

LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL PROGRAM

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT

SECTION 5. VARIANCE

(A) Any person who owns or is in control of any plant, building, structure, process, or equipment may apply to the Director for a variance from rules or regulations. The Director may grant such variance if he or she finds that the emissions or discharges occurring or proposed to occur do not endanger or tend to endanger human health or safety or that compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the Director shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions or discharges involved including, but not limited to:

- (1) The character and degree of injury to or interference with the health and physical property of the people;
- (2) The social and economic value of the source of the pollution;
- (3) The question of priority of location in the area involved; and
- (4) The technical practicability and economic reasonableness of reducing or eliminating the emissions or discharges resulting from such source.

(B) No variance shall be granted until the Director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(C) Any variance or renewal thereof shall be granted within the requirements of subsection (A) of this section, for time periods and under conditions consistent with the reasons therefor, and within the following limitations:

- (1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air, water, or land pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available and subject to the taking of any substitute or alternate measures that the Director may prescribe;
- (2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of

ARTICLE 1
SECTION 5

LINCOLN-LANCASTER COUNTY

time, it shall be for a period not to exceed such reasonable time as, in the view of the Director, is requisite for the taking of the necessary measures. A variance granted on the ground specified in this section shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable;

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in sub-division (1) or (2) of this subsection, it shall be for not more than one year.

(D) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Director on account of the variance, no renewal thereof shall be granted unless the Director finds that renewal is justified. No renewal shall be granted except on application therefor. Any such application shall be made at least thirty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal the Director shall give public notice of such application.

(E) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Director. The granting or denial of a variance or a renewal shall be by final order of the Director.

(F) Nothing in this section and no variance or renewal granted pursuant to this section shall be construed to prevent or limit the application of the emergency provisions and procedures of Section 8.05.070 to any person or his or her property.

(G) No variance shall be granted which will sanction any violation of state or federal statutes or regulations.

ARTICLE 1
SECTION 5

LINCOLN-LANCASTER COUNTY

EPA Rulemakings

CFR: 40 C.F.R. 52.1420(c)(44)(i)(A)
FRM: 61 FR 5701 (2/14/96)
PRM: 61 FR 5725 (2/14/96)
State Submission: 5/31/95
State Proposal: 2/28/95
State Final: 5/16/95 (effective date locally)
APDB File: NE-37
Description: EPA approved a revision to the SIP that updated the local ordinances of the Lincoln-Lancaster County Health Department and created a Federally enforceable Class II operating permit program. The Lincoln-Lancaster County Air Pollution Control Program rules replaced Chapter 8.64 regulations of the City of Lincoln and Resolution No. 3155 of Lancaster County in their entirety.

Note: All previous versions of the rule are obsolete; the record of prior rulemakings is shown below for historical purposes only.

CFR: 40 C.F.R. 52.1420(c)(24)
FRM: 47 FR 22954 (5/26/82)
PRM: 42 FR 46371 (9/15/77)
State Submission: 12/27/76
State Proposal: 12/10/76
State Final: 3/16/76; 6/21/76 (effective dates locally)
APDB File: NE-08
Description: EPA approved the revised ordinance and regulations for the city of Lincoln. The state withdrew Section 051 of the ordinance and Sections 4, 15, and 17 of the regulations.

CFR: 40 C.F.R. 52.1420(c)(23)
FRM: 47 FR 22954 (5/26/82)
PRM: 42 FR 46371
State Submission: 4/4/77; 2/18/82
State Proposal: 3/18/77
State Final: 2/4/77 (effective date locally)
APDB File: NE-08
Description: EPA approved the Lancaster County regulations into the SIP. Sections 6, 9, and 23 were withdrawn by the state prior to final rulemaking by the EPA.

CFR: 40 C.F.R. 52.1420(a)
FRM: 37 FR 10842 (5/31/72)
PRM: None
State Submission: 1/28/72
State Proposal: Unknown
State Final: 2/28/67 (effective date locally)
APDB File: NE-00
Description: EPA approved the city of Lincoln's ordinance for air pollution control as part of the original SIP.

Difference Between the State and EPA-Approved Regulation

None.