modification of stationary sources will not interfere with the attainment or maintenance of a national ambient air quality standard, which meets the requirements of 40 CFR 51.160(b)(2). Title 129 also requires that sources which have failed to obtain a construction permit must meet the standards which would have been imposed if a permit had been issued. This requirement is in addition to the requirement to obtain a permit. Therefore, a source could be in violation of the requirement to obtain a permit, and, to the extent identifiable, any emission standards which would be included in a permit for the source.

With respect to preconstruction requirements in nonattainment areas, the state has added provisions in accordance with the 1990 Amendments to part D of the Act. With respect to section 173(a)(4), Title 129 provides that no permit will be issued if the source is not in compliance with the requirements of the SIP, or if the Administrator determines that the Implementation Plan is not being adequately implemented. Pursuant to 173(a)(5), the source must also complete an analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrate that the proposed construction outweighs the environmental and social costs imposed by the source. The state has demonstrated its commitment to continue submitting information from permits to the RACT/BACT/LAER Clearinghouse as required in section 173(d) in its SIP request cover letter. EPA has determined that the state meets the relevant requirements for nonattainment areas as identified in section 173 of the Act.

H. Sulfur Compound Emissions; Existing Sources Emissions Standards

The state has modified this portion of the SIP in response to EPA's request to improve enforceability. Previously, heat input was determined from the aggregate of all fuel-burning equipment on the source's premises. Subsequently, all fuel-burning equipment had to be tested to determine compliance with the plantwide SO₂ emission limitation. Routine or even periodic compliance determinations were expensive, and in some cases impracticable for sites with more than two or three combustion units. The state now establishes sourcespecific or source-category SO₂ emission limitations, using only the heat input contribution from sulfur-bearing fuels.

This modification conforms to the enforceability criteria methods contained in EPA's SO₂ Guideline

document, EPA-452/R-94-008, chapter 8.

I. Open Fires Prohibitions and Exceptions

Several modifications have been made to the SIP with respect to open fires. In title 129 the word "vegetation" replaces the word "trees" to describe those materials that should be destroyed to prevent a fire hazard.

The previous SIP granted exceptions to open burning for land clearing of roads and construction activity. As an enforcement matter, the state found its previous language did not restrict the types of materials that could be burned pursuant to construction activity.

Thus, the state has promulgated two distinct types of open burning: one for land clearing for roads and one for construction activity. This allows the state to restrict construction burning to trees, brush, vegetation, and untreated lumber which strengthens the SIP.

With written permission of the director, the state now allows the burning of straw used as a winter insulating cover on agricultural products. This activity is concentrated in the Scottsbluff area, which is monitored for PM_{10} . In the past a variance was granted for this annual activity, but the state now adopts this new provision to recognize a practice which has never led to a violation of a PM_{10} standard.

The state has also modified the SIP to allow the burning of materials after cleanup from a natural disaster, again with written permission of the director. The director will ensure that these activities do not contribute to violations of any air quality standards.

J. Duty to Prevent Escape of Dust

The state has modified the SIP so that normal farming practices, on-farm crop drying and handling, and animal feeding activities will not be regulated by the state so long as reasonable and practical measures are exercised to limit particulate matter. This is consistent with EPA's rural fugitive dust policy. This policy states that EPA does not require SIP control strategies due to contributions of activities such as windblown dust, dirt, and agricultural practices.

K. Emission Sources; Testing; Monitoring

The SIP adds several new test methods by incorporating by reference EPA provisions that were published since the last modification to the SIP. The SIP also specifies that test methods may also include those approved for the source which are in their respective permit; any contained in the SIP; any issued under construction permits, PSD permits, or pursuant to an MACT standard; or any other method approved under title 129. Inclusion of these comprehensive test methods affords the state a wide range of references to address all types of emissions and sources within the state.

L. Title 115

This title describes the rules of practice and procedure within Nebraska with respect to hearings, contested cases, and rulemaking. To a large extent, EPA does not regulate the manner in which Nebraska conducts its internal proceedings except to the degree which the rules in title 115 may affect the implementation of the SIP. Hence, the rules of title 115 are approvable as part of this request for a revision to the SIP.

EPA Action

EPA is taking final action to approve revisions submitted February 16, 1994, for the state of Nebraska.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities