Analysis of Ambient Air Quality in Standard Metropolitan Statistical Areas and Recommendations for Air Quality Maintenance Areas.	Omaha, Lincoln, Sioux City.	5/9/74	6/2/75, 40 FR 23746.	
(7) Amended State Law (LB1029) Giving the Department of Environmental Quality Authority to Require Monitoring of Emissions, Reporting of Emissions and Release of Emissions Data.	Statewide .....	2/10/76	6/23/76, 41 FR 25898.	
(8) Air Monitoring Plan .....	Statewide .....	6/19/81	10/6/81, 46 FR 49122.	
(9) TSP Nonattainment Plan .....	Douglas and Cass Counties.	9/25/80 8/9/82	3/28/83, 48 FR 12715.	
(10) Plan for Intergovernmental Consultation and Coordination and for Public Notification..	Statewide .....	8/9/82	7/5/83, 48 FR 30631.	
(11) Lead Plan .....	Statewide except Omaha.	1/9/81 8/5/81 1/11/83	11/29/83, 48 FR 53697.	The plan was approved except that portion pertaining to Omaha.
(12) Lead Nonattainment Plan .....	Omaha .....	7/24/84 11/17/83 8/1/84	1/31/85, 50 FR 4510.	
(13) CO Nonattainment Plan .....	Omaha .....	4/3/85	9/15/86, 51 FR 32640.	
(14) CO Nonattainment Plan .....	Lincoln .....	4/3/85	9/19/86, 51 FR 33264.	
(15) Revised Lead Nonattainment Plan ...	Omaha .....	2/2/87	8/3/87, 52 FR 28694.	
(16) Letter Pertaining to NO <sub>x</sub> Rules and Analysis Which Certifies the Material Became Effective on February 20, 1991..	Statewide .....	3/8/91	7/2/91, 56 FR 30335.	State submittal date is date of the letter.
(17) Small Business Assistance Program	Statewide .....	11/12/92	8/30/93, 58 FR 45452.	
(18) Class II Operating Permit Program Including Letter Committing to Submit Information to RACT/BACT/LAER Clearinghouse, Letter Regarding Availability of State Operating Permits to the EPA and Specified Emissions Limits in Permits, and Letter Regarding the Increase in New Source Review Thresholds..	Statewide .....	2/16/94	1/4/95, 60 FR 372.	

## EPA-APPROVED NEBRASKA NONREGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Explanation
(19) Letter from City of Omaha Regarding Authority to Implement Section 112(l) and Letter from the State Regarding Rule Omissions and PSD Program Implementation..	Omaha, Lincoln .....	9/13/95, 11/9/95	2/14/96, 61 FR 5725.	State submittal dates are dates of letters.
(20) Lincoln Municipal Code, Chapter 8.06.140 and 8.06.145..	City of Lincoln .....	2/5/99	1/20/00, 65 FR 3135.	
(21) Lancaster Co. Resolution 5069, Sections 12 and 13..	Lancaster County ...	2/5/99	1/20/00, 65 FR 3135.	
(22) Nebraska Lead Maintenance SIP .....	Omaha .....	1/18/01	4/20/01, 66 FR 20199.	

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**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 64**

[Docket No. FEMA-7821]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, Emergency Preparedness and Response Directorate, Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Mike Grimm, Mitigation Division, 500 C Street, SW.; Room 412, Washington, DC 20472, (202) 646-2878.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special

flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

**National Environmental Policy Act.** This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act.** The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.