NEBRASKA ADMINISTRATIVE CODE

Title 129 - ~~Department of Environmental Quality~~Air Quality Regulations

Chapter 1 – GENERAL PROVISIONS: DEFINITIONS

001 General Provisions

001.01 Unless otherwise stated, any reference in these rules to standards, procedures, and requirements of Title 40 of the Code of Federal Regulations (40 CFR) refers to the version of 40 CFR published on July 1, 2018.

001.02 When any standards, procedures, or requirements of 40 CFR are adopted for application to a State program, the language of 40 CFR is to be read and interpreted as applying to the State program.

001.03 The text of the federal regulations adopted and incorporated by reference may include references to other federal statutes and regulations that are not specifically adopted by reference in this Title. Unless otherwise stated, such references will be used to assist in interpreting the federal regulations, and the authority and enforceability of any analogous or related portions of Nebraska statutes and regulations will apply.

001.04 When used in provisions adopted and incorporated by reference from 40 CFR:

001.04A "Administrator" or "Regional Administrator" means the Director of the Nebraska Department of Environment and Energy, unless otherwise stated.

001.04B "Permit authority" means the Nebraska Department of Environment and Energy, unless otherwise stated.

001.05 Permits issued under these regulations are exempt from financial responsibility requirements authorized in Neb. Rev. Stat. §81-1505(21)(a).

001.06 Review of plans or advice furnished by the Director or Department will not relieve an owner or operator of a new or modified stationary source of legal compliance with any provision of these regulations, or prevent the Director from enforcing or implementing any provision of these regulations.

002 In addition to the definitions found at Neb. Rev. Stat. § 81-1502, the ~~D~~definitions included here apply to the state regulations in this Title and to the Appendices. Unless

otherwise defined, or a different meaning is clearly required by context, the following words and phrases, as used in this Title, shall have the following meanings:

Commented [GR1]: Removed the definition for "28 Source Categories"

001002.01 "Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.)definition found at 40 CFR § 70.2.

002.02 "Actual emissions" for purposes other than the Prevention of Significant Deterioration program, means the actual rate of emissions of a pollutant from an emissions unit as determined below:

002.012A In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the preceding year and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall are to be calculated using the unit's actual operating hours, production rates, existing control equipment, and types of materials processed, stored, or combusted during the selected time period.

002.02B The Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

002.023C For any emissions unit which has not begun normal operations on the particular date, actual emissions shall are to equal the potential to emit of the unit on that date.

003. "Actual emissions", for purposes of the Prevention of Significant Deterioration program, means the actual rate of emissions of a regulated NSR pollutant from an emissions unit as determined in accordance with sections 003.01 through 003.03 except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a Plantwide Applicability Limitation (PAL) under Chapter 19, section 011. Instead, "baseline actual emissions" and "projected actual emissions" shall apply for those purposes.

003.01 In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, existing control equipment, and types of materials processed, stored, or combusted during the selected time period.
003.02 The Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

~~003.03 For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.~~

~~004 "Actuals PAL" for a major stationary source means a Plantwide Applicability Limitation (PAL) based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.~~

002.03~~005~~ "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee.

002.04~~006~~ "Affected facility" means, with reference to a stationary source, any apparatus to which a standard of performance is specifically applicable.

002.05~~007~~ "Affected source" means a source that includes one or more affected units.

002.06~~008~~ "Affected States" means ~~all States that~~:

002.06A~~008.01~~ ~~Are one of the following~~A contiguous State and Tribal Treatment as State (TAS)~~s: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming, and~~ that in the judgment of the Director may be affected by emissions from a facility seeking a Class I permit, modification, or renewal; or

Commented [GR2]: Added TASs.

002.06B~~008.02~~ ~~Are a~~A contiguous State within 50 miles of the permitted source.

002.07~~009~~ "Affected unit" means a unit that is subject to emission reduction requirements or limitations under Chapter ~~26~~5.

002.08~~010~~ "Air contaminant" or "Air contamination" means the presence in the outdoor atmosphere of any dust, fumes, mist, smoke, vapor, gas, or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

002.09~~011~~ "Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

~~012 "Air pollutant" or "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant or animal life, property, or the conduct of business.~~

002.10~~013~~ "Air pollution control agency" means any of the following:

002.10A~~013.01~~ The Department ~~designated by statute as the official state air pollution control agency~~ for purposes of Neb. Rev. Stat. Sections 81-1501 to 81-1532;

002.10B~~013.02~~ An agency established by two or more states and having substantial powers or duties pertaining to the prevention and control of air pollution;

002.10C~~013.03~~ A city, county, or other local government health authority; or in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

002.10D~~013.04~~ An agency of two or more municipalities located in the same state or in different states and having substantial powers or duties pertaining to the prevention and control of air pollution.

002.11~~014~~ "Air Quality Control Region" means a region designated by the Governor, with the approval of the Administrator, for the purpose of assuring that national primary and secondary ambient air quality standards will be achieved and maintained. Within one year after the promulgation of a new or revised National Ambient Air Quality Standard, the Governor ~~must~~ will designate each region as non-attainment, attainment, or unclassifiable. The Administrator ~~must approve~~has final approval of the designations.

002.12~~015~~ "Allowable emissions" means

002.12A~~015.01~~ For a stationary source, the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

002.12A1~~015.01A~~ The applicable standards set forth in 40 CFR Parts 60 (Standards of Performance for New Stationary Sources) or Parts 61 or 63 (National Emission Standards for Hazardous Air Pollutants);

002.12A2~~015.01B~~ Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

002.12A3~~015.01C~~ The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

~~015.02 For a Plantwide Applicability Limitation (PAL), the definition is the same as in section 015.01 except as this definition is modified according to sections 015.02A and 015.02B.~~

~~015.02A The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.~~

~~015.02B An emissions unit's potential to emit shall be determined using the definition in section 116 except that the words "or enforceable as a practical matter" should be added after "federally enforceable".~~

002.13~~016~~ "Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.

002.14~~017~~ "AP-42" refers to the *Compilation of Air Pollutant Emission Factors*, published by the EPA Office of Air Quality Planning and Standards. It contains emission factors and process information for more than 200 air pollution source categories.

002.15~~018~~ "Applicable requirement" means all of the following as they apply to emissions units in a source required to obtain an operating permit, including requirements that have been promulgated and approved by the Council through rule-making at the time of issuance but have future-effective compliance dates:

002.15A~~018.01~~ Any standard or other requirement:

002.15A1 provided for in the applicable implementation plan that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR part 52;

~~018.02 Any term or condition of any construction permits;~~

002.15A2~~018.03~~ ~~Any standard or other requirement~~ under Chapter 12~~8~~ relating to standards of performance for new stationary sources;

002.15A3~~018.04~~ ~~Any standard or other requirement~~ established pursuant to Section 112~~113~~ of the Act and regulations adopted by the Council in Chapter~~s 23, 27 and 28~~ 13 relating to hazardous air pollutants listed in Appendix I~~I or Appendix III~~;

Commented [GR3]: Corrected reference.

002.15A4~~018.05~~ ~~Any standard or other requirement~~ of the acid rain program under Chapter 26~~5~~;

002.15A5018.06 Any requirements established under Chapter 31 6 or pursuant to any permit or order issued by the Director under this Title;

002.15A6018.07 Any standard or other requirement governing solid waste incineration under Chapter 128 or pursuant to Section 129(e) of the Act and regulations adopted by the Council;

002.15A7018.08 Any standard or other requirement for consumer and commercial products established under Section 183(e) of the Act and regulations adopted by the Council;

002.15A8018.09 Any standard or other requirement for tank vessels established under Section 183(f) of the Act and regulations adopted by the Council;

002.15A9018.10 Any standard or other requirement to protect stratospheric ozone as promulgated pursuant to Title VI of the Act and regulations adopted by the Council; and

002.15B Any term or condition of any construction permits;

002.15C018.11 Any national ambient air quality standard or increment or visibility requirement under the Prevention of Significant Deterioration Program (PSD) as defined in Chapter 1, but only as it would apply to temporary sources permitted pursuant to Chapter 406.

002.15D018.12 "Applicable requirements under the Act" means federal regulations promulgated pursuant to the Clean Air Act, as amended, which have not been considered and adopted by the Council.

019 "Area source" means:

Commented [GR4]: Orphaned definition; removed.

019.01 For the purposes of Class I permits under Chapter 5, 001.01C, any stationary source of hazardous air pollutants that is not a major source and as more particularly defined by National Emission Standards for Hazardous Air Pollutants promulgated under 40 CFR Part 63 and adopted by the Council.

019.02 For all other purposes, any small residential, governmental, institutional, commercial, or industrial fuel combustion operation; on-site waste disposal facility, vessels, or other transportation facilities; or other miscellaneous sources, as identified through inventory techniques approved by the Director.

~~019.03 Area source shall does not include motor vehicles or nonroad vehicles.~~

~~020 "Baseline actual emissions" has the definition given to it in Chapter 19, section 005, means the definition found at 40 CFR § 52.21(b)(48).~~

~~021 "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1) (A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal to or greater than one (1) microgram per cubic meter (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 micrograms per cubic meter (annual average) for $PM_{2.5}$.~~

~~022 "Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.~~

~~022.01 A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:~~

~~022.01A The actual emissions, as defined in section 002, representative of sources in existence on the applicable minor source baseline date, except as provided in section 022.02; and~~

~~022.01B The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.~~

~~022.02 The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):~~

~~022.02A Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and~~

~~022.02B Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.~~

002.16023 "Begin actual construction" means ~~in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change~~ the definition found at 40 CFR § 52.21(b)(11).

002.17024 "Best Available Control Technology" or "BACT"~~.~~

For purposes other than the PSD program, means an emission limitation or a design, equipment, work practice, operational standard or combination thereof, which results in the greatest degree of reduction of a pollutant, as determined by the Director to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs.

Commented [GR5]: EPA has concerns NDEE substantively revised the definition for BACT by deleting the portion related to EPA's PSD program. If we adopt 52.21 in the PSD chapter (Chapter 4), and we added the comment highlighted, does alleviate that concern?

~~For purposes of the Prevention of Significant Deterioration (PSD) program as defined in Chapter 1 means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major stationary source or major modification which the Director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.~~

~~For purposes other than the PSD program, means an emission limitation or a design, equipment, work practice, operational standard or combination thereof, which results in the greatest degree of reduction of a pollutant, as determined by the Director to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs.~~

002.18026 "Building, structure, or facility"~~, for purposes other than the Prevention of Significant Deterioration program,~~ means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities ~~shall~~ will be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

~~026 "Building, structure, facility, or installation", for purposes of the Prevention of Significant Deterioration program, means all of the pollutant-emitting activities which~~

~~belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.~~

002.19027 "Class I operating permit" means any permit or group of permits covering a Class I source that is issued, renewed, amended, or revised pursuant to this Title.

002.20028 "Class I source" means any source subject to the Class I permitting requirements of Chapter 56.

002.21029 "Class II operating permit" means any permit or group of permits covering a Class II source that is issued, renewed, amended, or revised pursuant to this Title.

002.22030 "Class II source" means any source subject to the Class II permitting requirements of Chapter 56.

002.23031 "Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

002.24032 "CO_2 equivalent emissions (CO_2e)" ~~shall~~ will represent an amount of greenhouse gases (GHGs) emitted, and ~~shall~~ will be computed by the sum total of multiplying the mass amount of emissions, in tons per year (tpy), for each of the six greenhouse gases in the pollutant GHGs, by each of the gas's associated global warming potential (see definition for "Global Warming Potential").

002.25033 "Commence" as applied to construction, reconstruction, or modification of a stationary source means that the owner or operator has all necessary preconstruction approvals and either has:

002.25A033.01 Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or

002.25B033.02 Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

002.26 "Common control" means one person or a number of persons acting together through ownership, management, contract, or otherwise to control pollutant emitting activities.

~~034 "Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Department from requesting or accepting any additional information.~~

002.27~~036~~ "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions (a change in "emissions" for the Prevention of Significant Deterioration Program).

002.28~~036~~ "Consumer Price Index" or "CPI" means the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

002.29~~037~~ "Continuous emissions monitoring system (CEMS)" means ~~all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis~~ the definition found at 40 CFR § 52.21(b)(44).

~~038 "Continuous emissions rate monitoring system (CERMS)" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).~~

Commented [GR6]: Orphaned definition. Removed.

~~039 "Continuous parameter monitoring system (CPMS)" means all of the equipment necessary to meet the data acquisition and availability requirements of the Prevention of Significant Deterioration program, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter value(s) on a continuous basis.~~

Commented [GR7]: Orphaned definition. Removed.

002.30~~040~~ "Control" and "controlling" means prohibition of contaminants as related to air, land, or water pollution.

002.31~~041~~ "Control strategy" means a plan to attain National Ambient Air Quality Standards or to prevent exceeding those standards.

~~042 "Council" means the Environmental Quality Council.~~

~~043 "Department" means the Department of Environmental Quality.~~

~~044 "Designated representative" means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Subpart B of 40 CFR part 72, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the Acid Rain Program. Whenever the term "responsible person" is used in this Title, it shall will be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program.~~

Commented [GR8]: Orphaned definition. Removed.

002.32~~045~~ "Deviation" means a departure from an indicator range or work practice for monitoring, consistent with any averaging period specified for averaging the results of the monitoring.

~~046 "Director" means the Director of the Department of Environmental Quality or his or her designee.~~

002.33~~047~~ "Draft permit" means the version of a permit for which the permitting authority offers public participation and, in the case of a Class I draft operating permit, affected State review.

Commented [GR9]: Draft permit is used, not an orphaned definition, so not removed.

~~048 "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.~~

~~049 "Elevated terrain" means terrain, which may affect the calculation of good engineering practice stack height.~~

Commented [GR10]: Orphaned definition. Removed.

002.34~~050~~ "Emission data" means chemical analysis of process fuel and the manufacturing or production process, as well as operational procedures and actual nature and amounts of emissions.

002.35~~051~~ "Emission limitation" and "Emission standard" mean a requirement established pursuant to this Title, the State Act, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

~~052 "Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable~~

Commented [GR11]: Orphaned definition. Removed.

~~requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.~~

002.36~~053~~ "Emissions unit" means any part or activity of a stationary source, which emits or would have the potential to emit any regulated air pollutant ~~("regulated NSR pollutant" for purposes of the Prevention of Significant Deterioration program)~~ or any pollutant listed in Appendix II. This term includes electric steam generating units. This term is not meant to alter or affect the definition of the "unit" for purposes of Chapter ~~26~~5.

~~053.01 For purposes of the Prevention of Significant Deterioration (PSD) program, there are two types of emissions units.~~

~~053.01A A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated; and~~

~~053.01B An existing emissions unit is any emissions unit that does not meet the requirements in 053.01A above.~~

002.37~~054~~ "Emissions" means releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof.

002.38~~055~~ "Existing source" means equipment, machines, devices, articles, contrivances, or installations which are in being on the effective date of these regulations.

002.39~~056~~ "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

002.40~~057~~ "Federally enforceable" means ~~all limitations, conditions, and requirements within any applicable State Implementation Plan, any permit requirements established in any permit issued pursuant to this Title, and any requirements in Chapters 18 and 23, 27, or 28 which are enforceable by the Administrator~~the definition found at *40 CFR 51.165(1)(a)(xiv)*.

002.41~~058~~ "Final permit" means the version of a permit issued by the Department that has completed all review procedures required by Chapter ~~14~~10, and for a Class I permit, Chapter ~~13~~6.

002.42~~059~~ "Fixed capital cost" means the capital needed to provide all the depreciable components of a source.

002.43060 "Fuel burning equipment" means any furnace, boiler, apparatus, stack and all associated equipment, used in the process of burning fuel.

061 "Fugitive dust" means solid airborne particulate matter emitted from any source other than a flue or stack.

001.01

002.44062 "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

002.45063 "General permit" means a general construction permit or a Class I or Class II general operating permit or a combination general construction and general operating permit that meets the requirements of Chapter 97.

002.46064 "Global Warming Potential" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram- of a reference gas, i.e., CO_2. The pollutant greenhouse gases (GHGs) is adjusted to calculate CO_2 equivalence using "Table A-1 – Global Warming Potentials" at 40 CFR Part 98, Subpart A, effective July 1, 2016.

002.47065 "Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six gases: carbon dioxide (CO_2), nitrous oxide (N_20), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

002.48066 "Hazardous air pollutant" means any air pollutant:

002.48A066.01 listed in Appendix II; or

002.48B066.02 to which no ambient air quality standard is applicable and which in the judgment of the Director may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

067 "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

Commented [GR12]: Orphaned definition. Removed.

002.49068 "Incinerator" means any furnace used in the process of burning solid waste, except for a furnace owned and operated by law enforcement agencies solely to dispose of ammunition, fireworks or similar flammable or explosive materials.

~~069 "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government~~

~~070 "Indian Reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.~~

~~071 "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.~~

~~072 "Insignificant activities" refers to activities and emissions that may be excluded from reporting for operating permit applications and/or emissions inventories. Emissions exempted from reporting requirements must still be included in the determination of whether a source must obtain a Class I or Class II operating permit.~~

002.50~~073~~ "Installation" means an identifiable piece of process equipment. (This definition does not apply to the Prevention of Significant Deterioration program. See "Building, structure, facility, or installation")

002.51~~074~~ "Interstate air pollution control agency" means:

002.51A~~074.01~~ An air pollution control agency established by two or more states; or

002.51B~~074.02~~ An air pollution control agency of two or more political subdivisions located in different states.

002.52~~075~~ "Local agency or local air quality agency" means any air pollution control agency in ~~this state~~Nebraska, other than a state agency, which is charged with responsibility for carrying out part of a plan.

~~076 "Low emitter" refers to a facility that has a potential to emit any regulated pollutant above the major source threshold (Class I operating permit level), but has actual emissions below the levels requiring a Class II operating permit.~~

~~077 "Low terrain" means any area other than high terrain~~

Commented [GR13]: Orphaned definition. Removed.

002.53~~078~~ "Lowest Achievable Emission Rate (LAER)" means~~, for any source, the more stringent emission rate from either:~~ the definition found at 40 CFR § 51.165(a)(1)(xiii).

~~078.01 The most stringent emission limitation contained in the implementation plan of any state for such class or category of sources (as adopted by the~~

~~Council) unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or~~

~~0778.02 The most stringent emission limitation which is achieved in practice by such class or category of source and adopted by the Council. These limitations, when applied to a modification, mean the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.~~

~~079 "Major emissions unit" means:~~

Commented [GR14]: Orphaned definition. Removed.

~~079.01 Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or~~

~~079.02 Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the Act for nonattainment areas.~~

002 54080 "Major modification" means ~~any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source~~ the definition found at 40 CFR § 52.21(b)(2).

~~080.01 Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.~~

~~080.02 A physical change or change in the method of operation shall not include:~~

~~080.02A Routine maintenance, repair and replacement;~~

~~080.02B Use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;~~

~~080.02C Use of an alternative fuel by reason of an order or rule under section 125 of the Act;~~

~~080.02D Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;~~

~~080.02E Use of an alternative fuel or raw material by a stationary source which:~~

~~080.02E1 The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition, which was established after December 21, 1976, pursuant to the Prevention of Significant Deterioration Program as defined in Chapter 1; or~~

~~080.02E2 The source is approved to use under any permit issued under regulations approved pursuant to the Prevention of Significant Deterioration Program as defined in Chapter 1;~~

~~080.02F An increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition, which was established after December 21, 1976, pursuant to the Prevention of Significant Deterioration Program as defined in Chapter 1; or~~

~~080.02G Any change in ownership at a stationary source.~~

~~080.02H The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:~~

~~080.02H1 The State implementation plan for the State in which the project is located; and~~

~~080202H2 Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.~~

~~080.02I The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.~~

~~080.02J The reactivation of a very clean coal-fired electric utility team generating unit.~~

~~080.03 This definition shall not apply with respect to a particular regulated NSR~~ pollutant when the major stationary source is complying with the requirements ~~under Chapter 19 for a PAL for that pollutant. Instead, the definition of "PAL major modification" shall apply.~~

~~081 "Major source baseline date" means, in the case of PM_{10} and sulfur dioxide, January 6, 1975, in the case of nitrogen dioxide, February 8, 1988, and, in the case of $PM_{2.5}$, October 20, 2010.~~

002.55~~082~~ "Major stationary source" or "major source" means ~~any source identified in Chapter 2.~~ a stationary source, or group of stationary sources described in 002.55A through 002.55G of this definition belonging to a single industrial grouping.

Commented [GR15]: Corrected references

002.55A Except as otherwise expressly provided herein, a major stationary source of air pollutants is one that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator of EPA);

002.55B A source which emits, or has the potential to emit 5 tpy or more of lead;

002.55C A source located in a nonattainment area with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides will not apply with respect to any source for which the Administrator of EPA has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

002.55D A source with the potential to emit 50 tpy or more of volatile organic compounds located in an ozone transport region established pursuant to section 184 (control of ozone or interstate ozone pollution) of the Act;

002.55E A source with the potential to emit 50 tpy or more of carbon monoxide located in a carbon monoxide nonattainment area classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator of EPA;

002.55F A source with the potential to emit 70 tpy or more of PM10 and located in a particulate matter (PM10) nonattainment areas classified as "serious"; or;

002.55G A source that emits or has the potential to emit, in the aggregate, 10 tpy or more of any hazardous air pollutant listed in Appendix I, 25 tpy or more of any combination of such hazardous air.

pollutants, or such lesser quantity as the Administrator of EPA may establish by rule.

002.55G1 Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants.

002.55H For radionuclides, "major source" will have the meaning specified by the Administrator of EPA by rule.

~~002.I For the purposes of the Prevention of Significant Deterioration of Air Quality Program, only a source belonging to one of the 28 source categories which emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant, or any stationary source which emits, or has the potential to emit, 250 tpy per year or more of a regulated NSR pollutant.~~

Commented [GR16]: Deleted, per EPA comments.

002.55I For the purposes of defining "major source" or "major stationary source", a single industrial grouping includes a stationary source or group of stationary sources and any support facilities that:

002.55I1 Are under common control of the same person (or persons under common control);

002.55I2 Are located on contiguous or adjacent properties; and

002.55I3 Belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification (SIC) Manual, 1987. Except that a support facility is considered to be part of the same industrial grouping as that of the primary facility it supports even if the support facility has a different two digit SIC code.

002.55I3(a) "Support Facility" means a facility which conveys, stores, or otherwise assists in the production of a stationary source's primary product. The Department will make a determination on the status of a support facility relationship.

Commented [GR17]: Moved to under definition of Major Source, per EPA suggestion.

002.55I3(a)(1) Where more than 50% of the output or services provided by one facility is dedicated to

another facility a support facility relationship is presumed to exist.

002.55I3(a)(2) Other factors used to determine support facility relationship include, but are not limited to: (1) the degree to which a facility receives materials or services from a stationary source; (2) the degree to which a stationary source exerts control over a facility's operations; (3) the nature of any contractual arrangements between the facilities; and (4) the reasons for the presence of the facility on property contiguous or neighboring to the stationary source (e.g., whether the facility would exist at that site but for the stationary source).

002.55I3(a)(3) Where a single facility is used to support the otherwise distinct sets of activities of a single or multiple sources, the unit is to be included within the source which relies most heavily on its support

Commented [GR18]: Changed, per NDEE review.

002.55J For the purposes defining "Major Source" or Major Stationary Source", the fugitive emissions of a stationary source will not be considered unless the source belongs to one of the source categories found in 40 CFR Part 52.21(i)(1)(vii).

Commented [GR19]: Replaced 28 Source Categories with CFR reference.

002.55K Any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source, will be considered a major stationary source, if the change by itself would constitute a major stationary source

002.55L A major stationary source that is major for volatile organic compounds or NOx will be considered major for ozone

002.55M Major source of particulate matter, for purposes of Class I operating permits, will be determined based on the potential to emit PM_{10}.

002.56~~083~~ "Maximum achievable control technology" or (MACT)" means:

002.56A~~083.01~~ For new sources, the emission limitation reflecting the maximum degree of reduction in hazardous air pollutant emissions that is deemed achievable, which is no less stringent than the emission limitation achieved in practice by the best controlled similar source.

002.56B~~083.02~~ For existing sources, the emission limitation reflecting the maximum degree of reduction in hazardous air pollutant emissions that

the Director, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory, which is no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources, as determined pursuant to section 112(d)(3) of the Act.

~~084 "Method 9" refers to a visual determination of the opacity of emissions from a stationary source as defined in 40 CFR 60, Appendix A-4.~~

~~085 "Method 22" refers to a visual determination of fugitive emissions from material sources and smoke emissions from flares as defined in 40 CFR 60, Appendix A-7.~~
~~087 "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to the Prevention of Significant Deterioration Program, as defined in Chapter 1, submits a complete permit application. The trigger date is, in the case of PM_{10} and sulfur dioxide, August 7, 1977, in the case of nitrogen dioxide, February 8, 1988, and in the case of $PM_{2.5}$, October 20, 2011. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 or to Chapter 19, and, in the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.~~

~~088 "Mobile source" means a motor vehicle, nonroad engine, or nonroad vehicle. A motor vehicle is a self-propelled vehicle designed for transporting persons or property on a street or highway. A nonroad vehicle is a vehicle powered by a nonroad engine. A nonroad engine is an internal combustion engine that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202 of the Act.~~

Commented [GR20]: Orphaned definition. Removed.

002.57~~089~~ "Modification" means any physical change in, or change in method of operation of, an affected facility which increases the amount of any air pollutant, except that:

002.57A089.01 Routine maintenance, repair, and replacement (except as defined as reconstruction) shall will not be considered physical changes; and

002.57B089.02 An increase in the production rate or hours of operation shall will not be considered a change in the method of operation, unless such change would violate a permit condition.

002.58090 "National standard" means either a primary or a secondary standard established pursuant to the Act the definition found at 40 CFR § 51.100(e).

091 "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

Commented [GR21]: Orphaned definition. Removed.

092 "Net emissions increase" means the following:

Commented [GR22]: Deleted.

092.01 With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

092.01A The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to the Prevention of Significant Deterioration Program as defined in Chapter 1; and

092.01B Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases shall be determined as provided in Chapter 19, section 005 except that sections 005.05 and 005.06 shall not apply.

092.01C An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before the source begins actual construction of the project and the date that the increase from the project occurs.

092.02 An increase or decrease in actual emissions is creditable only if:

092.02A It occurs within the contemporaneous period as defined in section 092.01C; and

092.02B The Director has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in

~~effect when the increase in actual emissions from the particular change occurs.~~

~~092.03 An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.~~

~~092.04 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.~~

~~092.05 A decrease in actual emissions is creditable only to the extent that:~~

~~092.05A The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;~~

~~092.05B It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;~~

~~092.05C The Director has not relied on it in issuing any permit under regulations in the State Implementation Plan approved pursuant to 40 CFR Part 51, Subpart I or in demonstrating attainment or reasonable further progress; and~~

~~092.05D It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.~~

~~092.06 An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.~~

~~092.07 Section 002.01 shall not apply for determining creditable increases and decreases.~~

002.59~~093~~ "New source" means any stationary source the construction, modification, or reconstruction of which is commenced after the publication of regulations by the State of Nebraska or the federal government prescribing a standard of performance which will be applicable to such source.

002.60~~094~~ "Non-attainment area" means any area designated by the Department or the ~~United States Environmental Protection Agency~~Administrator of EPA pursuant to Section 107 (d) of the Act as an area exceeding any National Ambient Air Quality Standard.

002.61095 "Opacity" means a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

002.62096 "Open fires" means the burning of any matter in such a manner that the products of combustion resulting from such fires are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

002.63097 "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

~~098 "PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased Plantwide Applicability Limitation (PAL) is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.~~

~~099 "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.~~

~~100 "PAL major modification" means, notwithstanding the definitions of "major stationary source" and "major modification", any physical change in or change in the method of operation of the Plantwide Applicability Limitation (PAL) source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.~~

~~101 "PAL permit" means the construction permit issued by the Department that establishes a Plantwide Applicability Limitation (PAL) for a major stationary source.~~

Commented [GR23]: Deleted, per EPA comment.

~~102 "PAL pollutant" means the pollutant for which a Plantwide Applicability Limitation (PAL) is established at a major stationary source.~~

002.64103 "Particulate matter" means ~~any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers~~ the definition found at 40 CFR § 51.100(oo).

002.65104 "Particulate matter emissions" means ~~all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by the United States Environmental Protection Agency, or by a test method specified in an approved State Implementation Plan~~ the definition found at 40 CFR § 51.100(pp).

002.66105 "Performance test" means measurements of emissions or other procedures used for the purpose of determining compliance with a standard of performance conducted in accordance with approved test procedures.

~~106. "Permit program costs" means all reasonable (direct and indirect) costs required to develop and administer an air operating permit program, as set forth in Neb. Rev. Stat. §81-1505.04.~~

002.67~~107~~ "Permit revision" means a revision to an operating or construction permit that meets the requirements of Chapter ~~159~~.

002.68~~108~~ "Permitting authority" means the Department of Environmental Quality.

~~109. "Person" means any individual, partnership, limited liability company, association, public or private corporation, trustee, receiver, assignee, agent, municipality or other governmental subdivision, public agency, other legal entity, or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.~~

002.69~~110~~ "Plan" means ~~an implementation plan adopted by the State pursuant to Section 110 of the Act, to attain and maintain a national standard~~ the definition found at 40 CFR § 51.100(l).

002.70~~111~~ "Plantwide applicability limitation (PAL)" means ~~an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Chapter 19, section 011~~the definition found at 40 CFR § 51.165(f)(2)(v).

002.71~~112~~ "PM_{10}" means ~~particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods~~ the definition found at 40 CFR § 51.100(qq).

002.72~~113~~ "PM_{10} emissions" means ~~finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers PM_{10}, emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the United States Environmental Protection Agency or by a test method specified in an approved State implementation Plan~~the definition found at 40 CFR § 51.100(rr).

~~114. Reserved.~~

~~115. "Pollution prevention" means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants (including fugitive emissions) and other pollutants to the environment prior to recycling, treatment, or disposal; it does not mean recycling (other than certain "in-process recycling" practices), energy recovery, treatment, or disposal.~~

Commented [GR24]: Orphaned definition. Removed.

002.73~~116~~ "Potential to emit" means the ~~maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source~~ definition found at 40 CFR § 51.165(a)(1)(iii). ~~This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Chapter 26.~~

002.74~~117~~ "Predictive emissions monitoring system (PEMS)" means ~~all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis~~ the definition found at 40 CFR § 51.165(a)(1)(xxxii).

002.75~~118~~ "Prevention of Significant Deterioration Program (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR § 51.166 or 40 § CFR 52.21. ~~Any permit issued under such a program is a major NSR permit.~~

~~119 "Primary standard" means a national primary ambient air quality standard identified in Chapter 4.~~

002.76~~120~~ "Process" means any action, operation or treatment, and all methods and forms of manufacturing or processing, that may emit smoke, particulate matter, gaseous matter, or other air contaminant.

002.77~~121~~ "Process weight" means the total weight of all materials introduced into any source operation. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

002.78~~122~~ "Process weight rate" means, for continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof. For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles divided by the number of hours of actual process operation during such a period. Where the nature of any process or operation, or the design of any equipment, is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission ~~shall~~ will apply.

002.79~~123~~ "Project" means a physical change in, or change in method of operation of, an existing major stationary source.

~~124 "Projected actual emissions" meanshas the definition given to it in Chapter 10, section 006~~

~~125 "Proposed Class I operating permit" means the version of a permit that the Department proposes to issue and forwards to the Administrator for review.~~

002.80~~126~~ "Reasonable further progress" means such annual incremental reductions in emissions of the relevant air pollutant as are required by the applicable implementation plan or may reasonably be required by the Director for the purpose of ensuring attainment of the applicable ambient air quality standard by the applicable date.

002.81~~127~~ "Reconstruction" means a situation where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred ~~shall~~ will be made in accordance with the provisions of 40 CFR § 60.15(f)(1)-(3). A reconstructed source will be treated as a new stationary source. In determining best available control technology or lowest achievable emission rate for a reconstructed source, the provisions of 40 CFR § 60.15(f)(4) ~~shall~~ will be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

~~128 "Region" means:~~

~~128.01 An air quality control region designated by the Administrator; or~~

~~128.02 Any area designated by the State as an air quality control region.~~

002.82~~129~~ "Regional administrator" means the Regional designee appointed by the Administrator of EPA.

002.83~~130~~ "Regulated air pollutant" means the following:

002.83A~~130.01~~ Nitrogen oxides or any volatile organic compounds as defined in this Chapter;

002.83B~~130.02~~ Any pollutant for which a national ambient air quality standard has been promulgated;

002.83C130.03 Any pollutant that is subject to any standard in Chapter 12~~6~~; and

002.83~~D430.04~~ Any pollutant subject to a standard or other requirements established in Chapters ~~27 or 28~~ 13 relating to hazardous air pollutants, including the following:

002.83~~D1430.04A~~ Any pollutant subject to requirements under Chapter ~~27~~13, 004.05; and

002.83~~D2430.04B~~ Any pollutant for which the requirements relating to construction, reconstruction, and modification in Chapter ~~27~~13, 004.03, have been met, but only with respect to the individual source subject to these requirements.

002.84~~131~~ "Regulated NSR pollutant" means ~~the following:~~ the definition found at 40 CFR § 52.21(b)(50).

~~131.01 Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator. Precursors for the purpose of NSR are the following:~~

~~131.01A Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.~~

~~13101B Sulfur dioxide and nitrogen oxides are precursors to $PM_{2.5}$ in all attainment and unclassifiable areas.~~

~~131.02 Any pollutant that is subject to any standard promulgated under section 111 of the Act;~~

~~131.03 Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or~~

~~131.04 Any pollutant that otherwise is subject to regulation under the Act, except that any or all hazardous air pollutants either listed in section 112 of the Act or added to the list pursuant to section 112(b)(2) of the Act, which have not been delisted pursuant to section 112 (b)(3) of the Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.~~

~~131.05 Greenhouse gases (GHGs) as follows:~~

~~131.05A Beginning January 2, 2011:~~

~~131.05A1 The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tons per year CO_2e or more; or~~

~~131.05A2 The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tons per year CO_2e or more; and~~

~~131.05B Beginning July 1, 2011, in addition to the provisions in section 131.05A:~~

~~131.05B1 The stationary source is a new stationary source that will emit or have the potential to emit 100,000 tons per year CO_2e or more; or~~

~~131.05B2 The stationary source is an existing stationary source that emits or has the potential to emit 100,000 tons per year CO_2e or more, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tons per year CO_2e or more.~~

~~131.05C The term emissions increase as used in 131.05A and 131.05B shall mean that both a significant emissions increase (as calculated in Chapter 19, section 008) and a significant net emissions increase (as defined in Chapter 1, section 092 and Chapter 19, section 010) occur. For the pollutant GHGs, an emissions increase shall be based on tons per year CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tons per year CO_2e instead of applying the value in Chapter 19, section 010.18.~~

002.85~~132~~ "Regulated pollutant for fee purposes" means any regulated air pollutant identified in this chapter, except for the following:

002.85A~~132.01~~ Carbon monoxide;

002.85B~~132.02~~ Particulate matter, excluding PM_{10};

002.85C~~132.03~~ Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act and regulations adopted by the Council; or

002.85D~~132.04~~ Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation promulgated under Section 112(r) of the Act and regulations adopted by the Council.

002.85E~~132.05~~ Greenhouse gases (GHGs)

~~133 "Renewal" means the process by which a permit is reissued at the end of its term.~~

~~134. "Replacement unit" means an emissions unit for which all the criteria listed in this definition are met. No creditable emission reductions shall be generated from shutting down the existing unit that is replaced.~~

~~134.01. The emissions unit is a reconstructed unit within the meaning of "reconstruction" as defined in Chapter 1, or the emissions unit completely takes the place of an existing emissions unit.~~

~~134.02. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.~~

~~134.03. The replacement does not change the basic design parameter(s) of the process unit.~~

~~134.04. The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced unit is brought back into operation, it shall constitute a new emissions unit.~~

002.86~~135~~ "Responsible official" means ~~one of the following:~~ the definition found at 40 CFR § 70.2.

~~135.01. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:~~

> ~~135.01A. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or~~
>
> ~~135.01B. The delegation of authority to such representatives is approved in advance by the permitting authority;~~

~~135.02. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;~~

~~135.03. For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or~~

~~135.04. For affected sources:~~

~~135.04A The designated representative in so far as actions, standards, requirements, or prohibitions under Chapter 26 are concerned; and~~

~~135.04B The designated representative for any other purposes under the Title V program.~~

~~136 "Rule or regulation" means any rule or regulation of the Council.~~

~~137 "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.~~

Commented [GR25]: Orphaned definition. Removed.

~~138 "Secondary standard" means a national secondary ambient air quality standard identified in Chapter 4.~~

~~139 "Section 502(b)(10) changes" are changes provided for in section 502 (b)(10) of the Act. These are changes allowed within a permitted facility without requiring a permit revision if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit. The facility must provide the Department with written notification of the proposed changes at least 7 days in advance unless the Director determines a different timeframe due to an emergency.~~

002.87~~140~~ "Significant" means, as pertains to a modification in a non-attainment area, a net increase in actual emissions by a rate that would equal or exceed the rates specified in 40 CFR § 51 Appendix S, II.A.10 ~~following rates ("Significant" for purposes of the Prevention of Significant Deterioration Program is defined in Chapter 19):~~

Commented [GR26]: Updated per EPA comment.

~~Pollutant and Emission Rate~~

~~Carbon monoxide: 100 tons per year (tpy)~~

~~Nitrogen oxides: 40 tpy~~

~~Sulfur dioxide: 40 tpy~~

~~Particulate matter: 25 tpy~~

~~PM_{10}: 15 tpy~~

~~$PM_{2.5}$: 10 tpy~~

~~Ozone: 40 tpy of volatile organic compounds or nitrogen oxides~~

~~Lead: 0.6 tpy~~

~~Fluorides: 3 tpy~~

~~Sulfuric acid mist: 7 tpy~~

~~Hydrogen sulfide (H_2S): 10 tpy~~

~~Total reduced sulfur (including H_2S): 10 tpy~~

~~Reduced sulfur compounds (including H_2S): 10 tpy~~

~~Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2x10-6 megagrams per year (3.5x10-6 tons per year)Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)~~

~~Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)~~
~~Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year).~~

~~141. "Significant emissions increase" has the definition given to it in Chapter 19, section 008.~~

~~142. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in section 140 or in the Act, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit as defined in section 079.~~

~~143. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in section 140 or in the Act, whichever is lower.~~

~~144. "Solid waste" has the definition given to it in section 81-1502 (26) of the Nebraska Environmental Protection Act.~~

002.88~~145~~ "Source" means any property, real or personal, or person contributing to air pollution.

~~146 "Speciation" is the process of classifying and separating objects by common characteristics including, but not limited to, chemical mass balance, factor analysis, optical microscopy, and automated scanning electron microscopy. It is the process used to find the relative proportions or mix of air source categories which best accounts for the composition of a pollutant sample.~~

002.89~~147~~ "Stack" means ~~any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares~~ the definition found at 40 CFR § 51.100(ff).

002.90~~148~~ "Stack in existence" means ~~that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations which could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time~~ the definition found at 40 CFR § 51.100(gg).

002.91~~149~~ "Stack height" means the distance from the ground level elevation of a stack to the elevation of the stack outlet.

002.92~~150~~ "Standard of performance" means a standard for emission of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Director determines has been adequately demonstrated.

002.93~~151~~ "Start-up of operation" means the beginning of routine operation of an affected facility.

002.94~~152~~ "State" means any non-Federal permitting authority, including any local agency, interstate association, or statewide program.

002.95~~153~~ "State Act" means the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 through §81-1532, as amended.

002.96~~154~~ "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under this Title.

~~155 "Synthetic minor" refers to a facility that has a potential to emit any regulated pollutant above the major source threshold (Class I operating permit level), but has taken federally enforceable limits to keep potential emissions below the major source threshold, but above the minor source threshold.~~

156. "Title V program" or "State program" means a program approved by the Administrator for purposes of Title V of the Act.

002.97 "TPY" or "tpy" means tons per year.

002.98157 "Total reduced sulfur" means total sulfur from the following compounds: hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.

158. "Total Suspended Particulates" means particulate matter as measured by the method described in Appendix B of 40 CFR Part 50.

159. "UTM coordinates" refer to the Universal Transverse Mercator Coordinate (UTM) system, which provides coordinates on a world wide flat grid. The UTM coordinate system divides the world into 60 zones, each being six degrees longitude wide and extending from 80 degrees south latitude to 84 degrees north latitude. The first zone starts at the International Date Line and proceeds eastward.

002.99160 "Volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. VOC includes any such organic compound other than the compounds listed in the definition at 40 CFR § 51.100(s)(1), effective July 1, 2016, which have been determined to have negligible photochemical reactivity.

002.100161 "Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings.

002.101162 "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs. They come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

Legal Citation: Title 129, Ch. 1, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 - ~~Department of Environmental Quality~~Air Quality Regulations

Chapter 2 - ~~DEFINITION OF MAJOR SOURCE~~NEBRASKA AIR QUALITY STANDARDS

001 ~~Hazardous Air Pollutants. A major source of hazardous air pollutants is defined as:~~ Nebraska Ambient Air Quality Standards. The National Ambient Air Quality Standards published at 40 CFR Part 50; as of July 1, 2019, unless otherwise indicated, are incorporated by reference and made applicable in the State of Nebraska. Administrator, as used in 40 CFR Part 50, means EPA Administrator

~~001.01 For pollutants other than radionuclides, any stationary source or any group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant listed in Appendix I; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator of EPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants. All fugitive emissions must be considered in determining whether a stationary source is a major source.~~

~~001.02 For radionuclides, "major source" shall have the meaning specified by the Administrator of EPA by rule.~~

002 ~~Except as otherwise expressly provided herein, a major stationary source of air pollutants is one that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator of EPA). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this subsection, unless the source belongs to one of the following categories of stationary source:~~ Total reduced sulfur (TRS)

002.01 ~~Coal cleaning plants (with thermal dryers).~~Except as provided in 002.01A and 002.01B these standards apply:

Level: 10.0 parts per million (10.0 ppm)
Averaging time: 1 minute
Form: Maximum average concentration

Level: 0.10 parts per million (0.10 ppm)

Averaging time: 30-minutes
Form: Maximum rolling average

002.01A Ambient air concentrations of TRS emissions occurring as a result of natural activities that have no associated economic benefits will not constitute a violation of the standards contained in section 002.

002.01B The Department may allow any source causing or contributing to a violation of the standards in 002 to develop and implement a program to eliminate such emissions causing a violation.

002.02 ~~Kraft pulp mills:~~Unless otherwise approved by the Director, TRS in the ambient air will be measured using a TRS thermal converter in conjunction with an SO2 monitor. Only an SO2 monitor that has been designated as an EPA reference method or equivalent method in accordance with 40 CFR Part 53 may be used. When used in combination with a thermal converter, the SO2 monitor will meet or exceed the performance limit specifications for automated methods prescribed in 40 CFR Part 53 Subpart B.

002.03 ~~Portland cement plants:~~A rolling average will be considered valid if there is data for at least 75 percent of the period in question. In the event that less than 100 percent of the data are available, the rolling average will be computed on the basis of the data available using the number of data available as the divisor.

002.04 ~~Primary zinc smelters:~~The standards are attained when all of the following conditions are met:

002.04A The one-minute concentration is less than or equal to 10.0 ppm, rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm must be rounded up);

002.04B The 30-minute rolling arithmetic mean concentration is less than or equal to 0.10 ppm, rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm must be rounded up).

~~002.05 Iron and steel mills;~~

~~002.06 Primary aluminum ore reduction plants;~~

~~002.07 Primary copper smelters;~~

~~002.08 Municipal incinerators capable of charging more than 250 tons of refuse per day;~~

~~002.09 Hydrofluoric, sulfuric, or nitric acid plants;~~

002.10 Petroleum refineries;

002.11 Lime plants;

002.12 Phosphate rock processing plants;

002.13 Coke oven batteries;

002.14 Sulfur recovery plants;

002.15 Carbon black plants (furnace process);

002.16 Primary lead smelters;

002.17 Fuel conversion plants;

002.18 Sintering plants;

002.19 Secondary metal production plants;

002.20 Chemical process plants – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140;

002.21 Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

002.22 Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

002.23 Taconite ore processing plants;

002.24 Glass fiber processing plants;

002.25 Charcoal production plants;

002.26 Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

002.27 Any other stationary source category which is being regulated by a standard promulgated under Section 111 or 112 of the Act, as of August 7, 1980.

003 A major stationary source of air pollutants is defined as one which emits, or has the potential to emit 5 tons per year or more of lead. Visibility Protection.

003.01 For the purposes of this section, 40 CFR § 51.301 is incorporated by reference. Administrator, as used in 40 CFR § 51.301, means EPA Administrator. Appendix Y (Guidelines for BART Determinations Under the Regional Haze Rule) of 40 CFR 51, is incorporated by reference.

003.02 The owner or operator of a stationary source that is subject to a Best Available Retrofit Technology (BART) determination according to 40 CFR Part 51, Appendix Y is to submit a BART determination in accordance with Appendix Y of 40 CFR Part 51 to the Department for review. The Department will issue a permit to the source, pursuant to section 003.03, giving consideration to the source's BART determination.

003.03 The BART requirements for any BART stationary source that is subject to BART according to 40 CFR Part 51, Appendix Y will be incorporated into a construction permit in accordance with Chapter 3 of this Title.

004 ~~Any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source, shall be considered a major stationary source, if the change by itself would constitute a major stationary source~~Regions and Subregions: How Classified. The following Air Quality Control Regions are designated for Nebraska:

004.01 The Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region includes the counties of Lancaster, Gage, Jefferson, and Thayer and all subdivisions therein. Lancaster County is designated a subregion of the Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region.

004.02 The Metropolitan Sioux City Interstate Air Quality Control Region includes Dakota County in Nebraska; two counties in Iowa and one in South Dakota

004.03 The Omaha-Council Bluffs Interstate Air Quality Control Region includes the counties of Douglas and Sarpy in Nebraska and Pottawattamie in Iowa.

004.04 The Columbus Intrastate Air Quality Control Region includes the counties of Platte, Colfax, Polk, and Butler and all subdivisions therein.

004.05 The Nebraska Intrastate Air Quality Control Region includes all counties (and subdivisions therein) within the boundaries of the state exclusive of those counties included in one of the other four Air Quality Control Regions. Cass County and Dawson County are designated as subregions of the Nebraska Intrastate Air Quality Control Region.

005 ~~A major stationary source that is major for volatile organic compounds or NO_x shall be considered major for ozone~~Controls for Transferring, Conveying, Railcar, and Truck Loading at Rock Processing Operations in Cass County. The owner or operator of any rock processing operation located in Cass County shall install, operate and maintain a system to reduce potential emissions from conveying, transfer operations, and railcar

and truck loading by 85 percent. Compliance with this Chapter may be demonstrated by the full-time use with any suitable combination of sprays, hoods, enclosures, or filters subject to Department approval.

006 ~~A major stationary source for purposes of Chapter 17, section 013 includes:~~ Air Pollution Emergency Episodes

006.01 ~~For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator of EPA has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply:~~ Appendix L to 40 CFR Part 51 (July 1, 2018), except for the preamble contained therein, is hereby adopted and incorporated by reference.

006.02 ~~For ozone transport regions established pursuant to section 184 (control of ozone or interstate ozone pollution) of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds.~~ Whenever the Director finds that an emergency exists requiring immediate action to protect the public health and welfare, the Director will issue an announcement to the general public.

006.03 ~~For carbon monoxide nonattainment areas~~Episode Criteria. In the event of an Emergency Episode the following procedures will be followed by the Department:

006.03A ~~That are classified as "serious," and~~ The Department will monitor forecasts of atmospheric stagnation and updates of current conditions as frequently as they are issued by the National Weather Service.

006.03B ~~In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator of EPA, sources with the potential to emit 50 tpy or more of carbon monoxide; and~~ The Department may inspect sources to ascertain compliance with applicable Emission Reduction Plans.

006.03C The Department will establish a dedicated means for communication with public officials, major emission sources, public health and safety agencies, and news media for the duration of the Emergency Event.

~~006.04 For particulate matter (PM_{10}) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM_{10}.~~

007. Major source, for purposes of Class I operating permits, means any stationary source (or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraph 001, 002, 003, 004, 005, 006, 008 or 009 of this definition. For the purposes of defining "major source", a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

008. Major stationary source, for the purposes of the Prevention of Significant Deterioration of Air Quality Program (PSD), includes the sources described in sections 008.01 through 008.03. Sources in the categories listed in sections 002.01 through 002.27 must include fugitive emissions in determining major source status.

008.01. Any of the following stationary sources which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants (with thermal dryers), primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140), fossil fuel boilers (or combinations thereof) totaling more 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants.

008.02. Notwithstanding the stationary source size specified in section 008.01, any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant, or 008.03. Sources fitting the descriptions in sections 004 and 005.

009. Major source of particulate matter, for purposes of Class I operating permits, shall be determined based on the potential to emit PM_{10}.

Legal Citation: Title 129, Ch. 2, Nebraska Department of Environmental Quality

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2), 81-1505(1)(12)(16), 81-1507(4)

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 3 - ~~REGIONS AND SUBREGIONS – HOW CLASSIFIED~~CONSTRUCTION PERMITS

001 ~~Five basic Air Quality Control Regions are hereby designated for the State of Nebraska:~~ When Required

001.01 ~~The Nebraska Intrastate Air Quality Control Region includes all counties (and subdivisions therein) within the boundaries of the state exclusive of those counties included in one of the other four Air Quality Control Regions. Figure 3-1 shows the locations of all five Air Quality Control Regions.~~ For the purposes of this Chapter, the following activities are allowed for sources with projects of uncontrolled emissions less than PSD emission thresholds of Chapter 4, provided the Department has received a complete application for a construction permit; and the source has notified the Department at least ten (10) working days prior to the start of activities:

Commented [GR27]: EPA had concerns about the initial language we had here. Does the new language address those concerns?

001.01A Installation of footings and foundations;

001.01B Installation of underground utilities;

001.01C Construction of storage structures;

001.01D Ordering of equipment;

001.01E Off-site fabrication.

001.02 ~~The Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region includes the counties of Lancaster, Gage, Jefferson, and Thayer and all subdivisions therein.~~ The construction activities listed in 001.01 will not create any rights or guarantee that a construction permit will be issued.

001.03 ~~The Metropolitan Sioux City Interstate Air Quality Control Region includes only Dakota County in Nebraska; two counties in Iowa and one in South Dakota form the largest part of the whole region.~~ Except as provided in this Chapter or Chapters 4 or 8 of Title 129, or other applicable state and federal regulations, no person will cause the construction, reconstruction, or modification at any of the following without a construction permit issued by the Department.

001.03A Any stationary source or emission unit, such that there is a net increase in potential emissions at the stationary source equal to or exceeding the following levels:

001.03A1 Fifteen (15) tpy of PM_{10} emissions.

001.03A2 Ten (10) tpy of $PM_{2.5}$ emissions.

001.03A3 Forty (40) tpy of sulfur dioxide (SO_2) or sulfur trioxide (SO_3), or any combination of the two.

001.03A4 Forty (40) tpy of oxides of nitrogen (calculated as NO_2).

001.03A5 Forty (40) tpy of volatile organic compounds (VOC).

001.03A6 One hundred (100) tpy of carbon monoxide (CO).

001.03A7 Six-tenths (0.6) tpy of lead.

001.03A8 Two and one-half (2.5) tpy of any hazardous air pollutant or an aggregate of ten (10) tpy of any hazardous air pollutants, including all associated fugitive emissions (see Chapter 13)

001.03B Any incinerator used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for the disposal of residential waste generated on the said property.

001.04 ~~The Omaha-Council Bluffs Interstate Air Quality Control Region includes the counties of Douglas and Sarpy in Nebraska and Pottawattamie in Iowa.~~When determining applicability under 001.03A above, sources belonging to one of the source categories found in 40 CFR Part 52.21(i)(1)(vii) are to include fugitive emissions.

Commented [GR28]: Replaced "28 source categories"

001.05 Where a permit is not explicitly required for a source, the owner or operator may apply for a construction permit for one of more of the following purposes:
~~The Columbus Intrastate Air Quality Control Region includes the counties of Platte, Colfax, Polk, and Butler and all subdivisions therein.~~

001.05A To establish enforceable limits to avoid otherwise applicable requirements under the provisions of Title 129.

001.05B To revise existing construction permits to incorporate significant permit revisions as defined in Chapter 9.

001.05C To establish a PAL pursuant to the provisions of Chapter 4 of Title 129. The construction permit used to establish a PAL must include the information and conditions listed in Chapter 4.

001.05D To establish a Best Available Retrofit Technology (BART) permit or other permit required to reduce visibility impairment in a Class I Federal area as described in 40 CFR § 81.400, pursuant to the visibility protection provisions of Chapter 2. Administrator, as used in 40 CFR § 81.400, means Administrator of EPA.

001.06 Sources not subject to provisions of this Chapter may still be required to obtain a Prevention of Significant Deterioration permit pursuant to provisions in Chapter 4.

Commented [GR29]: Added language in to address EPA's concern, and reflect the language we have in Chapter 4 regarding this chapter.

002 ~~Lancaster County is hereby designated as a subregion of the Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region.~~ Duty to Apply. Application Form. To apply for a construction permit, request construction permit applicability, or request a significant permit revision for a source, the owner or operator will submit an application for a construction permit on forms provided by the Department.

002.01 Application Fee. Each application for a construction permit will be accompanied by a non-refundable fee. The amount of the fee will be based on the amount of pollutants (including fugitive emissions) the entire source will directly emit or have the potential to emit, as provided for in Neb. Rev. Stat. § 81-1505.06.

002.02 Complete Application

002.02A The application will be certified by a responsible official for the source.

002.02B The Department will review each application and evaluate expected emissions from the planned source for compliance and attainment with these regulations, applicable federal air quality regulations, and National Ambient Air Quality Standards (NAAQS). The Department shall require in the application information as necessary to determine if the new or modified source will interfere directly or indirectly with the attainment or maintenance of National Primary and Secondary Ambient Air Quality Standards, or violate any portion of an existing control strategy.

002.02C The owner or operator of a source required to obtain a construction permit will submit an application on the standard forms available from the Department. The applicant, at a minimum, will include the following information on the standardized application form or in attachments:

002.02C1 Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of designated source contacts. If the company is located on leased property, the name of the property owner will be provided.

002.02C2 A description of the source's processes and products (by Standard Industrial Classification Code as published by the Executive Office of the President's Office of Management and Budget, and Source Classification Code as published by EPA's Office of Air Quality Planning and Standards) including any processes and products associated with an alternate scenario identified by the source.

002.02C3 The following emission-related information for each emissions unit:

002.02C3(a) All potential emissions of regulated air pollutants. A permit application will describe all potential emissions of regulated air pollutants emitted from any emissions unit. If requested by the Department, the applicant will submit additional information related to the emissions of air pollutants sufficient to verify which regulations are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule. This information will be provided for each operating scenario identified by the source.

002.02C3(b) Identification and description of all points of emissions described in 002.02C3A above in sufficient detail to establish the basis for fees and applicability of requirements of the Act and State Act.

002.02C3(c) Emissions rate in TPY and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method or alternative method as approved by the Director.

002.02C3(d) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.

002.02C3(e) Identification and description of air pollution control equipment and compliance monitoring devices and activities.

002.02C3(f) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.

002.02C3(g) Other information identified in any applicable requirement (including information related to stack height limitations developed pursuant to Chapter 3).

002.02C3(h) Calculations on which the information in the above paragraphs is based.

002.02C3(i) The applicant will indicate any emission points at the facility for which the applicant intends to request coverage under a general permit.

002.02C4 The following air pollution control requirements.

002.02C4(a) Citation and description of all applicable requirements, and

002.02C4(b) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

002.02C5 Other specific information that may be necessary to implement and enforce other applicable requirements of the Act, State Act, or this Title or to determine the applicability of such requirements.

002.02C6 An explanation of any proposed exemptions from otherwise applicable requirements.

002.02C7 Additional information as determined to be necessary by the permitting authority to define alternate operating scenarios identified by the source or to define permit terms and conditions related to modifications that do not require a permit revision.

002.03 Duty to Supplement and Correct Application

002.03A If the Department determines that the application is not complete or additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response.

002.03B Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application will, upon becoming aware of such failure or incorrect submittal, immediately notify the Department and promptly submit such supplementary facts or corrected information.

002.03C If an ambient air quality impact analysis is deemed necessary by the Director as a part of a construction permit application, concentrations of pollutants that may be expected to occur in the vicinity of a source or combination of sources will be determined by use of an air pollution dispersion model acceptable to the Director. Meteorological and operating conditions that may occur that will produce the greatest concentrations of the pollutants emitted will be used in evaluating the effect of the source(s) on ambient air quality.

002.04 Disapproval of Application

002.04A If it is determined by the Director that emissions resulting from the operation of a source to be constructed or modified will violate any portion of these rules and regulations, violate any applicable federal air quality regulation, or interfere with attainment or maintenance of the NAAQS, no construction permit will be granted until necessary changes are made in the plans and specifications to resolve, to the Director's satisfaction, the objections to issuance.

002.04B A construction permit will not be issued for any major source or major modification when such source or modification would cause or contribute to a violation of the NAAQS in any area that does not or would not meet the national standard by exceeding, at a minimum, the significant levels listed at 40 CFR 51.165(b)(2).

003 Permit Action. The Director will publish notice of intent to approve or disapprove the application in accordance with the procedures of Chapter 10.

003A A construction permit issued for any construction, reconstruction, or modification, does not relieve the owner or operator from the responsibility to comply with the applicable portions of the State Implementation Plan (SIP) control strategy. The permittee is to comply with all conditions of the construction permit. Any permit noncompliance will constitute a violation of the State Act and the Act, and is grounds for enforcement action or permit revocation.

003B Approval to construct will become invalid if construction is not commenced within 18 months after approval of the construction permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Director may extend the 18-month period upon a satisfactory showing that an extension is justified.

004 Additional Requirements for Construction or Modification of Sources in Nonattainment Areas.

004.01 A construction permit or permit modification will be issued for a proposed major source or a major modification if the source is located or is to be located in an area that is nonattainment for a pollutant for which the source or modification is major provided the following requirements are met:

004.01A By the time the facility is to begin operation, total allowable emissions from all the sources described in sections 004.01A1 through 004.01A3 represent a net decrease in emissions and show reasonable further progress toward attainment and maintenance of the NAAQS; which include:

004.01A1 The same source or existing sources in the same nonattainment area,

004.01A2 New sources which are not major emitting facilities, and,

004.01A3 Existing sources allowed under the SIP prior to the application for such permit to construct or modify;

004.01B Any emissions reductions required as a precondition of the issuance of a permit are to be federally enforceable before such permit is issued.;

004.01C The proposed source will comply with the lowest achievable emission rate;

004.01D The owner or operator of the proposed new or modified source has demonstrated that all other major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State subject to emissions limitations are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards;

004.01E The nonattainment area SIP is being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified; and

004.01F The source has provided the Director an acceptable, complete, and detailed assessment of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location,.

construction, or modification. This assessment should include an analysis as to why the facility cannot be constructed elsewhere.

004.02 The requirements of section 004.01A for emission reductions from existing sources in the vicinity of proposed new sources or modifications will be determined on a case-by-case basis. The offset baseline will be the actual emissions of the source from which offset credit is obtained. The following will apply to emission offsets:

004.02A If the emissions limit under these regulations allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

004.02B Requirements for an existing fuel combustion source, as described in 40 CFR Part 51, Appendix S, Section IV.C.2;

004.02C Requirements for emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels, , as described in 40 CFR Part 51, Appendix S, Section IV.C.3;

004.02D Requirements for replacing one hydrocarbon compound with another of lesser reactivity, as described in 40 CFR Part 51, Appendix S, Section IV.C.4;

004.02E The procedures set out in 40 CFR Part 51, Appendix S, Section IV.D, relating to the permissible location of offsetting emissions will be followed, unless the Director determines that an equally or more stringent procedure is appropriate;

004.02F Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or in demonstrating attainment or reasonable further progress, and

004.02G Emission reductions otherwise required by this Title will not be creditable as emissions reductions for purposes of any offset.

004.03 The provisions of 004 do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the source categories found in 40 CFR § Part 52.21(i)(1)(vii).

004.04 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any

enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section will apply to the source or modification as though construction had not yet commenced on the source or modification.

005 Stack Heights; Good Engineering Practice

005.01 For purposes of this chapter, the definitions and specifications in 40 CFR Part § 51.100(hh) through (kk) apply.

005.02 The degree of emission limitation required of any source for control of any air pollutant will not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique.

005.03 No emission limitation will be established, or permit to construct or modify issued, involving any dispersion technique, unless approved by the Council following public hearing noticed at least 30 days in advance. The public notice will announce the availability of any fluid model or field study demonstration.

006 Permit Content. Each construction permit will include requirements applicable to the source and any additional requirements which the Director deems appropriate, including, but not limited to, the following:

006.01 Emissions limitations and standards, which are at least as stringent as any applicable requirement or other requirements contained in the SIP.

006.02 Compliance certification, testing, monitoring, reporting, and recordkeeping.

007 The emission limitations or emission standards which would have been imposed under a construction permit are applicable to those sources who have failed to obtain a permit to the same extent as if a permit had been obtained.

Commented [GR30]: Added language back in to address EPA's concern.

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(1)(2), 81-1505(1)(12)(16), 81-1505.06

~~Legal Citation: Title 129, Ch. 3, Nebraska Department of Environmental Quality~~
[EMBED Word.Picture.8]

NEBRASKA ADMINISTRATIVE CODE

Title 129 - ~~Department of Environmental Quality~~Air Quality Regulations

Chapter 4 – ~~AMBIENT AIR QUALITY STANDARDS~~ PREVENTION OF SIGNIFICANT DETERIORATION of AIR QUALITY (PSD)

~~The following ambient air quality standards are applicable in the State of Nebraska:~~

001 ~~Particulate Matter~~ The provisions of this chapter apply to the construction of any new major stationary source or the major modification of any existing major stationary source. The provisions of this chapter apply only to sources located in areas designated as attainment or unclassifiable. For purposes of this chapter the provisions of 40 CFR § 52.21 are hereby adopted and incorporated with the following exceptions:

Commented [GR31]: Tried to do a broader incorporation by reference for this Chapter's contents, per EPA's suggestion.

001.01 "Administrator" means both the Director and the EPA Administrator as used in:

001.01A 40 CFR §52.21(b)(3)(iii)(a)

001.01B 40 CFR §52.21(b)(48)(ii)

001.02 "Administrator" means only the EPA Administrator as used in:

001.02A 40 CFR §52.21(b)(12)

001.02B 40 CFR §52.21(b)(15)(iii)

001.02C 40 CFR §52.21(b)(17)

001.02D 40 CFR §52.21(b)(37)(i)

001.02E 40 CFR §52.21(b)(43)

001.02F 40 CFR §52.21(b)(48)(ii)(c)

001.02G 40 CFR §52.21(b)(50)(i)

001.02H 40 CFR §52.21(b)(51)

001.02I 40 CFR §52.21(g)

001.02J 40 CFR §52.21(i)(6-8)

001.02K 40 CFR §52.21(l)(2)

001.02L 40 CFR §52.21(m)(1)(vii - viii)

001.02M 40 CFR §52.21(o)(3)

001.02N 40 CFR §52.21(t)

001.02O 40 CFR §52.21(u)

001.03 40 CFR §52.21(a)(1), Plan Disapproval

001.04 40 CFR §52.21(m)(1)(v), Air Quality Analysis

001.05 40 CFR §52.21(q), Public Participation

Commented [GR32]: Corrected reference.

~~001.01 PM10 – Primary and secondary standards~~40 CFR 52.21(b)(1), Definition of major stationary source:

~~Level: 150 micrograms per cubic meter~~
~~Averaging time: 24-hours~~
~~Form: Not to be exceeded more than once per year on average over 3 years~~
~~(Attainment of these standards is determined in accordance with Appendix K of 40 CFR Part 50 (version July 1, 2013); which is adopted and incorporated herein)~~

~~001.02A Primary standard~~

~~Level: 12.0 micrograms per cubic meter~~
~~Averaging time: Annual~~
~~Form: Annual mean averaged over 3 years~~

~~001.02B Secondary standard~~

~~Level: 15.0 micrograms per cubic meter~~
~~Averaging time: Annual~~
~~Form: Annual mean averaged over 3 years~~

~~001.02C Primary and secondary standard~~

~~Level: 35 micrograms per cubic meter~~
~~Averaging time: 24-hour~~
~~Form: 98th percentile averaged over 3 years~~

~~(Attainment of these standards is determined in accordance with Appendix N of 40 CFR Part 50 (version July 1, 2013); which is adopted and incorporated herein)~~

002 ~~Sulfur dioxide~~ Sources not subject to PSD review may still require a construction permit pursuant to provisions in Chapter 3.

~~002.01 Primary standard~~

~~Level: 75 parts per billion~~
~~Averaging time: 1-hour~~
~~Form: 99th percentile of 1-hour daily maximum concentrations averaged over 3 years~~

~~002.02 Secondary standard~~

~~Level: 0.5 parts per million~~
~~Averaging time: 3-hours~~
~~Form: Not to be exceeded more than once a year~~

~~(Attainment of this standard is determined in accordance with Appendix T of 40 CFR Part 50 (version July 1, 2013), which is adopted and incorporated herein)~~

~~003 Nitrogen dioxide~~

~~003.01 Primary standard.~~
~~Level: 100 parts per billion~~
~~Averaging time: 1-hour~~
~~Form: 98th percentile averaged over 3 years~~

~~003.02 Primary and secondary standards,~~
~~Level: 53 parts per billion~~
~~Averaging time: Annual~~
~~Form: Annual mean~~

~~(Attainment of this standard is determined in accordance with Appendix S of 40 CFR Part 50 (version July 1, 2013), which is adopted and incorporated herein)~~

003~~004~~ ~~Carbon monoxide – Primary standards~~Baseline Aactual Eemissions (BAE).
~~Level: 9 parts per million~~
~~Averaging time: 8-hours~~
~~Form: Not to be exceeded more than once per year~~

~~Level: 35 parts per million~~
~~Averaging time: 1-hour~~
~~Form: Not to be exceeded more than once per year~~

(Attainment of this standard is determined in accordance with 40 CFR 50.8, (version July 1, 2013), which is adopted and incorporated herein)

0034.01 BAE will be calculated using the following methodologies in this order of preference where possible:

0034.01A Continuous Emissions Monitors (CEMS) complying with requirements in Chapter 15.

0034.01B Predictive Emissions Monitors (PEMS) complying with requirements in Chapter 15.

0034.01C Source-specific stack test data, if such stack test occurred during the baseline period.

0034.01D Emission factors as defined in Chapter 11.

0034.01E Mass Balance

0034.02 Other methodologies or a different order of preference of methodologies than those listed in 004.01 may be used to calculate the BAE with prior concurrence of the Department.

005 Ozone – Primary and secondary standards:

Level: 0.070 parts per million (0.070 ppm)
Averaging time: 8-hour
Form: Annual fourth-highest daily maximum 8-hour concentration averaged over 3 years

(Attainment of this standard is determined in accordance with Appendix U of 40 CFR Part 50 (Version July 1, 2016), which is adopted and incorporated herein)

005.01 $PM_{2.5}$:

005.01A Primary $PM_{2.5}$: 10 TPY;

005.01B Secondary $PM_{2.5}$: will use the appropriate Model Emissions Rates for Precursors (MERPs) as defined in 40 CFR Part 51, Appendix W.

006 Lead – Primary and secondary standardPAL Recordkeeping Requirements:

Level: 0.15 micrograms per cubic meter
Averaging time: Rolling three-month average
Form: Not to be exceeded

(Attainment of this standard is determined in accordance with Appendix R of 40 CFR Part 50 (Version July 1, 2013); which is adopted and incorporated herein)

004007 Total reduced sulfurExclusions from increment consumption. The concentrations listed in 40 CFR § 51.166(f)(1)(iii) through (vi) will be excluded in determining compliance with a maximum allowable increase.

Commented [GR33]: Changed reference per EPA's recommendation.

Level: 10.0 parts per million (10.0 ppm)
Averaging time: 1 minute
Form: Maximum average concentration

Level: 0.10 parts per million (0.10 ppm)
Averaging time: 30 minutes
Form: Maximum rolling average

007.01 Except as provided in 007.01A and 007.01B these standards apply only where human exposure occurs.

007.01A Ambient concentrations of total reduced sulfur (TRS) emissions occurring as a result of natural activities that have no associated economic benefits, such as seasonal stratification or turnover of lakes and lagoons, and the release of water uncontaminated by process or industrial activity from lakes, reservoirs, lagoons and water impoundment systems shall not constitute violation of the standards contained in section 007.

007.01B The Department shall provide reasonable opportunity for any owner or operator of any source causing or contributing to a violation of the standards in 007 to develop and implement a program to eliminate such violations prior to taking enforcement action.

007.02 Unless otherwise approved by the Director, the levels of TRS in the ambient air shall be measured using a TRS thermal converter in conjunction with an SO2 monitor. The SO2 monitor shall be designated as an EPA reference method or equivalent method in accordance with 40 CFR Part 53. In combination, the monitor must meet or exceed the following minimum specifications:

007.02A Lower detection limit of 0.4 ppb (parts per billion);

007.02B Zero Drift less than 0.5 ppb in 24 hours and less than 1 ppb in 7 days at constant conditions;

007.02C Span Drift of less than 0.5 percent of the reading in 24 hours and less than 1 percent of the reading in 7 days at constant conditions;

~~007.02D Precision of 0.5 percent of the reading; and~~

~~007.02E Linearity of 1 percent of full scale.~~

~~007.03 A rolling average shall be considered valid if there is data for at least 75 percent of the period in question. In the event that less than 100 percent of the data are available, the rolling average shall be computed on the basis of the data available using the number of data available as the divisor.~~

~~007.04 The standards are attained when all of the following conditions are met:~~

~~007.04A The one-minute concentration is less than or equal to 10.0 ppm, rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm must be rounded up);~~

~~007.04B The 30-minute rolling arithmetic mean concentration is less than or equal to 0.10 ppm, rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm must be rounded up).~~

005 Notification to permit applicants and public:

005.01 The Department will determine if a permit application is complete within 60 days after receipt of the application and so notify the applicant. If the Department determines that the application is incomplete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.

005.02 The Department will provide opportunity to the public to submit comments or request a public hearing on every PSD permit application approved in accordance with Chapter 10.

006 Before beginning actual construction, the owner or operator will provide a written PAE determination to the Department, including the information described in 40 CFR § 52.21(r)(6)(i). The owner or operator of such a unit is not required to obtain any determination from the Department before beginning actual construction.

007 If any provisions of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid will not be affected thereby.

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(1)(2), 81-1505~~(1)~~(12)

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 5 - ~~OPERATING PERMITS – WHEN REQUIRED~~ACID RAIN

001 ~~Applicability and Scope. The following sources are required to obtain operating permits unless exempted under 002:~~ The following regulations are hereby adopted and incorporated by reference:

001.01 ~~Class I (major source) permits shall be required to operate any of the following:~~ Permit regulations pursuant to 40 CFR part 72, as in effect on July 1, 2019, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act. If the provisions or regulations of 40 CFR part 72 conflict with other provisions of this Title as they apply to affected sources, the part 72 regulations will apply and take precedence. Administrator, as used in 40 CFR part 72, means EPA Administrator.

~~001.01A. Any major source as defined in Chapter 2;~~

~~001.01B. Any source, including an area source, subject to a standard, limitation, or other requirement under Chapter 18;~~

~~001.01C. Any source, including an area source, subject to a standard or other requirement under Chapters 23, 27 or 28;~~

~~001.01D. Any affected source;~~

~~001.01E. Any source in a source category designated by the Director or required to do so by any other applicable requirement under Title 129 or under the Act.~~

001.02 ~~Unless a Class I permit is required, Class II (minor source) permits shall be required to operate any of the following, unless covered under the provisions of Chapter 42:~~ Continuous emissions monitoring pursuant to 40 CFR part 75, as in effect on July 1, 2019, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act

~~001.02A. Any source or emissions unit with actual emissions above the following:~~

~~001.02A1. [rescinded]~~

~~001.02A2. Fifty (50) tons/year or more of PM_{10} emissions.~~

001.02A3. Fifty (50) tons/year or more of SO_2 or SO_3, or any combination of the two.

001.02A4. Fifty (50) tons/year or more of oxides of nitrogen (calculated as NO_2).

001.02A5. Fifty (50) tons/year or more of volatile organic compounds (VOC).

001.02A6. Fifty (50) tons/year or more of carbon monoxide.

001.02A7. Two and one-half (2.5) tons/year or more of lead.

001.02A8. Five (5) tons/year or more of any hazardous air pollutant or an aggregate of twelve and one-half (12.5) tons/year or more of any hazardous air pollutants.

001.02B. All incinerators used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for disposal of residential waste generated on the said property.

001.03 Any source or emissions unit required to obtain a Class I permit based on potential emissions may request that potential to emit be limited to below the major source threshold, as provided in Chapter 42 or in section 001.03A and 001.03B below.General acid rain program regulations in 40 CFR Part 76 as effective on July 1, 2019, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act.

001.03A. Synthetic Minor Permits.

001.03A1. Any source or emissions unit with actual emissions between the levels specified in section 001.02A above and the major source levels may apply for a Class II permit, as a synthetic minor source, which provides enforceable limits to potential emissions, as provided in Chapters 7 through 15.

001.03A2. Any source or emissions unit with actual GHGs emissions less than 100 tons per year on a mass basis or less than 100,000 tons per year CO_2e may apply for a Class II permit which provides enforceable limits to potential emissions, as provided in Chapters 7 through 15.

001.03B. Any source or emissions unit with actual emissions below the levels specified in section 001.02A above shall be exempt from the duty to

~~obtain an operating permit under the following conditions, known as the Low-Emitter Rule, unless required to do so in sections~~ 001.02B:

001.03B1 ~~The source is not otherwise required to obtain an operating permit;~~

001.03B2 ~~The source has submitted a demonstration and maintains records on site, updated at least monthly, for at least five years that actual emissions for each regulated pollutant do not exceed the levels specified in section~~ 001.02A ~~above;~~

001.03B3 ~~Credit for controls which are not required under the provisions of this title will only be allowed if documentation is maintained that demonstrates that controls were continuously maintained and operated as specified by the manufacturer to achieve the level of efficiency for which credit is sought;~~

001.03B4 ~~Additional information, such as an annual emissions inventory or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other emissions will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 4, must be provided upon Department request; and~~

001.03B5 ~~Compliance with the provisions of this section do not shield the owner or operator from the duty to comply with any other applicable requirement under Title 129, nor shield the owner or operator from enforcement action for the violation of any other applicable requirement under Title 129.~~

002 ~~Source Category Exemptions.~~

002.01 ~~All sources listed in~~ 001.01 ~~above that are not major, or affected sources, are exempt from the obligation to obtain a Class I permit unless required to do so under another applicable requirement under Title 129 or under the Act. Any such exempt source may opt to apply for a permit under these regulations and shall be issued a permit if the applicant otherwise satisfies all of the requirements of these regulations.~~

002.02 ~~The following sources are exempt from applying for and having a Class I or II operating permit:~~

002.02A ~~All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 60, Subpart AAA — Standards of Performance for New Residential Wood Heaters; and~~

002.02B All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR Part 61, Subpart M – National Emission Standard for Hazardous Air Pollutants for Asbestos, §61.145, Standard for Demolition and Renovation.

002.02C All sources and source categories subject only to regulations or requirements under Section 112(r) of the Act.

002.02D All sources and source categories that would be required to obtain a permit solely because of the presence of a generator whose sole function is to provide back-up power when electrical power from the local utility is interrupted. This exemption is unavailable to peaking units at electric utilities and any other generator which is used during time periods when power is available from the utility.

Exempted units must submit an annual report of hours of operation to the Department by the end of the month following the month in which 500 hours per year are exceeded, or upon request.

003 Emissions Units Covered.

003.01 Sources required to obtain an operating permit under this title shall identify all relevant emission units in the permit application unless the emission unit is specifically exempted pursuant to sections 006.03 and 006.04 of Chapter 7.

003.02 A source required to obtain an operating permit under this title may comply through one of the following methods:

003.02A A source may obtain a single permit for all relevant emission units located within a contiguous area under common control, whether or not falling under the same two-digit Standard Industry Code (SIC) code; or

003.02B A major source, as defined in Chapter 2, section 001 or section 008, comprised of different business entities (each defined as a "person" in Chapter 1, section 107), whether or not they are under the same two-digit SIC code, may obtain a separate permit for each business entity ("person"). All business entities ("persons") must obtain a Class I permit regardless of size. Sources may not avoid major source requirements, including, but not limited to, emissions fees (see Chapter 28) or National Emissions Standards for Hazardous Air Pollutants requirements (see Chapters 27 and 28), by being permitted in this manner; or

003.02C A source may request and obtain coverage for one or more emission units eligible for coverage under a general permit issued by the Department and obtain a separate permit for emission units not eligible for

~~such coverage. Sources may not avoid major source requirements, including, but not limited to, emissions fees (see Chapter 29) or National Emissions Standards for Hazardous Air Pollutants requirements (see Chapters 27 and 28), by being permitted in this manner, unless the source-wide potential emissions are limited to less than the major source thresholds by these permits. This would include paying emissions fees for emissions from the unit(s) covered by a general permit.~~

~~003.03 A source required to obtain a mercury budget permit under rules incorporated in Chapter 18, section 005, must obtain, in addition to any other required permits, a mercury budget permit which covers every mercury budget unit at the source, contains all applicable mercury budget program requirements, and is a complete and separable portion of the operating permit.~~

~~004 Fugitive Emissions. Fugitive emissions from a source shall be included in the permit application and covered in the operating permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.~~

~~005 Except as provided in Chapter 12, section 003, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under an approved operating permit program. If an operating source submits a timely and complete application for permit issuance, or for renewal, the source's failure to have a permit is not a violation of the State Act or Act until the Department takes final action on the permit application, provided that the failure to have a permit is through no fault of the source. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Chapter 7, section 003, the applicant fails to submit any additional information necessary to process the application within the deadline specified in writing by the Department.~~

~~006 The submittal of a complete Class I or II operating permit application shall not affect the requirement that any source have a pre-construction permit as may be required by these regulations.~~

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(1)(2); 81-1505(12)(16)

~~Legal Citation: Title 129, Ch. 5, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 6 - ~~EMISSIONS REPORTING, WHEN REQUIRED~~OPERATING PERMITS

001 ~~Every source subject to a permit requirement under Chapters 5 or 17 shall complete and submit to the Department an annual emissions inventory, if requested, on forms furnished by or acceptable to the Department by March 31, and shall include emission information for the previous calendar year. This requirement applies whether or not a permit application has been filed or a permit issued. The inventory form shall be certified in accordance with Chapter 7, section 008.~~ The owner or operator of a source is to obtain an operating permit for that source in accordance with this chapter unless exempted under 001.04 and 001.05.

001.01 Class I Permits. Any Part 70 source is to obtain a Class I permit.

001.01A "Part 70 source" means any source subject to the permit requirements as provided in 40 CFR Part 70.3(a) and 70.3(b).

001.01B 40 CFR Part 70.3 is adopted and incorporated by reference.

001.02 Synthetic Minor Source Permits. Any major source or emissions unit required to obtain a Class I permit based on potential emissions with actual emissions below major source levels may request that potential to emit be limited to below the major source threshold, and may apply for a Class II permit, as a synthetic minor, which provides enforceable limits to potential emissions.

001.03 Class II Permits. The following sources are eligible for a Class II permit:

001.03A Any source or emissions unit that is not a Class I source with actual emissions above the following:

001.03A1 Fifty (50) tpy or more of PM_{10} emissions.

001.03A2 Fifty (50) tpy or more of SO_2 or SO_3, or any combination of the two.

001.03A3 Fifty (50) tpy or more of oxides of nitrogen (calculated as NO_2).

001.03A4 Fifty (50) tpy or more of volatile organic compounds (VOC).

001.03A5 Fifty (50) tpy or more of carbon monoxide.

001.03A6 Two and one-half (2.5) tpy or more of lead.

001.03A7 Five (5) tpy or more of any hazardous air pollutant or an aggregate of twelve and one-half (12.5) tpy or more of any hazardous air pollutants.

001.03B An incinerator used for refuse disposal or for the processing of salvageable materials except any refuse incinerator located on a residential premise containing five or less dwelling units used only for disposal of residential waste generated on that property.

001.04 Exemptions.

001.04A Low Emitter Rule. Any source or emissions unit with potential emissions above major source thresholds and actual emissions below the levels specified in section 001.03A above will be exempt from the duty to obtain an operating permit under the following conditions, known as the Low Emitter Rule, unless section 001.03B applies.

001.04A1 The source is not otherwise required to obtain an operating permit;

001.04A2 The source has submitted a demonstration and maintains records on site, updated at least monthly, for the most recent five years that actual emissions for each regulated pollutant do not exceed the levels specified in section 001.03A above.

001.04A3 Credit for controls which are not required under the provisions of this Title will only be allowed if documentation is maintained that demonstrates that controls were continuously maintained and operated as specified by the manufacturer to achieve the level of efficiency for which credit is sought;

001.04A4 Additional information, such as an annual emissions inventory or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other emissions will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 2, must be provided upon Department request; and

001.04A5 Compliance with the provisions of this section do not shield the owner or operator from the duty to comply with any other applicable requirement under Title 129, nor shield the owner or

operator from enforcement action for the violation of any other applicable requirement under Title 129.

Commented [GR34]: Deleted the section about "Low Emitter" per EPA recommendation.

001.05 Source Category Exemptions.

001.05A Source categories exempted under 40 CFR Part 70.3(b)(4) will be exempted from obtaining a Class I permit.

001.05B A source required to be covered by an operating permit solely because of the presence of an engine powered generator where the sole function is to provide back-up power when electrical power from the local utility is interrupted will be exempted from obtaining any operating permit. This exemption does not apply to any peaking unit at an electric utility or to any other generator used when power is available from the utility. Exempted units are to submit a report of hours of operation to the Department upon request and also by the end of the month following any month in which hours of operation for that exempted unit exceeds 500 hours per year.

001.05C All sources and source categories subject only to regulations or requirements under Section 112(r) of the Act.

001.06 Except as provided in section 008 of this Chapter, a source will not operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under an approved operating permit program. If an operating source submits a timely and complete application for permit issuance, or for renewal, the source's failure to have a permit is not a violation of the State Act or Act until the Department takes final action on the permit application, provided that the failure to have a permit is through no fault of the source. This protection will cease to apply if, subsequent to the completeness determination made pursuant to section 002, the applicant fails to submit any additional information necessary to process the application within the deadline specified in writing by the Department.

001.07 The submittal of a complete Class I or II operating permit application does not affect or change the requirement that a source have a construction permit.

002 ~~The annual emissions inventory form shall include the following information:~~Application.

002.01 ~~The source's name, description, mailing address, contact person and contact person's phone number, and physical address and location, if different than the mailing address.~~Duty to Apply and Timely Application.

002.01A The owner or operator of a source that becomes subject to the Class I operating permit program at any time following the effective date of

these regulations will file an application pursuant to 40 CFR Part 70.5(a)(1).

002.01B An owner or operator subject to the regulation to obtain a Class II operating permit for a source will file an operating permit application for that source within 12 months of the date on which the source first becomes operational or otherwise subject to the requirement to obtain an operating permit.

002.01C For purposes of permit renewal, a timely application is one that is submitted at least six months, but no longer than 18 months prior to the date of permit expiration.

002.02 ~~A description of the existing (or proposed) facilities, modifications or operations including all processes employed; normal hours of operation; the nature and amounts of fuel and other materials involved; the probable nature, rate of discharge, and time duration of contaminant emissions; any such other information as is relevant to air pollution control and available or capable of being assembled in the normal course of operation; and, if required by the Director, ambient air quality and meteorological data.~~ Complete Application for Class I and Class II Operating Permits. An application will be deemed complete pursuant to 40 CFR Part 70.5(a)(2).

002.03 ~~The actual quantity of emissions, including documentation of the method of measurement, calculation or estimation, of~~ Confidential Information for Class I and Class II Permits. A source which has submitted information to the Department under a claim of confidentiality pursuant to Title 115, Rules of Practice and Procedure, may be required by the Department to submit a copy of such information to the EPA. Compliance plan, schedule of compliance, monitoring reports, certification, emission data, and issued permits will be available to the public.

~~002.03A Any single regulated non-hazardous air pollutant in a quantity greater than one ton.~~

~~002.03B Any single regulated hazardous air pollutant in a quantity greater than the reporting level listed in Appendix II or Appendix III.~~

~~002.03C Any combination of hazardous air pollutants in a quantity greater than 2.5 tons.~~

002.04 Duty to Supplement or Correct Application for Class I and Class II Operating Permits. Applicant will comply with requirements in 40 CFR Part 70.5(b).

002.05 Class I and Class II Operating Permits -Standard Application Form and Required Information.

002.05A The owner or operator of a source required to obtain a Class I operating permit is to submit an application on standard forms available from the Department.

002.05B The applicant will, at a minimum, include information pursuant to 40 CFR Part 70.5(c)(1) through 70.5(c)(10), in addition to the following:

002.05B1 The Source Classification Code as published by EPA's Office of Air Quality Planning and Standards including any associated with an alternate scenario identified by the source.

002.05B2 All emissions, both actual and potential, of regulated air pollutants.

002.05B3 Emissions rate in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method or alternative method as approved by the Director.

002.05B4 Limitations on source operation affecting emissions, including physical or operational limitations on potential to emit for all Class II sources.

002.05B5 The applicant will indicate any emission points at the facility for which the applicant intends to request coverage under a general permit.

002.05B6 A Class I source may request a permit shield pursuant to 40 CFR 70.6(f)(2).

002.05B7 An explanation of any proposed exemption from an applicable requirement.

002.05C The Director may develop a list of insignificant activities pursuant to 40 CFR Part 70.5(c). The list will be made available by the Department and updated as necessary. The Director may consider the following criteria in developing the list of insignificant activities:

002.05C1 Support activities (e.g., janitorial, cafeteria or laundry) may be listed as insignificant if they are not themselves marketed or traded, and do not use equipment or materials of a size or nature that are themselves subject to an applicable requirement under the Act or this Title;

002.05C2 Activities or emission units which can be determined to result in air contaminant emissions less than those specified in 001.01 of this Chapter based on size, capacity or an expectation of incidental usage (e.g. engine used on an emergency generator) may be determined to be insignificant. The Director may consider standard industrial practices and the results of rulemaking efforts under the Act in establishing such thresholds;

002.05C3 Laboratory and research and development activities may be listed as insignificant activities only if conducted in the non-process areas of the facility. If the principal activity of a site is laboratory services or research and development for other locations or under contract, such activities are significant for purposes of permitting;

002.05C4 The Compilation of Air Pollutant Emission Factors (AP-42 emission factors) or comparable data may be considered when determining insignificant use or storage thresholds. For hazardous air pollutants, the Director may consider any de minimis emission level established by the EPA under Part 112(g) of the Act or a storage or use level established in any federal or state standard.

002.05C5 Insignificant activities listed for exclusion in the permit application pursuant to 40 CFR Part 70.5(c) will also apply to Class II sources.

002.05D The list of insignificant activities will describe classes of activities that may be excluded from the permit application or only listed with a limited amount of support data. The list must specify information the applicant will need to include in the application that is necessary to determine if a specific activity, piece of equipment or group of items is subject to an applicable requirement under the Act or this Title. The Department may request additional information as determined necessary. Inclusion of an activity, emission unit or specific use or storage of a regulated pollutant on the list does not absolve an applicant from any applicable requirements under the Act or this Title to which such an activity or emission unit is otherwise subject.

002.05E Emissions from insignificant activities are to be included in the determination of whether a source must obtain a Class I or Class II operating permit.

002.06 Certification for Class I and Class II Permits. Any application form, report, or compliance certification submitted will comply with requirements found in 40 CFR Part 70.5(d).

002.07 For Class I permits, the regulations found at 40 CFR §§ 70.7(a)(2) and (5) are adopted and incorporated by reference.

002.08 For Class I and Class II sources, the submittal of a complete application shall not affect the requirement that any source have a construction permit.

003 ~~Actual emissions as defined in Chapter 1 shall be calculated using one of the following methods, as appropriate:~~Permit Content. The standard permit content for Class I and Class II operating permits is as follows:

003.01 ~~Any test method or procedure identified in Chapter 34;~~Each Class I and Class II operating permit will specify emission limitations and standards in accordance with the requirements found at 40 CFR Part 70.6(a). The source will propose permit terms and conditions to satisfy these requirements in its application.

003.02 ~~Continuous emission monitor (CEM) data, provided that:~~ Permit duration. Class I and Class II operating permits will be issued for a term pursuant to the standards found at 40 CFR Part 70.6(a)(2).

003.02A ~~The CEM operation is, and has been for the reporting period, in compliance with all applicable requirements and applicable requirements under the Act;~~Notwithstanding 003.02, the Director may issue a Class II permit for a term that exceeds five years.

003.02B ~~The total operating time of the applicable emission unit and the CEM are included in the inventory report, and~~The term of an operating permit cannot be extended by modification.

003.02C ~~The report includes an explanation of how the emissions were calculated using CEM data.~~The conditions of an expiring or expired operating permit will continue until the effective date of a new operating permit in accordance with section 008.

003.03 ~~Any applicable method identified in the Compilation of Air Pollutant Emission Factors, Volume I, Stationary Point and Area Sources, Fifth Edition;~~ Each Class I and Class II operating permit will contain monitoring and related recordkeeping and reporting requirements in accordance with the standards contained in 40 CFR Part 70.6(a)(3). The permit may specify that records may be maintained in computerized form.

003.03A Notwithstanding 003.03, for Class II operating permits, deviation reporting will be submitted on an annual basis unless deviations are identified in the permit as needing more frequent reporting.

003.03B In addition to the reporting requirements of 40 CFR Part 70.6(a)(3)(iii), each Class I and Class II operating permit will at a minimum include the following:

003.03B1 Reporting of any deviation that poses an imminent and substantial danger to public health, safety, or the environment as soon as is practicable;

003.03B2 Reporting of any other deviations that are identified in the permit as needing more frequent reporting than the source's semi-annual report on a schedule specified in the permit; and

003.03B3 All reports of deviations will identify the probable cause of the deviations and any corrective actions or preventative measures taken.

003.03B4 Every report submitted under 003.03A and 003.03B is to be certified by a responsible official.

003.04 ~~Any applicable method identified in Factor Information Retrieval System, Version 5.0 Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA-454/R-95-012, August 1995; or~~Acid Rain Permit Condition. Each Class I permit issued to an affected source will include a permit condition pursuant to 40 CFR Part 70.6(a)(4).

003.05 ~~A material mass balance equation.~~Severability. Each Class I and Class II permit will contain a severability clause pursuant to 40 CFR Part 70.6(a)(5).

003.06 General conditions. Each Class I and Class II operating permit will include the following provisions:

003.06A The source is to comply with all conditions of the operating permit. Any permit noncompliance will constitute a violation of the State Act and the Act, and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

003.06B It will not be a defense for a source in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

003.06C The permit may be modified; revoked, reopened, and reissued; or terminated for cause in accordance with this Title and Title 115. The filing of a request by the source for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not supersede any permit condition.

003.06D The permit does not convey any property rights of any sort, or any exclusive privilege.

003.06E The source will furnish to the Department, within the time specified by the Department, any information requested by the Department in writing to determine whether cause exists for modifying; revoking and reissuing; or terminating the permit or to determine compliance with the permit. Upon request, the source will also furnish to the Department copies of records required to be kept in accordance with the permit. The source is to follow the confidentiality request requirements in Title 115 for any information the source wishes to claim confidential, said confidentiality is subject to Department approval.

003.07 Each Class I permit will contain a provision for payment of fee consistent with section 009 of this Chapter.

003.08 Alternative operating scenarios. Each operating permit will contain terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. Such terms and conditions will:

003.08A Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which the source is operating;

003.08B Ensure that the terms and conditions of each alternative scenario meet all applicable requirements and the requirements of the permit; and

003.08C Include a permit shield, if requested, as described in 003.14 below for all terms and conditions under each operating scenario.

003.09 Reopening for cause. Each operating permit will include provisions specifying the conditions under which the permit will be reopened, as well as revoked and reissued, or terminated, in accordance with Chapter 9.

003.10 Risk Management Plans. If the source is required to develop and register a risk management plan pursuant to section 112(r) of the Act and regulations adopted by the Council, the permit will specify that the source will comply with the regulation to register such a plan. The content of the risk management plan will not be incorporated as a permit term. The operating permit will include:

003.10A Verification of plan preparation and submittal to the Department, the State Emergency Response Commission, and any Local Emergency Planning Committee; and

003.10B Annual certification by a responsible official that the risk management plan is being properly implemented.

003.11 All Class I and Class II operating permits will contain elements with respect to compliance: consistent with the requirements found at 40 CFR Part 70.6(c), including any additional requirements specified in this Title, the applicable Implementation Plan, or any permit issued under this Title.

003.12 Permit Shield for Class I Operating Permits. A permit shield will be included in the operating permit pursuant to 40 CFR Part 70.6(f). Administrator, welas used in 40 CFR Part 70.6(c), means EPA Administrator.

003.13 Each Class I and Class II operating permit may include additional requirements the Director deems appropriate, including but not limited to, the following:

003.13A Emissions limitations and standards which are at least as stringent as any applicable requirement or other requirements contained in the State Implementation Plan.

003.13B Monitoring and related recordkeeping and reporting.

003.13C Compliance certification, testing, monitoring, reporting, and recordkeeping.

003.14 All terms and conditions in a Class I or Class II operating permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator of EPA and citizens under the Act except those terms and conditions which have been specifically designated in a Class I permit as not required and ~~as~~ not federally enforceable under the Act or any of its applicable requirements.

003.15 A Class I or Class II operating permit may contain emissions trading pursuant to the requirements found at 40 CFR Part 70.6(a)(10).

003.16 The Director will establish terms and conditions in the permit, if requested by the applicant in the application, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The application must include proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions from emissions units which are not quantifiable and for which there are no replicable procedures will not be included in any trades. The permit will also require compliance with all applicable requirements.

004 ~~Except as otherwise provided in 003 above, any other test methods and procedures for use in determining actual emissions must be approved by the Director.~~Temporary Sources.

004.01 Except as provided in 004.04 of this Chapter, the Director may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit subject to Department approval. No affected source will be permitted as a temporary source.

004.02 A Class I or Class II operating permit for a temporary source includes the requirements specified in section 003 of this Chapter and the following:

004.02A Conditions that will assure compliance with all applicable requirements and ambient air quality standards established in Chapter 2 at all authorized locations; and

004.02B Conditions that the owner or operator notify the Director at least 20 days in advance of each change in location by providing the following information:

004.02B1 A specific description of the source, including SIC code;

004.02B2 A legal description of the proposed new location;

004.02B3 The anticipated dates of operation at the new proposed location;

004.02B4 A description of site location, adjacent surroundings, including proximity to occupied buildings;

004.02B5 A contact person for the source, including telephone number and e-mail address;

004.02B6 The signature of a responsible official for the source certifying the information contained in the notification; and

004.02B7 A source facility identification number as assigned by the Department.

004.03 The Department may disapprove a new proposed location for a temporary source if the Director determines that operation in the new location would cause or contribute to a violation of standards or otherwise adversely affect human health or the environment.

004.04 In the case of temporary activities initiated to maintain or restore electrical power supply or prevent imminent power loss, the provisions of either 004.04A or 004.04B apply, as appropriate. Units complying with this section are exempt from all other provisions of this chapter.

004.04A Temporary power generation units maintained within the state are to be covered by an operating permit which identifies them as temporary units, specifies their rating, fuel supply, non-working location, and routine operating practices, and establishes notification procedures for such activities.

004.04B The owners or operators of temporary power generation units which are maintained outside the state are to notify the Department prior to bringing them into the state according to the following schedule:

004.04B1 In the case of a power loss or threat of imminent power loss, within 24 hours of dispatch;

004.04B2 In the case of maintenance activities, 20 days prior to dispatch, unless another notification schedule is established with the Department.

005 ~~The Director may require the submittal of supplemental information to verify or otherwise assure the quality of emissions reported.~~ Emergency; Defense

005.01 For the purposes of a Class I or Class II operating permit, the language of 40 CFR Part 70.6(g) is adopted and incorporated by reference.

005.02 A report submitted according to the requirements of 40 CFR Part 70.6(g)(3)(iv) may be submitted without certification by a responsible official as long as a final report meeting the reporting requirements of 40 CFR Part 70.6(g) is made with the appropriate responsible official certification within ten days of the preliminary report.

006 Class I Operating Permit EPA Review, Affected State Review; Class II Operating Permit

006.01 Unless the Administrator waives or modifies this requirement, the Department will provide to the Administrator of EPA a copy of each Class I operating permit application or modification, each proposed Class I permit, and each final Class I permit. The Department may require the permit applicant to provide a copy of the permit application, including the compliance plan, directly to the Administrator of EPA.

006.02 The Department will give notice of each draft Class I operating permit to any affected state on or before the time that the Department provides notice to

the public. The Department will notify the Administrator of EPA and any affected State in writing of the reasons for any refusal by the Department to accept all recommendations for the proposed permit that the affected State submitted.

006.03 The Department will not issue a Class I operating permit if the Administrator of EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

006.04 If the Administrator of EPA objects to a Class I operating permit as a result of a petition for review filed pursuant to Section 505(b)(2) of the Act, the Department will not issue the permit until EPA's objection has been resolved, except that a petition for review will not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45 day EPA review period and prior to an EPA objection.

006.05 If the Department has issued a Class I operating permit to which EPA objects as a result of a petition for review filed pursuant to Section 505(b)(2) of the Act, the permit may be reopened in accordance with the procedures in Chapter 9.

006.06 Prohibition on Default Issuance.

006.06A Notwithstanding the time period specified in section 003 of this Chapter, no Class I operating permit, including a permit renewal or revision, will be issued until:

006.06A1 Affected States and the Administrator have had an opportunity to review the proposed permit~~.~~; and

006.06A2 The Director has acted on the application.

006.06B No Class II operating permit, including a permit renewal or revision, will be issued until the Director has acted on the application.

007 Permit Renewal. Class I or Class II operating permits, the requirements found at 40 CFR part 70.7(c)(1)(i) and (ii) will apply.

008 Permit Expiration, Denial

008.01 Conditions of an expired operating permit cannot be modified except with the issuance of a new permit or permit renewal.

008.02 The conditions of an expired operating permit will continue until the effective date of a new operating permit or until the application for a permit is denied provided:

008.02A The source has submitted a timely application which has been deemed complete by the Department, and

008.02B The Director, through no fault of the source, does not issue a new operating permit with an effective date before the expiration date of the previous operating permit.

008.03 If the Director determines that any of the following are true, the application for permit renewal will be denied.

008.03A The source is not in substantial compliance with the terms and conditions of the expired permit or with a stipulation, agreement, or compliance schedule designed to bring the source into compliance with the permit;

008.03B The Department, as a result of an action or failure to act on the part of the source, has been unable to take final action on the application on or before the expiration date of the permit; or

008.03C The source has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of the deficiencies.

009 Emissions Fees.

009.01 The provisions of this section apply to any owner or operator of a major source subject to pay an annual emission fee for each ton of a regulated pollutant for fee purposes emitted to the air by the facility in accordance with Neb. Rev. Stat. § 81-1505.04. For purposes of this Chapter, a pollutant which may be regulated under more than one provision of this Title, need only be counted once.

009.02 Any temporary source issued a Class I permit under this Chapter will pay an annual emission fee for emissions during the time period the source was located and operated in the State.

009.03 Any owner or operator that fails to submit an annual emissions inventory report will pay an annual emission fee based on the source's potential to emit.

009.04 An owner or operator will submit the fees to the Department by check, or other authorized transfer, and identify the fees as an air emissions fee payment. The fees will be due and payable on July 1 of each year. All fees paid in accordance with this Chapter will be non-refundable.

009.05 Failure to submit the fees required by this Chapter, in addition to other relief allowed by law, will be cause for:

009.05A Revocation of the source's Class I operating permit; and.

009.05B Assessment of a late payment fee of 20 percent of the payment due, which late payment fee will be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Late payment fees are due immediately upon receipt of notice of assessed fees.

009.06 If the Department determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of annual emission fees, the Department may require the owner or operator of a source to submit additional data or other information, as well as an explanation of the source's calculation. If such additional data or information changes the annual emission inventory report and results in the assessment of additional fees, such additional fees will be due within 30 days of notice of the assessment.

010 Compliance Assurance Monitoring. The provisions of 40 CFR Part 64, as in effect on July 1, 201904, for purposes of implementing the compliance assurance monitoring program, is hereby adopted and incorporated by reference. Administrator, as used in 40 CFR Part 64.2, means Administrator of EPA.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(16)

~~Legal Citation: Title 129, Ch. 6, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~ Air Quality Regulations

Chapter 7 - ~~OPERATING~~ GENERAL PERMITS ~~– APPLICATION~~

001 ~~Duty to Apply. The owner or operator of any source required to obtain a Class I or Class II operating permit shall submit a timely and complete application in accordance with this chapter.~~ If the Director determines that numerous similar sources are subject to identical regulatory requirements, the Director may issue a general permit following the procedures specified in this Chapter and the applicable procedures of Chapters 3, 6, and 10. The Director will not issue general permits for affected sources under the acid rain program.

002 ~~Timely Application.~~ If the Director, in his or her discretion, determines a general permit is appropriate, he or she will initiate issuance of a general permit by publication of a notice which identifies the criteria for sources that qualify for the general permit. The notice will be published in accordance with Chapter 10.

~~002.01 Sources that are required to obtain a Class I operating permit shall file applications in accordance with the following schedule.~~

~~002.01A For the purpose of early submission of applications and processing of permits, the Department shall create and maintain an early permit application registry. The registry will be open for the first three months after the effective date of this Title under State law. Sources may request to be placed on the registry on a first come first serve basis as of the date the request is received by the Department. If necessary, the Department will complete the registry with additional sources. These additional sources will be notified of their placement on the registry. Sources on this registry shall file a complete application with the Department within twelve months of the date on which the registry is closed, but not later than March 30, 1995.~~

~~002.01B All other existing sources not on the registry shall file an application by November 17, 1996.~~

~~002.02 A source that becomes subject to the Class I operating permit program at any time following the effective date of these regulations shall file an application within 12 months of the date on which the source first becomes operational or otherwise subject to the Title V program.~~

~~002.03 A source that is required to meet the requirements under Chapters 27 or 28, or to have a permit under a preconstruction review program under Chapters 17 or 19, shall file a complete application for a Class I or Class II operating permit,~~

~~If so required, or a permit revision within 12 months after the source begins operation. Where an existing operating permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation.~~

~~002.04 Sources that are required to obtain a Class II operating permit shall file applications by December 15, 1994, or within twelve months of the date on which the source first becomes operational or otherwise subject to the requirement to obtain a permit.~~

~~002.05 A source issued an operating permit before November 1, 1993, may continue to operate as provided in the existing permit provided that the source has submitted a timely and complete application, until either of the following occurs:~~

~~002.05A The operating permit is terminated.~~

~~002.05B The Director issues or denies a Class I or Class II permit to the source.~~

~~002.06 For purposes of permit renewal, a timely application is one that is submitted at least 6 months prior to the date of permit expiration or such longer time as may be approved by the Director after notice to the permittee that ensures that the permit will not expire before the permit is renewed. In no event shall this time be greater than 18 months.~~

~~002.07 Applications for initial phase II acid rain permits shall be submitted:~~

~~002.07A by January 1, 1996 for sulfur dioxide, and~~

~~002.07B by January 1, 1998, for oxides of nitrogen.~~

003 ~~Complete Application for Class I and Class II Permits.~~ The public notice of the draft general permit will contain:

003.01 ~~An application will be deemed complete if it provides all the information required and is sufficient to evaluate the subject source and its application and to determine all applicable requirements. For purposes of this chapter only, applicable requirements include applicable requirements under the Act. The application shall be certified by a responsible official for the source.~~ Name, address, and telephone number of the Department;

003.02 ~~The Department shall determine if the application is complete within 60 days after receipt of the application. If the Department determines that the application is not complete and additional information is necessary to evaluate or~~

take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application. A brief description of the activities and/or operations addressed by the permit;

003.03 If the Department does not determine that the application is not complete, the application is automatically deemed to be complete 60 days after it was received by the Department. Nothing in this section shall prohibit the Department from requesting additional information that is necessary to evaluate or take final action on the application or release the applicant from providing such information. A statement of the criteria for sources that qualify for the permit;

003.04 A source which has submitted a timely and complete application may continue to operate without a permit from the date the application is determined to be complete until final action on the application is taken, provided that the applicant submits any requested additional information by the deadline established by the Department. A brief description of the comment procedures and the time and place of any hearing if already scheduled, including the procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final general permit decision; and

003.05 The name, address, and telephone number of the person from whom interested persons may obtain further information, and inspect and copy forms and related documents.

004 Confidential Information for Class I and Class II Permits. A source which has submitted information to the Department under a claim of confidentiality pursuant to Title 115, Rules of Practice and Procedure, may be required by the Department to submit a copy of such information to the EPA. Confidential information must be submitted separately. The permit application, c**ompliance plan, schedule of compliance, monitoring reports, certification, and issued permits** shall **be available to the public**. Emissions data shall not be entitled to confidential protection. Any interested person will have thirty (30) days from issuance of the public notice to provide the Director with any written comments concerning the draft general permit or request a public hearing in writing. The Director may extend the thirty (30) day period.

005 Duty to Supplement or Correct Application for Class I and Class II Permits. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit. If any written comment received during the public comment period raises substantial issues concerning the draft general permit,

the Director may revise the draft general permit and issue a public notice on the revised draft general permit pursuant to Chapter 10.

006 Class I permits – Standard Application Form and Required Information. Following the close of the public comment period and any public hearing, the Director may issue a general permit.

006.01 For a general operating permit, the Director will include: The owner or operator of a source required to obtain a Class I operating permit shall submit an application on standard forms available from the Department.

006.01A all applicable requirements pertinent to Class I operating permits, if the source category includes Class I sources; or

006.01B all applicable requirements pertinent to Class II operating permits, if the source category includes Class II sources.

006.02 The applicant is required to include the following information on the standardized application form or in attachments. For a general construction permit, the Director will include any stationary source or emission unit such that there is a net increase in potential emissions at the stationary source equal to or exceeding the levels identified in Chapter 3.

006.02A Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact. If the company is located on leased property, the name of the property owner shall be provided.

006.02B A description of the source's processes and products (by Standard Industrial Classification Code as published by the Executive Office of the President's Office of Management and Budget, and Source Classification Code as published by EPA's Office of Air Quality Planning and Standards) including any associated with an alternate scenario identified by the source.

006.02C The following emission-related information for each emissions unit:

006.02C1 All emissions, both actual and potential, of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are specifically exempted from listing these units in the application. The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule.

~~This information shall be provided for each operating scenario identified by the source.~~

~~006.02C2 Identification and description of all points of emissions described in 006.02C1 above in sufficient detail to establish the basis for fees and applicability of requirements of the Act.~~

~~006.02C3 Emissions rate in~~ tons per year (tpy) ~~and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method or alternative method as approved by the Director.~~

~~006.02C4 The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules.~~

~~006.02C5 Identification and description of air pollution control equipment and compliance monitoring devices or activities.~~

~~006.02C6 Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.~~

~~006.02C7 Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to Chapter 16).~~

~~006.02C8 Calculations on which the information in the above paragraphs is based.~~

~~006.02C9 The applicant shall indicate any emission points at the facility for which the applicant intends to request coverage under a general permit.~~

~~006.02D The following air pollution control requirements:~~

~~006.02D1 Citation and description of all applicable requirements, and~~

~~006.02D2 Description of or reference to any applicable test method for determining compliance with each applicable requirement.~~

~~006.02E Other specific information that may be necessary to implement and~~ enforce other applicable requirements of the Act or this Title or to determine ~~the applicability of such requirements.~~

~~006.02F An explanation of any proposed exemptions from otherwise~~

~~applicable requirements.~~

~~006.02G Additional information as determined to be necessary by the permitting authority to define alternate operating scenarios identified by the source or to define permit terms and conditions related to modifications which do not require a permit revision.~~

~~006.02H A compliance plan for all Class I sources that contains all of the following:~~

~~006.02H1 A description of the compliance status of the source with respect to all applicable requirements.~~

~~006.02H2 A description as follows:~~

~~006.02H2(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;~~

~~006.02H2(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis;~~

~~006.02H2(c) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.~~

~~006.02H3 A compliance schedule as follows:~~

~~006.02H3(a) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;~~

~~006.02H3(b) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;~~

~~006.02H3(c) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such schedule shall include a schedule of remedial measures, including an enforceable sequence of~~

~~actions with milestones, leading to compliance with any applicable requirements for which the source will be in non-compliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.~~

~~006.02H4 A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.~~

~~006.02H5 The compliance plan content requirements specified in these paragraphs shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.~~

~~006.02I Requirements for compliance certification, including the following:~~

~~006.02I1 A certification of compliance with all applicable requirements by a responsible official consistent with section 008 of this Chapter.~~

~~006.02I2 A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;~~

~~006.02I3 A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department in any permit; and~~

~~006.02I4 A statement indicating the source's compliance status with any applicable compliance assurance or periodic monitoring and compliance certification requirements of this Title.~~

~~006.02J The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by Chapter 26.~~

~~006.02K The source may request the permit shield described in Chapter 6, 014.~~

~~006.03 The Director may develop a list of insignificant activities exempted from the requirements of sections 006.02 of this Chapter and 002 of Chapter 6. The list~~

shall be made available by the Department and updated as necessary. The Director may consider the following criteria in developing the list of insignificant activities:

006.03A Support activities (e.g., janitorial, cafeteria or laundry) may be listed as insignificant if they are not themselves marketed or traded, and do not use equipment or materials of a size or nature that are themselves subject to an applicable requirement under the Act or this title;

006.03B Activities or emission units which can be determined to result in air contaminant emissions less than those specified in Chapter 5, section 001.02 based on size, capacity or an expectation of incidental usage (e.g., back-up generators) may be determined to be insignificant. The Director may consider standard industrial practices and the results of rulemaking efforts under the Act in establishing such thresholds;

006.03C Laboratory and research and development (R & D) activities may be listed as insignificant activities only if conducted in the nonprocess areas of the facility. If the principal activity of a site is laboratory services or R & D activities for other locations or under contract, such activities cannot be insignificant;

006.03E AP-42 emission factors or comparable data may be considered when determining insignificant use or storage thresholds. For hazardous air pollutants, the Director may consider any de minimis emission level established by the EPA under §112(g) of the Act or a storage or use level established in any federal or state standard.

006.04 The list of insignificant activities shall describe classes of activities that may be excluded from the permit application or only listed with a limited amount of support data. The list must specify the following:

006.04A The applicant must provide all such information necessary to determine if a specific activity, piece of equipment or group of items is subject to an applicable requirement under the Act or this title, if requested; and

006.04B The inclusion of an activity, emission unit or specific use or storage of a regulated pollutant on the list does not absolve an applicant from any applicable requirements under the Act or this title to which such an activity or emission unit is otherwise subject.

007 Class II permits—Standard Application Form and Required Information. The owner of a source seeking coverage under a general permit is to apply to the Department for coverage under the terms of the applicable general permit. Each application will include

all information necessary to determine qualification for, and to assure compliance with, the applicable general permit. The Department may request additional information as necessary. The owner of a source seeking coverage under a general permit is to apply by submitting in a manner prescribed by the Department:

007.01 ~~Identifying information, including company name and address, and plant name and address, if different, owner's name and address, and telephone number, and names of plant site manager or contact.~~ An application in accordance with Chapter 6 for a general operating permit; or

007.02 ~~A description of the source's processes and products, including Standard Industrial Codes.~~ An application, along with the appropriate application fee in accordance with Chapter 3, for a general construction permit.

~~007.03 Emissions-related information, including:~~

~~007.03A Emissions of regulated pollutants emitted from any emission unit;~~

~~007.03B Identification and description of all emissions units;~~

~~007.03C Emissions rate, both actual and potential, in tpy;~~

~~007.03D The following information if needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules;~~

~~007.03E Identification and description of air pollution control equipment and compliance monitoring devices or activities;~~

~~007.03F Limitations on source operation affecting emissions, including physical or operational limitations on potential to emit.~~

~~007.04 Specific information that may be necessary to implement and enforce any applicable requirement.~~

~~007.05 An explanation of any proposed exemption from an applicable requirement.~~

~~007.06 Additional information determined to be necessary by the Department to define permit terms and conditions.~~

~~007.07 Insignificant activities listed for exclusion in the permit application pursuant to sections 006.03 and 006.04 of this chapter shall be treated as specified by those sections.~~

008 ~~Certification for Class I and Class II Permits. Any application form, report, or~~

~~compliance certification submitted~~ ~~pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.~~ The Director will notify the applicant of the final determination whether the source qualifies and is covered under the general permit or not. If the Director denies coverage of the source under the general permit, the applicant may request an adjudicative hearing in accordance with Neb. Rev. Stat. 81-1507(3) and the procedures established in Title 115, Rules of Practice and Procedure.

009 ~~The Department shall approve or disapprove a completed application for a Class I source, and shall issue or deny the permit within 18 months after the date of receipt thereof. This requirement does not apply to sources submitting applications under the provisions of Section 002.01 of this Chapter.~~ The Director may issue coverage under a general permit to an individual source without repeating the notice and comment procedures required under sections 001 through 006 of this Chapter. The Department will maintain a list of all sources covered by general permits, which will be available for public review.

010 ~~Applications for construction or modification under Chapter 19 relating to the Prevention of Significant Deterioration of Air Quality, and for any plan requirements for nonattainment areas, shall be given a priority.~~ The owner of a source that obtains general permit coverage may be subject to enforcement action for operation without a Class I or Class II operating permit or a construction permit if the source is later determined not to qualify for the terms and conditions of the general permit.

011 ~~The Department shall prepare a statement that sets forth the legal and factual basis for the draft Class I permit conditions, including references to the applicable statutory and regulatory provisions. This statement shall accompany the draft permit sent to EPA, and be made available to any person who requests it.~~ If some, but not all of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the owner may apply for coverage under one or more general permits for the operations, activities, and emissions that are so eligible. In such a case, the permit applicant is to identify all operations, activities, and emissions that are subject to general permits or permits-by-rule. The Class I or Class II operating permit or construction permit will identify any general permits or permits-by-rule which have been issued or approved.

~~012 The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under Chapters 17 or 19.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(16)

~~Legal Citation: Title 129, Ch. 7, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 8 - ~~OPERATING PERMIT CONTENT~~PERMITS BY RULE

001 ~~Each Class I operating permit shall include the standard permit requirements in sections 002 through 013.~~ General Provisions. This chapter applies to sources approved by the Department for coverage under a permit by rule before January 1, 2020. A permit by rule as described in this chapter will not be available to any source that has not been approved for coverage by the Department prior to January 1, 2020.

001.01 The permit-by-rule provisions will not supersede any applicable federal regulations such as New Source Performance Standards.

001.02 Records will be collected and maintained as described for each applicable permit-by-rule and retained for a period of not less than five years and will be made available to the Department upon request.

002 ~~Emission limitations and standards. Each permit shall specify emission limitations and standards, including those operational requirements and limitations that assure compliance with all requirements applicable at the time of permit issuance.~~Construction Permits. Any source approved for coverage under a permit-by-rule will be considered to have fulfilled the owner or operator's duty to obtain a construction permit under this Title, unless required to do so elsewhere under this Title or the Act. Compliance with the permit-by-rule, will take precedence over requirements of previously issued construction permits applicable solely to the approved source, except for provisions in sections 002.01 and 002.02.

002.01 ~~The permit shall specify and reference the origin of, and authority for, each term or condition. In addition it shall identify any difference to the terms or conditions as compared to the applicable requirement upon which the term or condition is based.~~ The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued construction permits, unless, subject to Department approval, a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

002.02 ~~Where an applicable requirement is more stringent than an applicable requirement specified in Chapter 26, both provisions shall be incorporated into the permit.~~ The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued construction permits, unless the owner or operator can

demonstrate that there was no regulation or condition to limit the source's potential to emit in the previously issued construction permits.

~~002.03 If an applicable implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance equivalent to that contained in the plan, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicable procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.~~

003 ~~Permit duration.~~ Operating Permits. Any source approved for coverage under a permit-by-rule will be considered to have fulfilled the duty to obtain an operating permit under this Title, unless required to do so elsewhere under this Title, the State Act, or the Act, except for provisions in sections 003.01 and 003.02.

003.01 ~~Class I and Class II operating permits shall be issued for a fixed term not to exceed 5 years, except as provided below:~~ The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued operating permits, unless a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

003.02 ~~The Director may issue any Class I permit, except as limited in 003.04 and 003.06, for a duration that is less than the full allowable term under 003.01.~~ The permit-by-rule provisions of this chapter may not supersede conditions to limit a source's potential to emit which are contained in previously issued operating permits, unless the owner or operator can demonstrate that there was no regulation or condition to limit the source's potential to emit in the previously issued operating permits.

~~003.03 The term of a permit shall not be extended by modification beyond the maximum duration specified except that the conditions of an expiring permit shall continue until the effective date of a new permit in accordance with Chapter 12, provided that:~~

~~003.03A The permittee has submitted a timely application which has been deemed complete by the Department, and~~

~~003.03B The Director, through no fault of the permittee, does not issue a new permit with an effective date before the expiration date of the previous permit.~~

~~003.04 Class I permits for affected sources shall be issued for a fixed term of 5 years.~~

003.05 Class I permits for solid waste incineration units combusting municipal waste subject to a performance standard under Chapter 18 shall be issued for a period not to exceed 5 years.

004 Monitoring and related recordkeeping and reporting requirements. Temporary Sources. Temporary sources approved to construct and operate under a permit-by-rule will:

004.01 Each Class I permit shall contain the following monitoring requirements: Notify the Director at least 20 calendar days in advance of each change in location by providing the information required by Chapter 6, section 004.02B.

004.01A All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods established in Chapter 31 or pursuant to any permit or order issued by the Director under this Title. If the proposed location is in Lancaster County, the source will also notify the Air Quality Program of the Lincoln-Lancaster County Health Department at least 20 days in advance of the proposed change. An additional permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

004.01B Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. If the proposed location is in the jurisdictional area of the City of Omaha, the source will also notify the Omaha Air Quality Control Agency at least 20 days in advance of the proposed change. An additional permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

004.01C As necessary, requirements concerning the use, maintenance, and installation of monitoring equipment or methods and quality assurance and control procedures.

004.02 Each Class I permit shall incorporate all applicable recordkeeping requirements and require, if necessary, the following. The Director may disapprove a new proposed location for a temporary source if operation in the new location would cause or contribute to a violation of state or local standards or otherwise adversely affect human health or the environment. Local air quality agencies may have more stringent regulations than the Department.

004.02A Records of required monitoring information that include the following:

004.02A1 The date and place as defined in the permit, and time of sampling or measurements;

004.02A2 The date(s) analyses were performed;

004.02A3 The company or entity that performed the analyses;

004.02A4 The analytical techniques or methods used;

004.02A5 The results of such analyses; and

004.02A6 The operating conditions existing at the time of sampling or measurement.

004.02B Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. The permit may specify that records may be maintained in computerized form.

004.03 Each Class I permit shall incorporate all applicable reporting requirements and shall, at a minimum, require the following:

004.03A Submittal of reports of required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official in accordance with Chapter 7, section 008.

004.03B Reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permit shall require reporting of deviations as follows:

004.03B1 Any deviation resulting from emergency or upset conditions as defined in Chapter 11 shall be reported within two working days of the date on which the permittee first becomes aware of the deviation, if the permittee wishes to assert the affirmative defense authorized under said section;

004.03B2 Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable;

004.03B3 Any other deviations that are identified in the permit as requiring more frequent reporting than the permittee's semi-annual report shall be reported on the schedule specified in the permit.

004.03B4 All reports of deviations shall identify the probable cause of the deviations and any corrective actions or preventative measures taken.

004.04 Every report submitted under 004.03 shall be certified by a responsible official, except that a report of a deviation required under 004.03B must be submitted within ten days of the deviation. The report may be submitted initially without a certification if an appropriate certification is provided within ten days thereafter, together with any corrected or supplemental information required concerning the deviation.

005 Acid Rain Permit Condition Duty to Comply. Each source approved for coverage under a permit-by-rule is to comply with all the sections of this chapter applicable to the source. Any non-compliance with the permit-by-rule will constitute a violation of the State Act and the Act, and is grounds for enforcement action; for requiring permits under Chapters 3 and/or 6; or for disapproving of the Notice of Intent to construct and/or operate under the permit-by-rule.

005.01 Acid Rain. Each Class I permit issued to an affected source shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Act.

005.01A No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Title IV acid rain program developed under the Act, provided that such increases do not require a permit revision under any other applicable requirement.

005.01B No limit shall be placed on the number of allowances held by the source.

005.01C The allowances a source possesses shall not be a defense to noncompliance with any other applicable requirement.

005.01D Any allowance shall be accounted for according to procedures established in Chapter 26.

005.02 Reserved.

006 Severability. Each Class I and Class II permit shall contain a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit. Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under this Title, the State Act, or the Act not specifically addressed in this chapter.

007 General conditions. Each permit shall contain the following provisions:Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as specified in Chapter 11, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 2, is to be provided upon Department request.

007.01 The permittee must comply with all conditions of the Class I and Class II permit. Any permit noncompliance shall constitute a violation of the State Act and the Act, and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

007.02 It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

007.03 The permit may be modified, revoked, reopened, and reissued, or terminated for cause in accordance with this Title and Title 115, Rules of Practice and Procedure. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not supersede any permit condition.

007.04 The permit does not convey any property rights of any sort, or any exclusive privilege.

007.05 The permittee shall furnish to the Department, within the time specified by the Department, any information requested by the Department in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Department copies of records required to be kept in accordance with the permit or, for information claimed to be confidential, the permittee may furnish such records along with a claim of confidentiality pursuant to Title 115, Rules of Practice and Procedure.

008 Fees. Each Class I permit shall contain a provision to ensure that a major source of regulated pollutants pays fees to the Department consistent with Chapter 29 Annual Certifications of Compliance. Sources approved for coverage under a permit-by-rule will complete and submit to the Department an annual certification of compliance on forms acceptable to the Department by March 31.

009 ~~Alternative operating scenarios. Each permit~~ shall ~~contain terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. Such terms and conditions:~~Certifications. Each Notice of Intent Form, copy of records, annual emissions inventory, annual certification of compliance statements or other information submitted to the Department pursuant to this chapter will contain a certification signed by a responsible official, stating that, based on information and belief formed after reasonable inquiry, the information provided is true, accurate, and complete.

~~009.01 Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which the source is operating;~~

~~009.02 Must ensure that the terms and conditions of each alternative scenario meet all applicable requirements and the requirements of the permit; and~~

~~009.03 The permit shield, if requested, as described in~~ 014 ~~for all terms and conditions under each operating scenario.~~

010 ~~Reopening for cause. Each permit~~ shall ~~include provisions specifying the conditions under which the permit will be reopened, revoked and reissued, or terminated, in accordance with~~ Chapter 15, section 006 Permit-by-Rule for Hot Mix Asphalt Plants. For purposes of this regulation, a hot mix asphalt plant is a facility that is comprised of any combination of the following: generators; heaters; dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing aggregate materials; systems for mixing hot mix asphalt; and associated emission control systems. Hot mix asphalt plants approved to be constructed or operated pursuant to the provisions of this chapter will comply with sections 001 through 009 above and each of the following.

010.01 The owner or operator will use an air emissions computation program provided by the Department to establish hourly production limits and hourly generator combustion limits as described in sections 010.03C and 010.05. Upon receipt of these files, the Department will use the submitted data to run an ambient air quality dispersion model to determine hourly limits that comply with the NAAQS. The source will comply with these limits.

010.02 Upon relocation of a temporary source, the owner or operator will use the parameters of the new site as input for an air emissions computation program provided by the Department. A responsible official for the source will certify the output files generated by the air emissions computation program and submit them to the Department for establishment of hourly limits as described in section 010.01.

010.03 Production Limits.

010.03A For batch mix asphalt plants, the production of asphalt is not to exceed a maximum rate of 250,000 tons per calendar month and 400,000 tons per consecutive 12 calendar months.

010.03B For drum mix asphalt plants, the production of asphalt is not to exceed a maximum rate of 500,000 tons per calendar month and 850,000 tons per consecutive 12 calendar months.

010.03C The owner or operator will use an air emissions computation program provided by the Department to establish the plant capacity on a ton-per-hour basis. The Department will use the data provided by the owner or operator in a dispersion model to establish production limits that are in compliance with the NAAQS.

010.04 The generators are not to combust more than 75,000 gallons of diesel fuel per calendar month and 250,000 gallons of diesel fuel per consecutive 12 calendar months; or if it is more practical for the source to keep track of hours of generator operation, and the generator is equipped with an hour meter, the following equation may be used to determine the maximum hours of generator operation per calendar month and consecutive 12 calendar months:

75,000 gallons / month	x	1 / (Generator Capacity) gallons/hour	=	Operating Hours/month

250,000 gallons / 12 months	x	1 / (Generator Capacity) gallons/hour	=	Operating Hours/12mos

010.05 The owner or operator will use an air emissions computation program provided by the Department to establish the plant capacity pound-per-hour limitations. The Department will use the data provided by the owner or operator in an ambient air quality dispersion model to establish generator operating limits that are in compliance with the NAAQS.

010.06 Moisture and Fuel Content Requirements

010.06A Storage pile and haul road moisture content must be maintained at a level that assures compliance with section 003 of Chapter 16.

010.06B The sulfur content of diesel fuel must not exceed 0.5% and the sulfur content of non-diesel fuel must not exceed 1.0%.

010.07 The source is not to exceed a particulate emissions rate of 0.04 grains per dry standard cubic foot of exhaust gas.

010.08 Control Technology. Appropriate emission control technology will be properly installed, maintained and operated whenever associated equipment is in operation. Manufacturer's instructions are to be kept accessible on site or electronically and readily available to Department representatives.

010.08A Fabric Dust Collectors (Baghouses).

010.08A1 Each fabric dust collector will be equipped with an operational pressure differential indicator.

010.08A2 Fabric dust collector filter bags are to be inspected and/or replaced according to the manufacturer's recommendations or more frequently as indicated by pressure differential readings. To determine whether each fabric dust collector is functioning properly, routine observations (at least once each day of dust collector operation) will be conducted to determine whether there are visible emissions from the stack, leaks or noise, atypical pressure differential readings, or other indications that may necessitate corrective action. Corrective action will be taken immediately if necessary.

010.09 The opacity of visible emissions is not to equal or exceed 20 percent as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and by Chapter 15, section 001.

010.10 The source will not allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air.

010.10A Routine observations (at least once each day of operation) will be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, necessitating corrective action. Corrective action will be taken immediately if necessary.

010.11 Facilities constructed, reconstructed or modified after June 11, 1973 are to comply with the provisions of section 001.20 of Chapter 12 for Hot Mix Asphalt Facilities (asphalt concrete plants) - Subpart I.

010.12 Record keeping. The owner or operator of the facility will maintain on-site records, to demonstrate compliance, as follows:

Commented [GR35]: Added per EPA recommendation.

010.12A Records will be updated at least monthly no later than 15 days after the end of the month.

010.12B Storage pile moisture content and haul road moisture content.

010.12C The quantity of diesel fuel combusted in the generators or the hours of generator operation.

010.12D Records demonstrating that the source has complied with the hourly limits established in section 010.05.

010.12E The sulfur content of fuel used in the generator and main burner.

010.12F Inspection and maintenance records to ensure control equipment is operated and well maintained. Such records will at a minimum, include the following:

010.12F1 Routine visual inspections of control equipment were performed with a description including pressure differential readings and any atypical observations;

010.12F2 Routine maintenance performed, including bag replacement, preventive actions taken, and a description of actions taken;

010.12F3 Equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and the date and time when any corrections were made.

010.12F4 Records and notifications required under Chapter 12, section 001.01 – General Provisions Subpart A.

010.12G Records documenting routine observations conducted and any corrective action taken to assure compliance with 010.10A.

010.13 Upon request, the owner or operator will provide Department personnel access to, or copies of, the records required under this chapter.

010.14 Startup notification. The owner or operator of a source approved to construct, reconstruct or modify and operate a hot mix asphalt plant under the provisions of this chapter will notify the Department of the actual date of startup within 15 calendar days after such date.

010.15 Performance Testing. The owner or operator of a source will conduct performance testing to demonstrate compliance with sections 010.07 and 010.09 and as required under 010.11.

011 ~~Risk Management Plans. If the source is required to develop and register a risk-management plan pursuant to section 112(r) of the Act and regulations adopted by the Council, the permit will specify that the permittee will comply with the requirement to register such a plan. The content of the risk management plan will not be incorporated~~

~~as a permit term. The permit shall require~~ Permit-by-Rule for Small Animal Incinerators. For purposes of this regulation, a small animal incinerator has a maximum design burning capacity of 200 lbs/hour, is used to burn animal remains and is comprised of a dual-chamber design, consisting of a primary charging chamber and a secondary chamber (or afterburner) with burners located in each chamber. The minimum stack height is seven feet above ground. Small animal incinerators approved to be constructed or operated pursuant to the provisions of this chapter will comply with sections 001 through 009 above, Chapter 14, sections 001 through 006, and each of the following.

011.01 ~~Verification of plan preparation and submittal to the Department, the State Emergency Response Commission, and any Local Emergency Planning Committee; and~~ Production Limits. Limits on incineration may not exceed the incineration rate, in pounds per hour, specified by the manufacturer, as measured by using the following.

011.01A Where the weight of the load is estimated, the incineration period will last for the maximum duration in hours specified by the manufacturer for a full load.

011.01B Where the weight of the load is known, the incineration period will be at least an amount of time equivalent to the weight of the load, in pounds, divided by the manufacturer's design incineration rate in pounds per hour.

011.02 ~~Annual certification in accordance with Chapter 7, 006.02(3) that the risk management plan is being properly implemented.~~ Fuel. Heat will be provided by the combustion of natural gas, liquefied petroleum gas, or distillate oil. The sulfur content of distillate oil may not exceed 0.05% by weight.

011.03 Materials Incinerated. Incineration will be limited to deceased animals and medical/infectious waste. Medical/infectious waste may not exceed 10% by weight of all waste incinerated in any single load. Medical/infectious wastes that may be incinerated include sharps that have been used in animal care or treatment, unused sharps, and carcasses, parts, or bedding of animals known to have been exposed to infectious agents.

011.04 Opacity. The opacity of visible emissions from the stack is not to equal or exceed 20% as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a) (2) and Chapter 15, section 001.04.

011.05 Temperature. The temperature of the secondary chamber, as indicated by a temperature measuring device, will not be less than 1400° Fahrenheit with a minimum residence time of 0.5 seconds in which waste gases are released from the charged primary chamber.

011.06 Particulate matter caused by the combustion of fuel is not to be emitted in excess of the hourly rate of 0.60 pounds of particulate matter per million British thermal units total heat input, in accordance with Chapter 15, section 001.02.

011.07 Particulate matter is not to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, in accordance with Chapter 15, section 003.01.

011.07A Routine observations (at least once each day of operation) will be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in ambient air. Corrective action will be taken immediately if necessary.

011.08 Maintenance. The incinerator will be properly maintained at all times, in accordance with manufacturer's instructions.

011.09 Record keeping. The owner or operator of the facility will maintain on-site records as follows, for a minimum of five years:

011.09A Inspection and maintenance records to ensure equipment is properly operated and well maintained. Such records will , at a minimum, include the following:

011.09A1 Records documenting the type of materials incinerated during each charge, the weight of medical/infectious waste included in each charge, the total weight of each charge (estimated or actual), and the duration of each main burner operating cycle. The duration of an operating cycle is defined as the period of time starting at the initial charge after the preheat period and ending after all material in the final charge of the operating cycle is combusted; and, when the incineration period is less than the maximum period specified by the manufacturer, calculation of the incineration rate for each charge. The incineration rate is calculated by dividing the weight of each charge by the duration of each main burner operating cycle.

011.09A2 Records documenting the sulfur content of distillate fuel, if used.

011.09A3 Records documenting when routine maintenance and preventive actions were performed with a description of the maintenance and/or preventive action performed;

011.09A4 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and the time and date when corrections were made.

011.09B Records documenting routine observations conducted and any corrective action taken to determine compliance with 011.07A.

011.10 Records Availability. Upon request, the owner or operator will provide Department personnel access to, or copies of, the records required under this chapter.

011.11 Startup Notification. The owner or operator of a source approved to construct, reconstruct or modify and operate a small animal incinerator under the provisions of this chapter will notify the Department of the actual date of startup within 15 calendar days after such date.

011.12 Performance Testing. The owner or operator of a source will conduct performance testing to demonstrate compliance with sections 011.04 and 011.06 and with Chapter 14, section 002, except the Director may waive performance testing provided that the owner or operator submits adequate documentation and emission test results of an animal incinerator identical or similar to the one proposed.

~~012. Compliance requirements. All Class I operating permits shall contain the following elements with respect to compliance:~~

~~012.01. Consistent with 004 above, compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including reports, required by a Class I permit shall contain a certification by a responsible official that meets the requirements of Chapter 7, section 008.~~

~~012.02. Inspection and entry requirements that require the permittee to allow the Department, EPA or an authorized representative, upon presentation of credentials and other documents, to:~~

~~012.02A. Enter upon the permittee's premises at reasonable times where a source subject to a Class I operating permit is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;~~

~~012.02B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;~~

~~012.02C. Inspect at reasonable times any facilities, pollution control equipment, including monitoring and air pollution control equipment, practices, or operations regulated or required under the permit; and~~

~~012.02D. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.~~

~~012.03. A schedule of compliance consistent with Chapter 7, section 006.02H.~~

~~012.04. Progress reports consistent with an applicable schedule of compliance in Chapter 7, section 006.02H to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Director. Such progress reports shall contain the following:~~

~~012.04A. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and~~

~~012.04B. An explanation of why any dates in the schedule of compliance were not met, or will not be met, and any preventive or corrective measures adopted.~~

~~012.05. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:~~

~~012.05A. The frequency, not less than annually or such more frequent periods as specified in the applicable requirement or by the Department, of submissions of compliance certifications;~~

~~012.05B. In accordance with 004 above, a means of monitoring the compliance of the source with its emissions limitations, standards and work practices;~~

~~012.05C. A requirement that the compliance certification include the following:~~

~~012.05C1. The identification of each term or condition of the permit that is the basis of the certification;~~

~~012.05C2. The compliance status;~~

~~012.05C3. A determination of whether compliance was continuous or intermittent;~~

~~012.05C4. The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with 004 above; and~~

012.05C5. Such other facts as the Department may require to determine the compliance status of the source;

012.05D. A requirement that all compliance certifications be submitted to the Administrator as well as to the Department; and

012.05E. Such additional requirements as may be specified pursuant to **this Title, the applicable Implementation Plan, or any permit issued under this Title.**

013. The Director may place such conditions and restrictions upon a permit issued or renewed under this Title as he or she deems necessary to protect public health or the environment. Such conditions or restrictions may be placed upon the permit at the time it is issued, modified, or renewed. By way of example, and not of limitation, such conditions or restrictions may be new federal applicable requirements not yet adopted by the Council.

014. **Permit Shield for Class I Permits.**

014.01. **If requested in the permit application, the permit shield** provided in this section shall **be included in the permit.**

014.02. The permit shield shall provide that compliance with a permit during its term constitutes compliance with all applicable requirements identified pursuant to Chapter 7 of this Title as of the date of permit issuance, provided that:

014.02A. Such applicable requirements are included and specifically identified in the permit; or

014.02B. The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination.

014.03. The permit shield does not affect:

014.03A. The emergency provisions of Neb. Rev. Stat. §81-1507 of the State Act;

014.03B. Liability for any violation of applicable requirements or applicable requirements under the Act prior to or at the time of permit issuance;

014.03C. The applicable requirements of Chapter 26;

014.03D. The authority of the Department or EPA to obtain information; or

014.03E. Any other permit provisions, terms, or conditions, including, but not limited to, construction permits issued pursuant to Chapter 17 or permits issued pursuant to other State authorities and Titles.

014.04 A Class I permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

015 Each Class II operating permit shall include those requirements applicable to Class II sources and any additional requirements which the Director deems appropriate, including but not limited to, the following:

015.01 Emissions limitations and standards which are at least as stringent as any applicable requirement or other requirements contained in the State Implementation Plan.

015.02 Monitoring and related recordkeeping and reporting requirements.

015.03 Compliance certification, testing, monitoring, reporting, and recordkeeping requirements.

016 All terms and conditions in a Class I or Class II operating permit, including any provisions designed to limit a source's potential to emit, are enforceable by the Administrator of EPA and citizens under the Act except those terms and conditions which have been specifically designated as not federally enforceable under 017 below.

017 Each Class I permit shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.

018 If an applicable requirement provides for the trading of increases and decreases of emissions without a case-by-case approval of each emissions trade, and if requested by the applicant in its permit application, the Director shall establish terms and conditions for the trading of such emissions increases and decreases within the permitted facility. Such terms and conditions shall include all terms required by this Title to determine compliance and must meet all terms specified in the applicable requirement which allows such trading.

019 If an applicant requests in its application, the Director shall establish terms and conditions in the permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions from emissions units which are not quantifiable and for which there are no replicable procedures shall not be included in any trades. The permit shall also require compliance with all applicable requirements.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2)(11); 81-1505(12)(16)

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 9 – ~~GENERAL PERMITS~~PERMIT REVISIONS; REOPENING FOR CAUSE

001 ~~If the Director determines that numerous similar sources are subject to identical regulatory requirements, the Director may issue a general permit following the procedures specified in this Chapter and the applicable procedures of Chapters 13, 14, and 17. The Director shall not issue general permits for affected sources under the acid rain program.~~ Administrative permit amendments.

001.01 An "administrative permit amendment" is a permit revision that:

001.01A Corrects typographical errors;

001.01B identifies a change in the name, address, or telephone number of any person identified in the permit, provided that the owner or operator of the source is not changed;

001.01C Requires more frequent monitoring or reporting by the source;

001.01D Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, when the following conditions are met:

001.01D1 A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new source has been submitted to the Department; or

001.01D2 A written certification is provided to the Department from the new owner or operator which states acceptance of all active permits as issued in cases where the previous owner(s) cannot be located or are not in existence.

001.01E For PAL permits, corrects typographical and calculation errors.

001.02 A source may request the Department to make an administrative permit amendment in writing by specifying the section of the permit that is to be changed and the reason for the change.

001.03 The source may implement the changes addressed in the request immediately upon submittal of the request, subject to the Department's final action on the request under 001.04.

001.04 The Department will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes into the permit without providing notice to the public, EPA, or affected States.

001.05 The Department will make available a copy of the revised permit to the Administrator of the EPA for Class I operating permits and PSD construction permits.

001.06 If the Department determines that the source's request for an administrative permit amendment is better handled as a minor revision or other permit revision, the Department will notify the source of this determination and proceed with such revision pursuant to the applicable procedures.

001.07 The permit shield described in Chapter 6 will not apply to administrative permit amendments.

002 ~~If the Director, in his or her discretion, determines a general permit is appropriate, he or she~~ shall ~~initiate issuance of a general permit by publication of a notice which identifies the criteria for sources that qualify for the general permit. The notice~~ shall ~~be published~~ in a newspaper with statewide circulation and shall announce the availability of a draft general permit for public review and comment for thirty (30) days Permit revisions to the acid rain portion of a Class I permit will be governed by Chapter 5.

003 ~~The public notice of the draft general permit~~ shall ~~contain~~ Minor Permit Revisions

03.01 For minor permit revisions of Class I and Class II operating permits, the requirements of 40 CFR Part 70.7(e)(2)(i) will apply.
~~Name, address, and telephone number of the Department;~~

003.01A A change within a permitted facility that is defined as a modification under Chapters 12 or 13 or is subject to a construction permit under Chapters 3 or 4 will not be eligible for a minor permit revision.

003.01B For Class II Sources only. A source may submit, once per calendar year, a minor operating permit revision request to increase an emission limit, throughput, or production limit, if the change does not increase the potential to emit for any regulated pollutant to exceed a major source threshold and cannot exceed the following potential emissions limit increase for any applicable requirement under the Act or this Title:

003.01B1 Single HAP less than or equal to one tpy;

003.01B2 Total HAPs less than or equal to 2.5 tpy.

003.01B3 VOCs less than or equal to 10 tpy; or

003.01B4 All other regulated pollutants less than or equal to 10 tpy.

003.02 ~~A brief description of the activities and/or operations addressed by the permit.~~The minor permit revision procedures of this section may be used for construction permit revisions provided the following conditions are met:

003.02A No applicable requirement included in an operating permit to which the source is subject is violated.

003.02B No emissions limit, equipment or operational standard applicable to the source will be exceeded.

003.02C No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and

003.02C1 State Construction Permits excluding PSD sources. A source may submit, once per calendar year, a minor construction permit revision to request to increase an emission limit, throughput or production limit, if the change does not increase the potential to emit for any regulated pollutant to exceed prevention of significant deterioration of air quality (PSD) threshold and cannot exceed the following emissions limit increase or any applicable requirement under the Act or this Title.

003.02C1(a) A Single HAP less than or equal to one tpy;

003.02C1(b) Total HAPs less than or equal to 2.5 tpy;

003.02C1(c) VOCs less than or equal to 10 tpy; or

003.02C1(d) All other regulated pollutants less than or equal to 10 tpy.

003.02D The nature of the constructed facility will be consistent with that described in the original public notice materials.

003.03 A source~~permittee~~ may request a minor permit revision by submitting a request to the Department in writing that includes the following:

Commented [GR36]: Language in the first draft mixed CP and OP requirements and cites Part 70 for both. EPA suggestion was to break them apart. We went back to our original chapter language, which does not reference Part 70, to hopefully address EPA's suggestion.

003.03A A description of the change, the emissions resulting from the change, and any new applicable requirements or applicable requirements under the Act that will apply if the change occurs;

003.03B The source's suggested draft permit language.

003.03C Certification by a responsible official, in accordance with Chapter 67, section 008, for operating permits or Chapter 317, section 004 for construction permits, that the proposed revision meets the criteria in section 003.01 or 003.02 above for use of minor revision procedures and a request that such procedures be used;

003.03D For Class I operating permit revisions only, one (1) original and one (1) copy of the completed applications and information identified in 003.03A through 003.03C above for use by the Department to notify the Administrator of EPA and affected States.

003.04 A brief description of the comment procedures and the time and place of any hearing if already scheduled, including the procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final general permit decision; andFor Class I operating permit revisions only, within five working days of receipt of a complete minor permit revision application, the Department will notify the Administrator of EPA and affected States of the requested permit revision pursuant to 40 CFR § 70.7(e)(2)(iii, iv, and vi). Administrator, as used in 40 CFR § 70.7(e)(2)(iii, iv, and vi), means Administrator of EPA.

003.05 The name, address, and telephone number of the person from whom interested persons may obtain further information, and inspect and copy forms and related documents.A source submitting a complete minor operating permit revision request may immediately make the proposed change upon the Department's receipt of the source's complete minor permit revision request, unless notified by the Department that the request does not qualify as a minor permit revision. After the source makes the change, and until the Department takes action on the request, the source will comply with both the applicable requirements and applicable requirements under the Act governing the change and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to revise may be enforced and such failure to comply will be cause for denial of the minor permit revision request.

003.06 The permit shield described in Chapter 6 will not apply to a minor permit revision.

Commented [GR37]: Was old Section 003.07. Incorporated back into this Chapter per EPA recommendation.

004 Any interested person shall have thirty (30) days from issuance of the public notice within which to provide the Director with any written comments concerning the draft general permit or request a public hearing in writing. The Director may extend the thirty (30) day period. Group processing of minor operating permit revisions will occur pursuant to 40 CFR Part 70.7(e)(3)(i, ii, iv, v, and vi).

004.01 For Class I permit revisions, the Department will require one original and one copy of completed forms for use in notifying the Administrator of EPA and affected States.

005 ~~If any information or public comment is received during the comment period which appears to raise substantial issues concerning the draft general permit, the Director may formulate a new draft general permit which supersedes the original draft general permit and may, if necessary, republish the public notice pursuant to Chapter 14.~~ Significant Permit Revisions.

005.01 A source may request a significant permit revision by submitting the application forms and information in accordance with Chapter 6 for operating permit revisions or Chapter 3 for construction permit revisions.

005.02 The Department will review an application for a significant permit revision following the applicable procedures for permit issuance, including public participation, EPA and affected States review.

005.03 For Class I operating permits, the permit shield described in Chapter 6 will apply to a significant permit revision only after the Director approves the permit revision, provided that the permit being revised contains a permit shield.

006 ~~Following the close of the public comment period and any public hearing, the Director may issue a general permit.~~ Reopening for cause; revocation and reissuance; and termination.

006.01 ~~For a general operating permit, the Director shall include:~~Any operating or construction permit issued by the Director will be reopened, revoked and reissued, or terminated pursuant to 40 CFR § 70.7(f)(1). Administrator, as used in 40 CFR § 70.7(f)(1), means Administrator of EPA.

Commented [GR38]: Incorporated 70.7(f) and (g) per EPA recommendation.

~~006.01A all applicable requirements pertinent to Class I operating permits, if the source category includes Class I sources, or~~

~~006.01B all applicable requirements pertinent to Class II operating permits, if the source category includes Class II sources.~~

006.02 ~~For a general construction permit, the Director shall include any stationary source or emission unit such that there is a net increase in potential emissions at the stationary source equal to or exceeding the levels identified in Chapter 17.~~ A permit may be revoked during its term for cause, including but not limited to:

006.02A The existence at the source of unresolved noncompliance with applicable requirements or a term or condition of the permit, and refusal of

the source to agree to an enforceable schedule of compliance to resolve the noncompliance;

006.02B The source has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA;

006.02C The Director determines that the permitted source or activity endangers human health or the environment and that the danger cannot be removed by a revision of the permit; or

006.02D The source has failed to pay a penalty owed pursuant to a court order, stipulation and agreement, or an order issued by the Administrator of EPA.

006.03 The Department will initiate a reopening or revocation under 006.01 or 006.02 above pursuant to 40 CFR § 70.7(f)(3).

006.04 If the Department receives a notification from the Administrator of EPA that a Class I operating permit should be reopened for cause, the Department will proceed pursuant to 40 CFR § 70.7(g). Administrator, as used in 40 CFR § 70.7(g), means Administrator of EPA.

007 ~~The owner of a source that qualifies for a general permit must apply to the Department for coverage under the terms of the applicable general permit. Each application~~ shall ~~include all information necessary to determine qualification for, and to assure compliance with, the applicable general permit. The Department may request additional information as necessary. The owner of a source must apply by~~ Changes allowed for Class I and Class II operating permits only

007.01 ~~submitting an application in accordance with Chapter 7 for a general operating permit, or~~A source may make the following changes within a permitted facility without a permit revision pursuant to 40 CFR § 70.4(b)(12), provided the change is not a modification under Chapters 12 or 13, or the change does not require a construction permit under Chapters 3 or 4. Administrator, as used in 40 CFR § 70.4(b)(12), means Administrator of EPA.

007.01A For Class I sources, the written notifications above will also be submitted to the Administrator of EPA.

007.01B Notwithstanding any other part of this rule, the director may, upon review of a notice submitted in accordance with 007.01, require a source to apply for an operating permit if the change does not meet the requirements of section 007.01.

007.02 ~~submitting an application, along with the appropriate application fee in accordance with Chapter 17, for a general construction permit.~~A source may

make changes within a permitted facility without a permit revision pursuant to 40 CFR Part 70.4(b)(14), if the change is not a modification under Chapters 12 or 13, or the change is not a change which would require a construction permit under Chapters 3 or 4. Administrator, as used in 40 CFR Part 70.4(b)(14), means Administrator of EPA.

Commented [GR39]: Typos corrected.

007.02A Notwithstanding any other part of this rule, the director may, upon review of a notice submitted in accordance with 007.02 require a source to apply for an operating permit if the change does not meet the requirements of section 007.02.

~~008 The Director shall notify the applicant of the final determination whether the source qualifies and is covered under the general permit or not. If the Director denies coverage of the source under the general permit, the applicant may request an adjudicative hearing in accordance with the procedures established in Title 115, Rules of Practice and Procedure.~~

~~008 The Director may issue coverage under a general permit to an individual source without repeating the notice and comment procedures required under sections 001 through 006 of this Chapter. The Department shall maintain a list of all sources covered by general permits, which list shall be available for public review.~~

~~010 The owner of a source that obtains a general permit shall be subject to enforcement action for operation without a Class I or Class II operating permit or a construction permit if the source is later determined not to qualify for the terms and conditions of the general permit.~~

~~011 If some, but not all of a source's operations, activities, and emissions are eligible for coverage under one or more general permits, the owner may apply for coverage under one or more general permits for the operations, activities, and emissions that are so eligible. If a permit is required under Chapter 5 or Chapter 17 to address the remainder of operations, activities, and emissions at a source, the owner may apply for a permit, or register for coverage under a permit-by-rule for any facilities for which such permit-by-rule is available and approvable, that addresses those items not covered by general permits. In such a case, the permit applicant must identify all operations, activities, and emissions that are subject to general permits or permits-by-rule. The Class I or Class II operating permit or construction permit shall identify any general permits or permits-by-rule which have been issued or approved.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)~~(16)~~
~~Legal Citation: Title 129, Ch. 9, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITYAir Quality Regulations

Chapter 10 - OPERATING PERMITS FOR TEMPORARY SOURCESPERMITS - PUBLIC PARTICIPATION

001 Except as provided in 004 of this Chapter, the Director may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit subject to Department approval. No affected source shall be permitted as a temporary source.Scope.

001.01 Except for modifications qualifying for administrative or minor permit revision procedures in Chapter 9, all Class I and Class II operating permit proceedings, including initial permit issuance, significant modifications, and renewals, and unless otherwise provided by rule, all construction permit proceedings, will provide for public notice, an opportunity for comment, and an opportunity to request a public hearing pursuant to Nebraska Administrative Code Title 115 – Rules of Practices and Procedures.

Commented [GR40]: Referred to Nebraska law instead of 40 CFR Part 70, per recommendation of EPA no how it would affect construction permit petitions.

002 Class I or Class II operating permits for temporary sources shall include the requirements specified in Chapter 8 and the following:Public Hearings.

002.01 Conditions that will assure compliance with all applicable requirements and ambient air quality standards established in Chapter 4 at all authorized locations; andThe applicant, any affected State or Tribal as State (TAS), any interstate agency, the Administrator, or any interested agency, person, or group, may request or petition the Director, in writing, within the 30 day comment period of the public notice, for a public hearing, and state the nature of the issues to be raised and all arguments and factual grounds supporting their position.

002.02 Requirements that the owner or operator notify the Director at least 20 days in advance of each change in location by providing the following information:The Director may hold a public hearing if the comments, requests, or petitions raise legal, policy or discretionary questions of general application not pertaining solely to a particular party and significant public interest exists with respect to the application.

002.02A A specific description of the source, including SIC code;

002.02B A legal description of the proposed new location;

002.02C The anticipated dates of operation at the new proposed location;

002.02D ~~A description of site location, adjacent surroundings, including proximity to occupied buildings;~~

002.02E ~~A contact person for the source;~~

002.02F ~~The signature of a responsible official certifying the information contained in the notification; and~~

002.02G ~~A source number as assigned by the Department.~~

003 ~~The Director may disapprove a new proposed location for a temporary source if operation in the new location would cause or contribute to a violation of standards or otherwise adversely affect human health or the environment.~~Public notice of hearing. In addition to the public notice described in 001 above, the public notice of a hearing under 002 will be published according to the procedures of 001.01 and include the following additional information:

003.01 Reference to the date of the previous notices relating to the permit;

003.02 Date, time, and place of hearing;

003.03 A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

003.04 A concise statement of the issues raised.

004 At the time that any final permit decision is issued, the Department will issue a response to significant comments received during the comment period and public hearing. The response to comments will be made available to the public.

005 The Department will make and keep a record of the commenters and of the issues raised during the public participation process. This record will be made available to the Administrator of EPA in fulfillment of the obligation under Section 505(b)(2) of the Act to determine whether a citizen petition may be granted. Such record will also be available to the public.

006 The Department will n~~N~~otify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relation to the source.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)~~(16)~~

~~Legal Citation: Title 129, Ch. 10, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 11 - ~~OPERATING PERMITS – EMERGENCY; DEFENSE~~EMISSIONS REPORTING, WHEN REQUIRED

001 ~~For the purposes of a Class I or Class II operating permit, an "emergency" means any situation arising from sudden, unavoidable, and reasonably unforeseeable events beyond the control of the source, including acts of God, which requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.~~Annual emissions inventory. Every source subject to a permit requirement under Chapters 3 or 6 will complete and submit to the Department an annual emissions inventory, if requested, on forms furnished by or acceptable to the Department by March 31, and will include emission information for the previous calendar year. This requirement applies whether or not a permit application has been filed or a permit issued. The inventory form will be certified in accordance with the requirements found at 40 CFR Part 70.5(d).

002 ~~An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of 003 below are met.~~The annual emissions inventory form will include the following information:

002.01 The source's name, description, mailing address, e-mail address, contact person and contact person's phone number, and physical address and location, if different than the mailing address.

002.02 A description of the existing (or proposed) facilities, modifications or operations including all processes employed; normal hours of operation; the nature and amounts of fuel and other materials involved; the probable nature, rate of discharge, and time duration of contaminant emissions; any other information relevant to air pollution control and available or capable of being assembled in the normal course of operation; and, if requested by the Director, ambient air quality and meteorological data.

002.03 The actual quantity of emissions, including documentation of the method of measurement, calculation or estimation, of:

002.03A Any single regulated air pollutant, not including any hazardous air pollutants as defined in Chapter 1, in a quantity greater than one ton.

002.03B Any single regulated hazardous air pollutant in a quantity greater than the reporting level listed in Appendix I.

002.03C Any combination of hazardous air pollutants in a quantity greater than 2.5 tons.

003 The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:Actual emissions as defined in Chapter 1 will be calculated using one of the following methods, as appropriate, and subject to Department approval:

003.01 An emergency occurred and that the permittee can identify the cause(s) of the emergency; Source-specific emissions

003.01A Any test method or procedure identified in Chapter 15

003.01B Continuous emission monitor (CEM) data, provided that:

003.01B1 The CEM operation is, and has been for the reporting period, in compliance with all applicable requirements and applicable requirements under the Act;

003.01B2 The total operating time of the applicable emission unit and the CEM are included in the inventory report; and

003.01B3 The report includes an explanation of how the emissions were calculated using CEM data.

003.02 The permitted facility was at the time being properly operated; Where source-specific emission data are not available, the following may be used:

003.02A Any applicable method identified in the Compilation of Air Pollutant Emission Factors, Volume I, Stationary Point and Area Sources, Fifth Edition;

003.02B Any applicable method identified in Factor Information Retrieval System Version 5.0 Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA-454/R-95-012, August 1995; or

003.02C A material mass balance equation.

003.03 During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

~~003.04 The permittee submitted notice of the emergency to the Department within two working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.~~

004 ~~In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.~~Except as otherwise provided in 003 above, any other test methods and procedures used in determining actual emissions for the annual emissions inventory are to be approved by the Director.

005 ~~This provision is in addition to any emergency or upset provision contained in any applicable requirement.~~The Director may require the submittal of supplemental information to verify or otherwise assure the quality of emissions reported.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(16)

~~Legal Citation: Title 129, Ch. 11, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 12- ~~OPERATING PERMIT RENEWAL AND EXPIRATION~~NEW SOURCE PERFORMANCE STANDARDS AND EMISSION LIMITS FOR EXISTING SOURCES

001 ~~Class I or Class II operating permits being renewed are subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance.~~Standards of Performance for New Stationary Sources. Notwithstanding any other provisions of these regulations, the following "Standards of Performance for New Stationary Sources" published at 40 CFR Part 60, effective July 1, 20193, unless otherwise indicated are hereby adopted by reference and incorporated herein:

001.01 Subpart A – General Provisions

001.02 Subpart D – Fossil-Ffuel-Ffired Ssteam Ggenerators for Wwhich Cconstruction is Ccommenced after August 17, 1971

001.03 Subpart Da – Electric Utility Steam Generating Units

001.04 Subpart Db – Industrial-Ccommercial-Iinstitutional Ssteam Ggenerating Uunits

001.05 Subpart Dc - Small Iindustrial-Ccommercial-Iinstitutional Ssteam Ggeneration Uunits

001.06 Subpart E – Municipal Iincinerators

001.07 Subpart Ea – Municipal Wwaste Ccombustors for Which Construction is Commenced After December 20, 1989 and On or Before September 20, 1994

001.08 Subpart Eb – Municipal Wwaste Ccombustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996

001.09 Subpart Ec – New Stationary Sources: Hospital/Mmedical/Iinfectious Wwaste Iincinerators

001.10 Subpart F – Portland Ccement Pplants

001.11 Subpart G – Nitric Aacid Pplants

Commented [GR41]: Received permission by GPRO to simplify requirements on presenting NSPS changes to the EQC. We anticipate updating all standards to 2019 per EPA's recommendation.

Commented [GR42]: We ordered the NSPS standards based upon the same order they appear in 40 CFR Part 60, per EPA's recommendation.

001.12 Subpart Ga – Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011

001.13 Subpart H – Sulfuric Aacid Pplants

001.14 Subpart I – Hot Mmix Aasphalt Ffacilities (Aasphalt Ceoncrete Pplants)

001.15 Subpart J – Petroleum Rrefineries

001.16 Subpart Ja – Petroleum Rrefineries for Wwhich Ceonstruction, Rreconstruction, or Mmodification Ceommenced Aafter May 14, 2007

001.17 Subpart K – Storage Vvessels for Ppetroleum Lliquids for Wwhich Ceonstruction, Rreconstruction, or Mmodification Ceommenced Aafter June 11, 1973, and Pprior to May 19, 1978

001.18 Subpart Ka – Storage Vvessels for Ppetroleum Lliquids for Wwhich Ceonstruction, Rreconstruction, or Mmodification Ceommenced Aafter May 18, 1978, and Pprior to July 23, 1984

001.19 Subpart Kb – Volatile Oorganic Lliquid Sstorage Vvessels (lincluding Ppetroleum Lliquid Sstorage Vvessels) for Wwhich Ceonstruction, Rreconstruction, or Mmodification Ceommenced Aafter July 23, 1984

001.20 Subpart L – Secondary Llead Ssmelters

001.21 Subpart M – Secondary Bbrass and Bbronze Pproduction Pplants

001.22 Subpart N – Primary Eemissions from Bbasic Ooxygen Pprocess Ffurnaces for Wwhich Ceonstruction is Ceommenced Aafter June 11, 1973

001.23 Subpart Na – Secondary Eemissions from Bbasic Ooxygen Pprocess Ssteelmaking Ffacilities for Wwhich Ceonstruction Ceommenced Aafter January 20, 1983

001.24 Subpart O – Sewage Ttreatment Pplants

001.25 Subpart P – Primary Ceopper Ssmelters

001.26 Subpart Q – Primary Zzinc Ssmelters

001.27 Subpart R – Primary Llead Ssmelters

001.28 Subpart S – Primary Aaluminum Rreduction Pplants

001.29 Subparts T through X – Phosphate Ffertilizer Pplants

001.30 Subpart Y – Coal Ppreparation Pplants

001.31 Subpart Z – Ferroalloy Pproduction Ffacilities

001.32 Subpart AA – Electric Aarc Ffurnaces Ceonstructed Aafter October 21, 1974 and Oon or Bbefore August 17, 1983

001.33 Subpart – AAa Electric Aarc Ffurnaces and Aargon-Oexygen Ddecarbonization Vvessels Ceonstructed Aafter August 17, 1983

001.34 Subpart BB – Kraft Ppulp Mmills

001.35 Subpart CC – Glass Mmanufacturing Pplants

001.36 Subpart DD – Grain Eelevators

001.37 Subpart EE – Surface Ceoating of Mmetal Ffurniture

001.38 Subpart GG – Stationary Ggas Tturbines

001.39 Subpart HH – Lime Mmanufacturing Pplants

001.40 Subpart KK – Lead-Aacid Bbattery Mmanufacturing Pplants

001.41 Subpart LL – Metallic Mmineral Pprocessing Pplants

001.42 Subpart MM – Automobile and Llight-Dduty Ttruck Ssurface Ceoating Oeperations

001.43 Subpart NN – Phosphate Rrock Pplants

001.44 Subpart PP – Ammonium Ssulfate Mmanufacture

001.45 Subpart QQ – Graphic Aarts Iindustry: Ppublication Rrotogravure Pprinting

001.46 Subpart RR – Pressure Ssensitive Ttape and Llabel Ssurface Ceoating Oeperations

001.47 Subpart SS – Industrial Ssurface Ceoating: Llarge Aappliances

001.48 Subpart TT – Metal Ccoil Ssurface Ceoating

001.49 Subpart UU – Asphalt Pprocessing and Aasphalt Rroofing Mmanufacture

001.50 Subpart VV – Equipment Lleaks of VOC in the Ssynthetic Oorganic Cchemicals Mmanufacturing Iindustry for Wwhich Cconstruction, Rreconstruction, or Mmodification Ceommenced Aafter January 5, 1981 and Oon or Bbefore November 7, 2006

001.51 Subpart VVa – Equipment Lleaks of VOC in Ssynthetic Oorganic Cchemicals Mmanufacturing Iindustry for Wwhich Cconstruction, Rreconstruction, or Mmodification Ceommenced Aafter November 7, 2006

001.52 Subpart WW – Beverage Cean Ssurface Ceoating Iindustry

001.53 Subpart XX – Bulk Ggasoline Tterminals

001.54 Subpart AAA – New Rresidential Wwood Hheaters

001.55 Subpart BBB – Rubber Ttire Mmanufacturing Iindustry

001.56 Subpart DDD – Volatile Oorganic Ceompound (VOC) Eemissions from the Ppolymer Mmanufacturing Iindustry

001.57 Subpart FFF – Flexible Vvinyl and Uurethane Ceoating and Pprinting

001.58 Subpart GGG – Equipment Lleaks of VOC in Ppetroleum Rrefineries for Wwhich Cconstruction, Rreconstruction, or Mmodification Ceommenced Aafter January 4, 1983 and Oon or Bbefore November 7, 2006

001.59 Subpart GGGa – Equipment Lleaks of VOC in Ppetroleum Rrefineries for Wwhich Cconstruction, Rreconstruction, or Mmodification Ceommenced after November 7, 2006

001.60 Subpart HHH – Synthetic Ffiber Pproduction Ffacilities

001.61 Subpart III – Volatile Oorganic Ceompounds (VOC) Eemissions from the Ssynthetic Oorganic Cchemical Mmanufacturing Iindustry (SOCMI) Aair Oxidation Uunit Pprocess

001.62 Subpart JJJ – Petroleum Ddry Cleaners

001.63 Subpart KKK – Equipment Lleaks of VOC from Oonshore Nnatural Ggas Pprocessing Pplants

001.64 Subpart LLL – Onshore Nnatural Ggas Pprocessing; SO2 emissions

001.65 Subpart NNN – Volatile Oorganic Ceompounds (VOC) Eemissions from the Ssynthetic Oorganic Cchemical Mmanufacturing Iindustry (SOCMI) Ddistillation Operations

001.66 Subpart OOO – Nonmetallic Mmineral Pprocessing Pplants

001.67 Subpart PPP – Wool Ffiberglass Iinsulation Mmanufacturing Pplants Ceonstructed Aafter February 7, 1984

001.68 Subpart QQQ – Volatile Oorganic Ceompounds (VOC) Eemissions from Ppetroleum Rrefinery Wwastewater Ssystems

001.69 Subpart RRR – Volatile Oorganic Ceompounds (VOC) Eemissions from the Ssynthetic Oorganic Cchemical Mmanufacturing Iindustry (SOCMI) Rreactor Pprocesses

001.70 Subpart SSS – Magnetic Ttape Ceoating Ffacilities

001.71 Subpart TTT – Industrial Ssurface Ceoating: Pplastic Pparts for Bbusiness Mmachines

001.72 Subpart UUU – Calciners and Ddryers in Mmineral Iindustries

001.73 Subpart VVV – Polymeric Ceoating of Ssupporting Ssubstrates Ffacilities

001.74 Subpart WWW – Municipal Ssolid Wwaste Llandfills

001.75 Subpart AAAA – Small Mmunicipal Wwaste Ccombustion Uunits

001.76 Subpart CCCC – Commercial & Industrial Solid Waste Incineration Units

001.77 Subpart DDDD – Emission Guidelines & Compliance Times for Commercial & Industrial Solid Waste Incineration Units

001.78 Subpart EEEE – Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced After December 9, 2004, or for which Modification or Reconstruction is Commenced on or After June 16, 2006

001.79 Subpart FFFF – Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004

001.80 Subpart IIII – Standards of Performance for Stationary Compression Ignition Internal Combustion Engines

001.81 Subpart JJJJ – Stationary Spark Ignition Internal Combustion Engines

001.82 Subpart KKKK – Standards of Performance for Stationary Combustion Turbines

001.83 Subpart LLLL – New Sewage Sludge Incineration Units

001.84 Subpart MMMM – Emission Guidelines & Compliance Times for Existing Sewage Sludge Incineration Units

001.85 Subpart OOOO – Crude Oil & Natural Gas Production, Transmission & Distribution

001.86 Subpart OOOOa – Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015

001.87 Subpart TTTT – Electric Utility Generating Units-GHG Standards

001.88 Appendices A, B, C, and F

002 ~~Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Chapter 7, sections 002 and 003.~~ Except as provided in 003 below, standards of performance are applicable only to those new, modified, or reconstructed facilities specified or defined as an "affected facility".

003 ~~The conditions of an expired permit~~ shall ~~continue until the effective date of a new permit provided the permittee has complied with Chapter 8, 003.03, or until the application for a permit is denied. If the Director determines that any of the following are true, the application for permit renewal will be denied.~~ Emission Limits for Existing Stationary Sources. Notwithstanding any other provisions of these regulations, the following emission limits are applicable to existing sources as follows:

003.01 ~~The permittee is not in substantial compliance with the terms and conditions of the expired permit or with a stipulation, agreement, or compliance schedule designed to bring the permittee into compliance with the permit.~~ Municipal solid waste (MSW) landfills. The designated facility to which these limits apply is each existing MSW landfill for which construction, reconstruction or modification was commenced before May 30, 1991, which has accepted waste at any time since November 8, 1987, or has additional capacity available for future waste deposition.

003.01A Each designated facility having an aggregate design capacity of 2.5 million megagrams or 2.5 million cubic meters or more will calculate and report nonmethane organic compound (NMOC) emissions as provided for new MSW landfills under section 001.74 of this Chapter

beginning 90 days after September 8, 1997.

003.01B Each designated facility having an NMOC emission rate of 50 megagrams per year or more will design, install and operate a landfill gas collection and control system (LGCCS) as provided for new MSW landfills under section 001.74 of this Chapter. An alternate design plan may be approved by the Department provided the source demonstrates that

003.01B1 Meeting the requirements of section 001.74 of this Chapter will result in unreasonable costs of control due to plant age, location, or basic process design;

003.01B2 It will be physically impossible to install the necessary control equipment needed to meet the requirements of section 001.74 of this Chapter; or

003.01B3 Other factors specific to the facility will make application of a less stringent standard significantly more reasonable than meeting the requirements of section 001.74 of this Chapter.

003.01C Each designated facility subject to the control provisions of 003.01B above will submit the LGCCS design for Department review within 1 year of the first report in which NMOC emissions equal or exceed 50 megagrams per year, and will install the approved LGCCS within 30 months of that report, except as provided under section 001.74 of this Chapter.

003.01D Each designated facility subject to the control provisions of 003.01B above will conduct testing, monitoring, recordkeeping and reporting for the LGCCS as provided for new MSW landfills under section 001.74 of this Chapter.

003.01D1 If a source receives approval for an alternate design plan under section 003.01B the Department may also approve alternate testing and monitoring procedures for the source, provided the source demonstrates that the testing and monitoring requirements in section 001.74 are not practical for the alternate design and that the alternate procedures are adequate to determine compliance with the approved alternate design plan.

~~003.02 The Department, as a result of an action or failure to act on the part of the~~ permittee~~, has been unable to take final action on the application on or before the expiration date of the permit; or~~

~~003.03 The permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of the deficiencies.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)

~~Legal Citation: Title 129, Ch. 12, Nebraska Department of Environmental Quality~~

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NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 13 - ~~CLASS I OPERATING PERMIT - EPA REVIEW, AFFECTED STATES REVIEW, CLASS II PERMIT~~HAZARDOUS AIR POLLUTANTS

001 ~~Unless the Administrator waives or modifies this requirement, the Department shall provide to the Administrator of EPA a copy of each Class I permit application or modification, each proposed Class I permit, and each final Class I permit. The Department may require the permit applicant to provide a copy of the permit application, including the compliance plan, directly to the Administrator of EPA.~~ Notwithstanding any other provisions of these regulations, the following "National Emissions Standards for Hazardous Air Pollutants", published at 40 CFR Part 61 effective July 1, 201901, are hereby adopted and incorporated herein:

Commented [GR43]: Received permission by GPRO to simplify requirements on presenting MACT changes to the EQC. We anticipate updating all standards to 2019 per EPA's recommendation.

Commented [GR44]: We ordered the NSPS standards based upon the same order they appear in 40 CFR Part 63, per EPA's recommendation.

001.01 Subpart A - General Provisions

001.02 Subpart C - National Emission Standard for Beryllium

001.03 Subpart D - National Emission Standard for Beryllium Rocket Motor Firing

001.04 Subpart E - National Emission Standard for Mercury

001.05 Subpart F - National Emission Standard for Vinyl Chloride

001.06 Subpart J - National Emission Standard for Equipment Leaks (fugitive emission sources) of Benzene.

001.07 Subpart L - National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants.

001.08 Subpart M - National Emission Standards for Asbestos, and the following:

001.08A All asbestos-containing waste covered under 40 CFR 61.144, 61.145, 61.146, and 61.147 Subpart M will be maintained in an adequate wetted state until disposed of by acceptable methods.

001.08B All asbestos-containing waste bags will be transparent so that the asbestos-containing material (ACM) is visible after packaging.

001.08C Containment projects will use a viewing window or windows wherever practical.

001.09 Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants.

001.10 Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters.

001.11 Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities.

001.12 Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources).

001.13 Subpart Y - National Emission Standard for Benzene Emissions from Benzene Storage Vessels.

001.14 Subpart BB - National Emission Standard for Benzene from Benzene Transfer Operations.

001.15 Subpart FF - National Emission Standard for Benzene Waste Operations

001.16 Appendices A, B, and C.

002 ~~The Department shall give notice of each draft Class I permit to any affected state on or before the time that the Department provides notice to the public. The Department shall notify the Administrator of EPA and any affected State in writing of the reasons for anyrefusal by the Department to accept all recommendations for the proposed permit that the affected State submitted.~~ Notwithstanding any other provisions of these regulations, the following "National Emission Standards for Hazardous Air Pollutants", published at 40 CFR Part 63, effective July 1, 20193, unless otherwise indicated are hereby adopted and incorporated herein:

Commented [GR45]: Received permission by GPRO to simplify requirements on presenting NESHAP changes to the EQC. We anticipate updating all standards to 2019 per EPA's recommendation.

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002.01 Subpart A - General Provisions

002.02 Subpart F - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.

002.03 Subpart G - Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations and Wastewater.

002.04 Subpart H - Organic Hazardous Air Pollutants for Equipment Leaks.

002.05 Subpart I - Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Rulemaking for Equipment Leaks.

002.06 Subpart M - Perchloroethylene Dry Cleaning Facilities

002.07 Subpart N - Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

002.08 Subpart O - Ethylene Oxide Emissions from Sterilization Facilities

002.09 Subpart Q - Industrial Process Cooling Towers

002.10 Subpart R - Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)

002.11 Subpart S - Pulp and Paper Industry

002.12 Subpart T - Halogenated Solvent Cleaning.

002.13 Subpart U - Butyl Rubber Production

002.14 Subpart W - Epoxy Resins Production and Non-Nylon Polyamides Production

002.15 Subpart X - Secondary Lead Smelters

002.16 Subpart AA - Phosphoric Acid Manufacturing Plants

002.17 Subpart BB - Phosphate Fertilizers Production Plants

002.18 Subpart CC - Petroleum Refineries

002.19 Subpart DD - Off-Site Waste and Recovery Operations

002.20 Subpart EE - Magnetic Tape Manufacturing

002.21 Subpart GG - Aerospace Industry (Surface Coating)

002.22 Subpart HH - Oil and Natural Gas Production Facilities

002.23 Subpart JJ - Wood Furniture Manufacturing (Surface Coating)

002.24 Subpart KK - Printing and Publishing Industry

002.25 Subpart LL - Primary Aluminum Reduction Plants

002.26 Subpart MM - Chemical Recovery Combustion Source at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

002.27 Subpart NN - Wool Fiberglass Manufacturing Area Sources, as published at 40 CFR Part 63, effective July 1, 2016

002.28 Subpart OO - Tanks-Level 1

002.29 Subpart PP - Containers

002.30 Subpart QQ - Surface Impoundments

002.31 Subpart RR - Individual Drain Systems

002.32 Subpart SS - Closed Vent Systems/Control Devices

002.33 Subpart TT - Equipment Leaks Control Level 1

002.34 Subpart UU - Equipment Leaks Control Level 2

002.35 Subpart VV - Oil-Water Separators and Organic-Water Separators

002.36 Subpart WW - Storage Tanks Control Level 2

002.37 Subpart XX - Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations

002.38 Subpart YY - Generic MACT Standards

002.39 Subpart CCC - Steel Pickling Plants (HCl Process and Hydrochloric Acid Regeneration Processes)

002.40 Subpart DDD - Mineral Wool Production

002.41 Subpart EEE - Hazardous Waste Combustion

002.42 Subpart GGG - Pharmaceutical Production

002.43 Subpart HHH - Natural Gas Transmission and Storage Facilities

002.44 Subpart III - Flexible Polyurethane Foam Production

002.45 Subpart JJJ - Polyethylene Terephthalate and Styrene Polymer Production

002.46 Subpart LLL - Portland Cement Manufacturing

002.47 Subpart MMM - Pesticide Active Ingredient Production

002.48 Subpart NNN - Wool Fiberglass Manufacturing

002.49 Subpart OOO - Amino Phenolic Resins Production

002.50 Subpart PPP - Polyether Polyols Production

002.51 Subpart RRR - Secondary Aluminum Production

002.52 Subpart TTT - -Primary Lead Smelting

002.53 Subpart UUU - Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units

002.54 Subpart VVV - Publicly Owned Treatment Works

002.55 Subpart XXX - Ferromanganese and Silicomanganese Production

002.56 Subpart AAAA - Municipal Solid Waste Landfills

002.57 Subpart CCCC - Manufacturing of Nutritional Yeast

002.58 Subpart EEEE - Organic Liquids Distribution (Non-gasoline)

002.59 Subpart FFFF - Miscellaneous Organic Chemical Manufacturing

002.60 Subpart GGGG - Solvent Extraction for Vegetable Oil Production

002.61 Subpart HHHH - Wet-Formed Fiberglass Mat Production

002.62 Subpart IIII - Surface Coating of Automobiles and Light Duty Trucks

002.63 Subpart JJJJ - Paper and Other Web Coating

002.64 Subpart KKKK - Surface Coating of Metal Cans

002.65 Subpart MMMM - Miscellaneous Metal Parts Surface Coating

002.66 Subpart NNNN - Large Appliance Surface Coating

002.67 Subpart OOOO - Printing, Coating, and Dying of Fabrics and Other Textiles

002.68 Subpart PPPP - Surface Coating of Plastic Parts and Products

002.69 Subpart QQQQ - Wood Building Products Surface Coating

002.70 Subpart RRRR - Metal Furniture Surface Coating

002.71 Subpart SSSS - Metal Coil Surface Coating

002.72 Subpart TTTT - Leather Finishing Operations

002.73 Subpart UUUU - Cellulose Products Manufacturing

002.74 Subpart VVVV - Boat Manufacturing

002.75 Subpart WWWW - Reinforced Plastics Composite Manufacturing

002.76 Subpart XXXX - Tire Manufacturing

002.77 Subpart YYYY - Stationary Combustion Turbines

002.78 Subpart ZZZZ - Reciprocating Internal Combustion Engines

002.79 Subpart AAAAA - Lime Manufacturing

002.80 Subpart DDDDD - Industrial, Commercial and Institutional Boilers and Process Heaters (major sources)

002.81 Subpart EEEEE - Iron and Steel Foundries

002.82 Subpart FFFFF - Integrated Iron and Steel

002.83 Subpart GGGGG - Site Remediation

002.84 Subpart HHHHH - Miscellaneous Coating Manufacturing

002.85 Subpart LLLLL - Asphalt Processing and Asphalt Roofing Manufacturing

002.86 Subpart MMMMM - Flexible Polyurethane Foam Fabrication

002.87 Subpart NNNNN - Hydrochloric Acid Production

002.88 Subpart PPPPP - Engine Test Cells and Stands

002.89 Subpart SSSSS - Refractory Products Manufacturing

002.90 Subpart UUUUU - Coal and Oil Fired Electric Utility Steam Generating Units

002.91 Subpart WWWWW - Hospital Ethylene Oxide Sterilizers

002.92 Subpart YYYYY - Electric Arc Furnace Steelmaking Facilities

002.93 Subpart ZZZZZ - Iron and Steel Foundries Area Sources

002.94 Subpart BBBBBB - Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities

002.95 Subpart CCCCCC - Gasoline Dispensing Facilities

002.96 Subpart DDDDDD - Polyvinyl Chloride and Copolymers Production Area Sources

002.97 Subpart EEEEEE - Primary Copper Smelting Area Sources

002.98 Subpart FFFFFF - Secondary Copper Smelting Area Sources

002.99 Subpart GGGGGG Primary Nonferrous Metals Area Sources – Zinc, Cadmium, Beryllium,

002.100 Subpart HHHHHH - Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources

002.101 Subpart JJJJJJ - Industrial, Commercial, and Institutional Boilers (area sources)

002.102 Subpart LLLLLL Acrylic and Modacrylic Fibers Production Area Sources

002.103 Subpart MMMMMM Carbon Black Production Area Sources,

002.104 Subpart NNNNNN Chemical Manufacturing Area Sources: Chromium Compounds

002.105 Subpart OOOOOO Flexible Polyurethane Foam Production and Fabrication Area Sources,

002.106 Subpart PPPPPP - Lead Acid Battery Manufacturing Sources

002.107 Subpart QQQQQQ - Wood Preserving Area Sources

002.108 Subpart RRRRRR - Clay Ceramics Manufacturing

002.109 Subpart SSSSSS - Glass Manufacturing Area Sources

002.110 Subpart TTTTTT - Secondary Nonferrous Metals Processing

002.111 Subpart VVVVVV - Chemical Manufacturing Area Source

002.112 Subpart WWWWWW - Plating and Polishing Area Sources

002.113 Subpart XXXXXX - Metal Fabrication Area Sources

002.114 Subpart YYYYYY - Ferroalloys Production

002.115 Subpart ZZZZZZ - Aluminum, Copper, and Other Non-ferrous Foundries

002.116 Subpart AAAAAAA - Asphalt Processing and Roofing Manufacturing

002.117 Subpart BBBBBBB - Chemicals Preparation Facilities

002.118 Subpart CCCCCCC - Paints and Allied Products Manufacturing Area Sources

002.119 Subpart DDDDDDD - Prepared Feeds Manufacturing.

002.120 Subpart EEEEEEE - Gold Ore Mining

002.121 Subpart HHHHHHH - Polyvinyl Chloride and Copolymers Production

003 ~~The Department shall not issue a Class I permit if the Administrator of EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.~~ Operational Limits for Area Sources. Area sources subject to a standard adopted by reference in section 002, and specifically referenced in section 003, may accept operational limits to avoid the requirements associated with operating at the source's maximum design capacity or monthly throughput.

003.01 General Provisions. An owner or operator of a source may apply for coverage under this provision if the following criteria are met:

003.01A The Director has established operational limitations for the industry category in section 003.06.

003.01B The responsible official for the source certifies that it will comply with the applicable section(s) of this Chapter.

003.01C Records are collected and maintained as described for each applicable section and retained for a period of not less than five years and made available to the Department for review upon request.

003.01D A source may change its status under section 003.06 without violating this rule by meeting the following requirements:

003.01D1 The owner or operator of the source must provide written notification to the Department of the intent to change status. The notification must be certified by the responsible official for the source;

003.01D2 The source must comply with the requirements for its industry category;

Commented [GR46]: Deleted section 003.01D3, which prohibited a source from switching back and forth between major and minor source status; per EPA recommendation due to changes in "Once In, Always In"

003.02 Approval Procedures

003.02A Notice of Intent. The owner or operator of a source intending to be covered under this provision will submit a complete Notice of Intent Form provided by the Department.

003.02B Department approval. Department approval of the Notice of Intent Form request will be in writing. Upon approval, the source must comply with the applicable limitations specified in section 003.03 of this rule.

003.03 Duty to Comply. Each source approved for coverage under this provision must comply with all sections of this chapter applicable to the source. Any non-compliance will constitute a violation of the State Act and the Act, and is grounds for enforcement action and/or for disapproval of the Notice of Intent to operate under this provision.

003.04 Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under this Title, the State Act, or the Act not specifically addressed in this chapter.

003.05 Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as required in Chapter 11, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 2, must be provided upon Department request.

003.06 Industry Categories Eligible to Accept Operational Limits

003.06A A bulk gasoline terminal subject to section 002 94 Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, with a maximum calculated design throughput capacity greater than or equal to 20,000 gallons per day, may be approved to operate pursuant to the provisions of section 003 if the owner or operator certifies that the source will comply with sections 003.01 through 003.05 above and each of the following:

003.06A1 Limit actual gasoline throughput to less than 20,000 gallons per day; and

003.06A2 Maintain a daily record of actual gasoline throughput, in accordance with the provisions of section 003.01C; and,

003.06A3 Comply with the requirements specified in section 002.94 for bulk gasoline plants with a maximum design throughput capacity of less than 20,000 gallons per day.

004 ~~If the Administrator of EPA objects to a Class I permit as a result of a petition for review filed pursuant to Section 505(b)(2) of the Act, the Department shall not issue the permit until EPA's objection has been resolved, except that a petition for review shall not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day EPA review period and prior to an EPA objection.~~ Maximum Achievable Control Technology (MACT)

004.01 Notwithstanding any other provisions of these regulations, Sections 63.70 through 63.81 of 40 CFR Part 63, Subpart D, effective December 29, 1992, pertaining to compliance extensions for early reductions, are hereby adopted and incorporated by reference.

004.02 For new, modified, or reconstructed sources of hazardous air pollutants. A permit as required under section 001.03A8 of Chapter 3 will be issued for construction, reconstruction, or modification of a source with the potential to emit any hazardous air pollutant in an amount equal to or in excess of 2.5 TPY or more of any hazardous air pollutant or an aggregate of 10.0 TPY or more of any hazardous air pollutants only if best available control technology (BACT), as determined by the Director, is applied for each hazardous air pollutant and the source will comply with all other requirements of these regulations. In no event will application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Chapters 12 or 13.

004.03 Requirements for new or reconstructed major sources of hazardous air pollutants. A permit as required under section 001.03A8 of Chapter 3 for construction or reconstruction of a source with the potential to emit an amount equal to or in excess of 10 TPY of any hazardous air pollutant or 25 TPY or more of any combination of hazardous air pollutants, will only be issued if maximum achievable control technology (MACT), as determined by the Director, is applied, and the source is required to comply with all other requirements of these regulations.

004.03A For purposes of this section, 40 CFR Part 63, sections 63.40(b); 63.41; 63.42(c); 63.43(a), (b), and (d); and 63.44, as in effect on July 1,

2019December 27, 1996, are hereby adopted and incorporated by reference.

004.03B Except as provided in 003.01, the provisions and procedures of Chapter 3 and 004.02 above apply.

004.04 Notwithstanding any other provisions of these regulations, Sections 63.50 through 63.56 of 40 CFR Part 63, Subpart B, as in effect on July 1, 2019amended at 67 Federal Register 16582 on April 5, 2002, pertaining to maximum achievable control technology determinations for emission units subject to case-by-case determination of equivalent emission limitations, are hereby adopted and incorporated by reference.

005. If the Department has issued a Class I permit to which EPA objects as a result of a petition for review filed pursuant to Section 505(b)(2) of the Act, the permit may be reopened in accordance with the procedures in Chapter 15, section 006.

006. Prohibition on Default Issuance.

006.01. Notwithstanding the time period specified in Chapter 7, section 009, no Class I operating permit, including a permit renewal or revision, shall be issued until:

006.01A. Affected States and the Administrator have had an opportunity to review the proposed permit.

006.01B. The Director has acted on the application.

006.02 No Class II operating permit, including a permit renewal or revision, shall be issued until the Director has acted on the application.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(12)(16)

Legal Citation: Title 129, Ch. 13, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITYAir Quality Regulations

Chapter 14 – INCINERATORS, EMISSION STANDARDSPERMITS - PUBLIC PARTICIPATION

001 Scope. Except for modifications qualifying for administrative or minor permit revision procedures in Chapter 15, all Class I and Class II operating permit proceedings, including initial permit issuance, significant modifications, and renewals, and unless otherwise provided by rule, all construction permits, shall provide for public notice, an opportunity for comment, and a hearing, if requested, on the draft permit in accordance with the procedures of this Chapter. Sections 002 through 009 are to be followed for all permits except PSD permits. Section 010 is to be followed for PSD permits.The provisions of this Chapter will apply to all new and existing incinerators except for any incinerator meeting the exemption criteria listed in sections 001.01 through 001.05 of this Chapter. Incinerators not included in the exceptions listed in sections 001.01 through 001.05 will comply with construction permit requirements listed in Chapter 3.

001.01 Incinerators located on residential premises containing five or less dwelling units and used exclusively for the disposal of waste originating on said premises.

001.02 Incinerators used solely for space heating.

001.03 Incinerators used to burn hazardous waste and subject to regulations under Nebraska Administrative Code Title 128.

001.04 Incinerators owned and operated by law enforcement agency used solely for the disposal of materials obtained during a law enforcement operation.

001.05 Air curtain incinerators subject to Chapter 12 sections 001.67 or 001.82 or which operate in compliance with Chapter 15 section 002.02G7 and combust only wood waste; clean lumber; yard waste; or a mixture that only contains one or more of those three materials and complies with section 007 of this Chapter.

002 Notice shall be given by publication in a newspaper of general circulation in the area where the source is located and by mailing to EPA and persons on a mailing list developed by the Department, including those persons who request in writing to be on the mailing list; and by other means, if necessary, to assure adequate notice to the affected public.No person will cause or permit particulate matter emissions from any incinerator to exceed 0.10 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to seven percent oxygen.

003 The notice shall contain the following: The burning capacity of an incinerator will be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director in accordance with good engineering practice.

003.01 The identity of the affected facility;

003.02 The name and address of the permittee;

003.03 The name, address, and telephone number of the Department;

003.04 The activity or activities involved in the permit action;

003.05 The emissions change involved in any permit modification;

003.06 The name, address, and telephone number of the person from whom interested persons may obtain additional information;

003.07 The location where copies of the draft permit, the application, draft permit revision, and other materials deemed relevant by the Department to the permit decision, may be reviewed; and

003.08 A brief description of the comment procedures and the time and place of any hearing that may be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled.

004 Persons or groups shall have 30 days from issuance of public notice to provide the Director with any written comments concerning the proposed permit action for which the public notice has been issued and/or request a public hearing in writing in accordance with 005 below. Such 30 day comment period may be extended by the Director. Waste burned during performance testing required by Chapter 15 will be representative of the waste normally generated by the affected facility and will be charged at a rate equal to the burning capacity of the incinerator. Copies of any additional operational data recorded during the test will be submitted to the Department together with the completed performance test report.

005 Public Hearings. Instructions for proper operation of each incinerator will be posted on site and written certification that each operator has read these instructions, understands them and intends to comply, will be kept on record by the owner.

005.01 The applicant, any affected State, any interstate agency, the Administrator, or any interested agency, person, or group, may request or petition the Director, in writing, within the 30 day comment period of the public notice, for a public hearing, and state the nature of the issues to be raised and all arguments and factual grounds supporting their position.

006.02 The Director may hold a public hearing if the comments, requests, or petitions raise legal, policy or discretionary questions of general application not pertaining solely to a particular party and significant public interest exists with respect to the application.

006 Public notice of hearing. In addition to the public notice described in 003 above, the public notice of a hearing under 005 shall be published at least 30 days prior to the hearing in accordance with 002 and shall contain the following information: Except as provided in sections 006.01 and 006.02 below, each incinerator will consist of (a) refractory lined combustion furnace(s) employing design parameters necessary for maximum combustion of the materials to be burned, and will be designed to vent the products of combustion through an a stack, duct, or chimney.

006.01 Reference to the date of the previous notices relating to the permit: An alternate design for a new unit may be permitted provided it can be shown that the alternative design is at least as effective in controlling pollutant emissions as the design criteria of this section.

006.02 Date, time, and place of hearing: An operating permit can be issued for an existing unit not meeting the design criteria set forth in section 006 above, provided compliance with both section 002 of this Chapter and the visible emission standard in section 001.06 of Chapter 15 can be demonstrated.

006.03 A brief description of the nature and purpose of the hearing, including the applicable rules and procedures; and

006.04 A concise statement of the issues raised.

007 Adjudicative Hearing Air curtain incinerators that meet the requirements of section 001.05 of this Chapter will meet the following requirements:

007.01 Any interested person may petition the Director for an adjudicative hearing in accordance with the Department's Title 115 Rules of Practice and Procedure. Within 60 days after the air curtain incinerator reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, the limitations in sections 007.01A and 007.01B will be met:

007.01A The opacity limitation is 10 percent (6-minute average), except as described in section 007.01B.

007.01B The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

007.02 Title 115 shall govern any adjudicative hearing requested under 007.01. Except during malfunctions, the requirements of section 007.01 apply at all times, and each malfunction will not exceed three hours.

007.03 Opacity monitoring of the air curtain incinerator will include:

007.03A Use of Method 9 of appendix A of New Source Performance Standards (40 CFR 60) to determine compliance with the opacity limitation.

007.03B Conducting an initial test for opacity as specified in 40 CFR 60.8.

007.03C After the initial test for opacity, conducting annual opacity tests no more than 12 calendar months following the date of the previous test.

007.04 Prior to commencing construction on the air curtain incinerator, submit all items described in sections 007.04A through 007.04C:

007.04A Notification of intent to construct the air curtain incinerator.

007.04B Planned initial startup date.

007.04C Types of materials to be burned in the air curtain incinerator.

007.05 Recordkeeping requirements for air curtain incinerators:

007.05A Maintain records of results of all initial and annual opacity test reports onsite or readily available in either paper copy or electronic format, unless the Director approves another format, for at least five years.

007.05B Make all records available during an onsite inspection and available for submittal to the Director.

007.05C The results (each 6-minute average) of the initial opacity tests will be submitted no later than 60 days following the initial tests. Annual opacity test results will be submitted within 12 months following the previous tests. The opacity test reports will be submitted electronically or by paper copy within 60 days of the test.

~~008 At the time that any final permit decision is issued, the Department shall issue a response to significant comments received during the comment period and public hearing. The response to comments shall be made available to the public.~~

~~009 The Department shall make and keep a record of the commenters and of the issues raised during the public participation process. This record shall be made available to the Administrator of EPA in fulfillment of his or her obligation under Section 505(b)(2) of the Act to determine whether a citizen petition may be granted. Such record shall also be available to the public.~~

~~010 Public participation in PSD permit applications. Within one year after receipt of a complete application, as described in section 023 of Chapter 10, the Department shall~~

~~010.01 Make available in at least one location in each region in which the proposed source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.~~

~~010.02 Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment.~~

~~010.03 Send a copy of the notice of public comment to the applicant, the Administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: Any other state or local air pollution control agencies, the chief executives of the city and county where the source would be located, any comprehensive regional land use planning agency, and any State, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the source or modification.~~

~~010.04 Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations.~~

~~010.05 Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.~~

~~010.06 Make a final determination whether construction should be approved, approved with conditions, or disapproved.~~

~~010.07 Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relation to the source.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(12)

~~Legal Citation: Title 129, Ch. 14, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~Air Quality Regulations

Chapter 15 - COMPLIANCE~~PERMIT REVISIONS, REOPENING FOR CAUSE~~

001 Particulate Emissions; Limitations and Standards
~~Administrative permit amendments.~~

001.01 ~~An "administrative permit amendment" is a permit revision that:~~ No person will cause, suffer, allow or permit the emission of particulates from any processing machine, equipment, device or other articles, or combination thereof, except indirect heating equipment and incinerators, in excess of the amounts allowed in Table 15-1 during any one hour.

001.01A ~~Corrects typographical errors,~~ Interpolation of the data in Table 15-1 for process weight rates up to 60,000 Lb/Hr will be accomplished by use of the equation $E = 4.10\ p^{.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 Lb/Hr will be accomplished by use of the equation $E = 55.0\ p^{.11}-40$, where E = rate of emission in Lb/Hr and P = process weight rate in Tons per Hour (Tons/Hr). If two or more units discharge into a single stack, the allowable emission rate will be determined by the sum of all process weights discharging into the single stack.

Table 15-1

Process Weight Rate		Rate of Emissions	Process Weight Rate		Rate of Emissions
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.000	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8

6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

~~001.01B Identifies a change in the name, address, or telephone number of any person identified in the permit, provided that the owner or operator of the source is not changed;~~

~~001.01C Requires more frequent monitoring or reporting by the permittee;~~

~~001.01D Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; or~~

~~001.01E For PAL permits only, corrects both typographical and calculation errors.~~

001.02 ~~A permittee may request the Department to make an administrative permit amendment in writing by specifying the section of the permit that is to be changed and the reason for the change.~~No person will cause or allow particulate matter caused by the combustion of fuel to be emitted from any stack or chimney into the outdoor atmosphere in excess of the hourly rate set forth in Table 15-2.

Table 15-2

Total Heat Input in Million British Thermal Units Per Hour (MMBtu/Hr)	Maximum Allowable Emissions of Particulate Matter in Pounds per Million British Thermal Units (lb/MMBtu)
10 or less	0.60
Between 10 and 10,000	$\frac{1.026}{I^{0.233}}$ I = The total heat input in MMBtu/Hr
10,000 or more	0.12

001.03 ~~The source may implement the changes addressed in the request immediately upon submittal of the request, subject to the Department's final action on the request under 001.04.~~For the purpose of these regulations, the total heat input will be the aggregate heat content of all fuels whose products of combustion pass through a stack or chimney, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises will be used for determining the maximum allowable amount of particulate matter which may be emitted.

001.04 ~~The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes into the permit without providing notice to the public, EPA, or affected States.~~ No person will cause or allow emissions, from any source, which are of an opacity equal to or greater than twenty percent (20%), as evaluated by an EPA-approved method, or recorded by a continuous opacity monitoring system operated and maintained pursuant to 40 CFR Part 60 Appendix B except as provided for in section 001.05 of this Chapter. Administrator, as used in 40 CFR Part 60 Appendix B, means Administrator of EPA.

001.05 ~~For Class I and PSD construction permits only, the Department shall submit a copy of the revised permit to the Administrator of EPA.~~ Exceptions:

001.05A No person will cause or allow emissions from any existing teepee waste wood burner which are of an opacity equal to or greater than forty percent (40%).

001.05B No person will cause or allow emissions from any existing alfalfa dehydration plant dryer which are of an opacity equal to or greater than thirty percent (30%).

001.05C Emission sources subject to monitoring requirements of section 005.06 of this Chapter are allowed to have one six minute period per hour of not more than 27 percent opacity.

001.05D Incinerators owned and operated by a law enforcement agency to dispose of ~~materials~~ contraband obtained during a law enforcement operation are exempt from the provisions of this Chapter solely while being used for this purpose.

Commented [GR47]: Changed language to contraband per EPA's recommendation.

001.06 ~~If the Department determines that the~~ permittee's ~~request for an administrative permit amendment should be handled as a minor revision or other permit revision, the Department~~ shall ~~notify the~~ permittee ~~of this determination and proceed with such revision pursuant to the applicable procedures.~~ All sources

will comply with section 001.04 of this Chapter unless an opacity standard applies as specified elsewhere in this Title or an underlying federal regulation.

001.07 ~~The permit shield described in Chapter 8, section 014, shall not apply to administrative permit amendments.~~ Section 001.01 and 001.02 of this Chapter will apply unless a more stringent particulate matter standard is specified in the underlying requirements of an applicable federal regulation, is specified within a construction permit issued pursuant to this Title, or the potential-to-emit is below the rates allowed in section 001.01 of this Chapter.

002 ~~Permit revisions to the acid rain portion of a Class I permit shall be governed by Chapter 26.~~ Open Fires, Prohibited; Exceptions

002.01 No person will cause or allow any open fires.

002.02 Exceptions:

002.02A Fires set solely as part of a religious activity, for recreational purposes or for outdoor cooking of food for human consumption on non-commercial premises, provided no nuisance or hazard is created.

002.02B Fires set for the purpose of planned training of public and industrial fire fighting personnel.

002.02C Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of section 001 of this Chapter.

002.02D Fires set in an agricultural operation where no nuisance or traffic hazard is created. For the purpose of this regulation, "fires set in an agricultural operation" will mean:

002.02D1 The burning of any trees or vegetation indigenous to the property of the owner or person in lawful possession of the land; and.

002.02D2 The burning of any agriculturally related material that is potentially hazardous and where disposal by burning is recommended by the manufacturer. Such materials are limited to having been used on the owner's property or person in legal possession of the said property.

002.02E Unless prohibited by local ordinances, fires set to destroy household refuse on residential premises containing ten or less dwelling units, by individuals residing on the premises providing no nuisance or traffic hazard is created.

002.02F For the purpose of plant and wildlife and parks management, provided such burning is conducted by the Nebraska Game Commission, the United States Forest Service, the University of Nebraska, or other groups as determined by the Department.

002.02G Unless prohibited by local ordinances or regulations, fires set in compliance with a general open fire permit or a community open fire permit issued by the Department:

002.02G1 For the purpose of the destruction of dangerous materials, diseased vegetation or abatement of a fire hazard.

002.02G2 For the purpose of destruction of trees, brush and other vegetation removed from road and utility right-of-ways.

002.02G3 For the purpose of the destruction of trees, brush, vegetation and untreated lumber generated as a result of land clearing, and construction activities.

002.02G4 For the purpose of the destruction of straw used as a winter insulating cover on agricultural products.

002.02G5 For the purpose of destroying untreated wood and trees at community burn sites. Items permitted for burning will be kept in a separate location from other materials not allowed to be burned.

002.02G6 For the purpose of destruction of materials after cleanup from a natural disaster.

002.02G7 In compliance with rules for air curtain incinerators in Chapter 14.

002.02H Permits for open fires as specified in this regulation will be granted only if there is no other practical means of disposal. Any burning of materials not specified in the burning permit may result in withdrawal of the permit.

003 Dust; Duty to Prevent Escape of~~Minor Permit Revisions~~

003.01 ~~The minor permit revision procedures of this section may be used only for those operating permit revisions that~~Handling, Transportation, Storing. No person may cause or permit the handling, transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

~~003.01A Do not violate any applicable requirement or applicable requirement under the Act;~~

~~003.01B Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;~~

~~003.01C Do not require or change a case-by-case determination of an emission limitation or other standard, including a BACT or MACT determination or a plantwide applicability limitation (PAL), or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;~~

~~003.01D Do not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement or applicable requirement under the Act and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:~~

~~003.01D1 A federally enforceable emissions cap assumed to avoid classification as a modification under Chapters 18, 23, 27, or 28; and~~

~~003.01D2 An alternative emissions limit approved pursuant to Chapters 27 or 28;~~

~~003.01E Do not relate to a change within a permitted facility that:~~

~~003.01E1 is defined as a modification under Chapters 18, 23, 27, or 28;~~

~~003.01E2 Requires a construction permit under Chapter 17 or Chapter 18;~~

~~003.01F Is not required by the Director to be processed as a significant revision; and~~

~~003.01G Involve the use of economic incentives, marketable permits, emissions trading, and other similar programs or procedures provided that such minor permit revision procedures are explicitly allowed for in an applicable State implementation plan or in an applicable requirement or applicable requirement under the Act.~~

003.02 ~~The minor permit revision procedures of this section may be used for construction permit revisions provided the following conditions are met:~~Construction, Use, Repair, Demolition. No person may cause or permit a

building or its appurtenances or a private road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates. The Director may impose such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

~~003.02A No emission limit in the original construction permit is exceeded.~~

~~003.02B No applicable requirement included in an operating permit to which the source is subject is violated.~~

~~003.02C No emissions limit, equipment or operational standard applicable to the source will be exceeded.~~

~~003.02D No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and~~

~~003.02E The nature of the constructed facility will be consistent with that described in the original public notice materials.~~

003.03 Notwithstanding any other provision of this sectionChapter, the Department willshall not regulate emissions from normal farming practices, on-farm crop drying and handling, and animal feeding activities, provided that reasonable and practical measures to limit particulate matter from such sources are utilized. ~~A permittee may request a minor permit revision by submitting a request to the Department in writing that includes the following:~~

~~003.03A A description of the change, the emissions resulting from the change, and any new applicable requirements or applicable requirements under the Act that will apply if the change occurs;~~

~~003.03B The source's suggested draft permit language.~~

~~003.03C Certification by a responsible official, in accordance with Chapter 7, section 008, for operating permits or Chapter 17, section 004 for construction permits, that the proposed revision meets the criteria in section 003.01 or 003.02 above for use of minor revision procedures and a request that such procedures be used;~~

~~003.03D For Class I operating permit revisions only, one (1) original and one (1) copy of the completed applications and information identified in~~

~~003.03A through 003.03C above for use by the Department to notify the Administrator of EPA and affected States.~~

~~003.04 For Class I operating permit revisions only, within five working days of receipt of a complete minor permit revision application, the Department shall notify the Administrator of EPA and affected States of the requested permit revision.~~

~~003.04A Affected States shall have 30 days to review and provide comments on the complete permit revision application. The Department shall provide notice to the Administrator of EPA and any affected State in writing of any refusal by the Department to accept all recommendations that the affected State has submitted.~~

~~003.04B EPA shall have 45 days to review and comment on the complete permit revision application. The Department shall not issue a final permit revision until after EPA's 45 day review period or until EPA has notified the Department that EPA will not object to issuance of the permit revision, whichever is first.~~

~~003.05 Within 90 days of the Department's receipt of an application under the minor permit revision procedures or 15 days after the end of EPA's 45 day review period, whichever is later, the Department shall:~~

~~003.05A Issue the permit revision as proposed;~~

~~003.05B Deny the permit revision application;~~

~~003.05C Determine that the requested revision does not meet the minor permit revision criteria in 003.01 or 003.02 above and should be reviewed under the significant revision procedures; or~~

~~003.05D For Class I operating permits only, revise the draft permit revision and transmit the new proposed permit revision to EPA for review as required in 003.04B above.~~

~~003.06 A source submitting a complete minor operating permit revision request may immediately make the proposed change after it submits the application unless notified by the Department that the request does not qualify as a minor permit revision. After the source makes the change, and until the Department takes action under 003.05A through 003.05C above, the source must comply with both the applicable requirements and applicable requirements under the Act governing the change and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to~~

~~revise may be enforced and such failure to complyshall be cause for denial of the minor permit revision request.~~

~~003.07 The permit shield described in Chapter 8, 014, shall not apply to a minor permit revision.~~

004 ~~Group processing of minor operating permit revisions~~ Compliance; Time schedule for

004.01 ~~The Director, at his or her discretion, may modify the minor permit revision procedures in 003 above to process groups of a source's applications for certain revisions eligible for minor permit revision procedures.~~ Except as otherwise noted in specific emission control regulations, compliance with these regulations will be according to the following schedule:

004.01A All new or modified installations that required approval under the provisions of Chapter 3 will be in compliance with all applicable emission control regulations at start-up after the effective date of the applicable emission control regulation. Provided, however, such installation may, at the request of the operator and under conditions approved by the Department, be operated for such specified time periods as are required to make necessary adjustments on the equipment. Compliance is demonstrated via conformance with section 005 of this Chapter.

004.01B All existing installations and open burning operations subject to Chapter 6, sections 001.01A and 001.01B will be in compliance with these regulations within 180 days after the effective date of these regulations and will certify compliance and state the method used to determine compliance, unless the person responsible for the operation of such installation or open burning operation has submitted a request to, and received a variance from, the Department to continue such operation in nonconformance with the regulations for a specified period of time beyond the 180 day period provided for compliance.

004.02 ~~Group processing of revisions may only be used for those permit revisions.~~ Compliance schedules requiring more than 12 months to conform with applicable rules and regulations to meet National Primary and Secondary Ambient Air Quality Standards will be subject to interim deadlines established in permits or orders.

~~004.02A That meet the criteria for minor permit revision procedures under 003 above; and~~

~~004.02B That collectively are below the following threshold level: 10 percent of the emissions allowed by the permit for the emissions unit for~~

which the change is requested, 20 percent of the applicable definition of major source for purposes of Class I permitting, or five tons per year, whichever is less.

004.02 A permittee may request the use of group processing procedures in this section by submitting the application forms for a Class I or Class II operating permit, identified in 003.03, and shall include the following:

004.02A A description of the change, the emissions resulting from the change, and any new applicable requirements or applicable requirements under the Act that will apply if the change occurs;

004.02B The source's suggested draft permit language;

004.02C Certification by a responsible official, in accordance with Chapter 7, section 008, that the proposed revision meets the criteria for use of group processing procedures and a request that such procedures be used;

004.02D A list of the source's other pending applications awaiting group processing, and a determination of whether the requested revision, aggregated with these other applications, equals or exceeds the threshold set under 004.02B above;

004.02E **For Class I permit revisions** only, one (1) original and (1) **copy of completed forms for use** by the Department to notify the Administrator of EPA and affected States.

004.02E1 Within five (5) working days of receipt of a complete application for the group processing of a source's minor permit revision requests, the Department shall notify the Administrator of EPA and affected States of the request for group processing.

004.02E2 Affected States shall have 30 days to review and comment on the request. The Department shall notify EPA and any affected State in writing of any refusal by the Department to accept all recommendations for the proposed permit revision that the affected State has submitted.

004.02E3 EPA shall have 45 days to review and comment on requests for group processing of minor permit revisions. The Department shall not issue a final permit revision until after EPA's 45 day review period or until EPA has notified the Department that EPA will not object to issuance of the permit revision, whichever is first.

~~004.04 Within 180 days of receipt of the application for group processing of minor permit revisions or 15 days after the end of the EPA's 45 day review period, whichever is later, the Director shall:~~

~~004.04A Issue the permit revision as proposed;~~

~~004.04B Deny the permit revision application;~~

~~004.04C Determine that the requested permit revision does not meet the criteria for group processing in 004.02 and should be reviewed under the significant revision procedures; or~~

~~004.04D Revise the draft permit revision and, for Class I operating permit revisions only, transmit to the Administrator of EPA the new proposed Class I permit revision as required by 004.03E3 above.~~

~~004.05 A source submitting a complete request for group processing of minor permit revisions may make the change proposed immediately after it files the application unless notified by the Department that the request does not qualify as a minor permit revision. After the source makes the change, and until the Department takes action under 004.04A through 004.04C above, the source must comply with both the applicable requirements and applicable requirements under the Act governing the change and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to revise may be enforced and such failure to comply shall be cause for denial of the minor permit revision request.~~

~~004.06 The permit shield described in Chapter 8, section 014, shall not apply to group processed minor permit revisions.~~

005 Emission Sources; Testing; Monitoring ~~Significant Permit Revisions.~~

005.01 ~~A "significant permit revision" is any revision or change to a permit that cannot be accomplished as an administrative permit amendment or as a minor permit revision. Any relaxation in existing monitoring, reporting, or recordkeeping shall be considered significant.~~ The Department may require any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe on the basis of estimates of potential contaminant emissions rates from the source and due consideration of probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations required in these control regulations. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. Should the

Department determine that the test did not represent normal operating conditions or emissions, additional tests may be required.

005.02 ~~A permittee may request a significant permit revision by submitting the application forms and information in accordance with Chapter 7 for operating permit revisions or Chapter 17, section 014, for construction permit revisions.~~ Required tests will be conducted in accordance with the following test methods and procedures, as applicable. Administrator, as used in the following appendices, means Administrator of EPA.

005.02A 40 CFR Part 51, Appendix M

005.02B 40 CFR Part 60, Appendices A,B,C,F

005.02C 40 CFR Part 61, Appendix B

005.02D 40 CFR Part 63, Appendix A

005.02E 40 CFR Part 266, Appendix IX

005.02F Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 (3rd Edition) (November 1986) and its Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, IVB, V, and VI.

005.02G Such tests will be conducted by reputable, qualified individuals. A certified written copy of the test results signed by the person conducting the test will be provided to the Department within 60 days of completion of the test unless a different period is specified in the underlying requirements of an applicable federal regulation.

005.03 ~~The Department shall review an application for a significant permit revision following the applicable procedures for permit issuance, including public participation, EPA and affected States review.~~ The owner or operator of a source will provide the Department 30 days notice prior to testing to afford the Department an opportunity to have an observer present. The Department may, in writing, approve a notice of less than 30 days. If the testing is pursuant to an underlying requirement contained in a federal regulation, the notice provisions of the underlying regulation apply.

005.04 ~~For operating permits only, the permit shield described in Chapter 8, section 014, shall apply to a significant permit revision only after the Director approves the permit revision, provided that the permit contains a permit shield.~~ The Department may conduct tests of emissions of contaminants from any stationary source.

005.04A Upon written request from the Department, the person responsible for the source to be tested will provide the Department with all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably necessary to conduct the test with due regard being given to expenditures and possible disruption of normal operations of the source.

005.04B A report concerning the findings of such tests will be furnished to the person responsible for the source upon request.

005.05 A continuous monitoring system for the measurement of opacity will be installed and placed in operation by the owner or operator of any fossil fuel-fired steam generator with greater than 250 million BTUs per hour heat input. Exemptions from this requirement will be made if gaseous fuel and oil is the only fuel burned and the source has never been out of compliance with section 001 of this Chapter. Installation, calibration, operation and reporting will be in accordance with the procedures specified in 40 CFR Part 60. Administrator, as used in 40 CFR Part 60, means Administrator of EPA.

005.06 The Director may require the owner or operator of any other emission source which is subject to the provisions of these regulations to install, use and maintain such monitoring equipment as is necessary to demonstrate continuing compliance with any applicable emissions limitations, and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.

005.07 When a new or modified stationary source becomes operational, the owner or operator will conduct performance tests, if required, within 60 days after reaching maximum capacity but not later than 180 days after the start-up of operations. Failure to meet established performance standards will result in withdrawal of the provisional approval granted to operate the new or modified stationary source. Final approval and issuance of an operating permit will be withheld for operation of the affected facility until such time as the owner or operator has corrected the deficiencies determined by the performance tests. Upon satisfactory accomplishment of a valid series of performance tests, approval for operation of the new or modified stationary source will be granted through issuance of an operating permit in accordance with Chapter 6.

005.08 Notwithstanding any other provisions of this Title, the following methods may be used to determine compliance with applicable requirements:

005.08A A monitoring method approved for the source and incorporated in an operating permit pursuant to Chapter 6;

005.08B Any compliance test method specified in the State Implementation Plan;

005.08C Any test or monitoring method approved for the source in a permit issued pursuant to Chapters 3, 4, or 13;

005.08D Any test or monitoring method provided for in this Title; or

005.08E Any other test, monitoring, or information-gathering method that produces information comparable to that produced by any method described in sections 005.08A through 005.08D.

005.09 Predictive Emissions Monitoring System (PEMS) requirements. Where allowed by the Department, the owner or operator of any PEMS used to meet a pollutant monitoring requirement will comply with the following:

005.09A The PEMS will predict the pollutant emissions in the units of the applicable emission limitations.

005.09B Monitor diluent, either O2 or CO2 when applicable:

005.09B1 Using a CEMS:

005.09B1(a) In accordance with 40 CFR Part 60 Appendix B, Performance Specification 3 for diluent; or

005.09B1(b) With a similar alternative method approved by the Director and EPA; or

005.09B2 Using a PEMS with a method approved by the Director and EPA.

005.09C Any PEMS will meet the requirements of 40 CFR Part 75, Subpart E except as provided in section 005.09E.

005.09D The owner or operator of any PEMS installed subsequent to adoption of section 005.09E will perform the following initial certification procedures:

005.09D1 Conduct initial Relative Accuracy Test Audit (RATA) at low, medium, and high operating levels using 40 CFR Part 60, Appendix B:

005.09D1(a) Performance Specification 2, subsection 8.4 (pertaining to NOx) in terms of the applicable standard (in ppmv, lb/MMBtu, or g/hp-hr), except the relative accuracy will be 10%, or within 2 ppm absolute difference;

005.09D1(b) Performance Specification 3, subsections 8 and 13.2 (pertaining to O_2 or CO_2); and

005.09D1(c) Performance Specification 4, subsections 8 and 13.2 (pertaining to CO), for owners or operators electing to use a CO PEMS; and

005.09D2 Conduct a t-test, an F-test, and a correlation analysis using 40 CFR Part 75, Appendix A, section 7.6 and section 75.41(c)(1) and (2) at low, medium, and high load levels.

005.09D2(a) Calculations will be based on a minimum of 27 successive emission data points at each tested level which are at least seven-minute averages;

005.09D2(b) The t-test and the correlation analysis will be performed using all data collected at the three tested levels;

005.09D2(c) The correlation analysis may be waived following review of the waiver request submittal if:

(a) The process design is such that it is technically impossible to vary the process to result in a concentration change sufficient to allow a successful correlation analysis statistical test. Any waiver request will also be accompanied with documentation of the reference method measured concentration. The waiver is to be based on the measured value at the time of the waiver. Should a subsequent RATA effort identify a change in the reference method measured value by more than 30%, the statistical test must be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement; or

(b) The data for a measured compound (e.g., NOx, O_2) are determined to be autocorrelated according to the procedures of 40 CFR §75.41(b)(2). A complete analysis of autocorrelation with support information will be submitted with the request for waiver. The statistical test will be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement.

005.09D2(d) Allowable Test Adjustments

(a) For either NOx or CO and for the purpose of conducting an f-test, if the standard deviation of the EPA reference method is less than either 3% of the span or five parts per million (ppm), use an EPA reference method standard deviation of either five ppm or 3% of span.

(b) For the diluent CO_2 or O_2, and for the purpose of conducting an f-test, if the standard deviation of the reference method is less than 3% of span, use an EPA reference method standard deviation of 3% of span.

(c) For either NOx or CO and at any one test level, if the mean value of the EPA reference method is less than either ten ppm or 5% of the standard, all statistical tests are waived for that emission parameter at that specific test level.

(d) For the diluent O_2 or CO_2 and at any one test level, if the mean value of the reference method is less than 3% of span, all statistical tests are waived for that diluent parameter at that specific test level.

005.09D3 All requests for waivers will be submitted to the Department for review and approval. The Director will approve or deny each waiver request;

005.09D4 The owner or operator will , for each alternative fuel fired in a unit, certify the PEMS in accordance with sections 005.09D1 or 005.09D2 unless the alternative fuel effects on NOx, CO, and O_2 (or CO_2) emissions were addressed in the model training process.

005.09D5 The PEMS will be subject to the approval of the Director.

005.09E The owner or operator may vary from sections 005.09C or 005.09D if the owner or operator:

005.09E1 Demonstrates to the satisfaction of the Director that the alternative is substantially equivalent to the requirements; or

005.09E2 Demonstrates to the satisfaction of the Director that the requirement is not applicable.

005.10 Applying for Approval of a PEMs system

005.10A Approval to use PEMS will be limited to the specific unit and fuel type for which certification testing was conducted. Any future change in the type or composition of the fuel, or combustion characteristics of the boiler, will require that the PEMS be recertified, unless the PEMS was initially constructed to account for different fuel types and/or compositions. In this case, fuel switching would be permitted without recertification. Owners or operators may attempt to justify that a slight change in fuel composition does not affect emissions and the PEMS does not need be recertified. The approval of such justification will be determined by the Director.

005.10B Owners or operators will submit the following information in the application for certification or recertification of a predictive emissions monitoring system.

005.10B1 Source identification information including unit description, heat rate, and fuel type.

005.10B2 A general description of the software and hardware components of the PEMS including manufacturer, type of computer, name(s) of software product(s), and monitoring technique . Manufacturer literature and other similar information will also be submitted, as appropriate.

005.10B3 A detailed description of the predictive emissions monitoring system. Identify all operational parameters or ambient conditions which are determined to have an effect on the predicted emissions. If the PEMS is developed on the basis of physical principles, identify any specific physical assumptions or mathematical manipulations made that justify suitability of the model. If the PEMS is developed on the basis of linear or nonlinear regression analysis, submit the paired raw data used in developing or training the model and specifically identify the tested operating range for every input parameter and the number of data points used in the development of the model.

005.10B4 A detailed description of the hardware CEMS or the reference method used during the testing period.

005.10B5 Data collection procedures including location of the sampling probe and methods to ensure accurate representativeness of emissions being measured.

005.10B6 A detailed description of all PEMS operation, maintenance, and quality assurance and control procedures to be implemented.

005.10B7 Identification of all sensors pertaining to the PEMS and a detailed description of the sensor validation procedure and calibration frequency for each sensor.

005.10B8 Description of monitor reliability, accessibility, and timeliness analysis from section 005.11.

005.10B9 A description of the method used to calculate heat input, if applicable.

005.10B10 Data, calculations, and results of the RATA test and the statistical tests performed at all three loads and fuel types as listed under 40 CFR 75.48(a)(3).

005.10B11 Data plots as specified in 40 CFR 75.41(a)(9) and 75.41(c)(2)(i).

005.10B12 A summary of all results and calculations which demonstrates that PEMS is equivalent in performance to that of the certified hardware CEMS or EPA reference method.

005.11 Quality Assurance Procedure for PEMS. The owner or operator will develop and implement a quality assurance and quality control (QA/QC) manual for the PEMS and its components. The manual should include daily, quarterly, and semiannual or annual assessment procedures or operations to ensure continuous and reliable performance of the PEMS. The QA/QC manual should also include a ready and detailed specific corrective action plan that can be executed at times when the monitoring systems are inoperative. The QA/QC manual will be placed in a readily accessible location on the plant site. Owners or operators will assign the responsibility of implementing the QA/QC manual to designated employees and will ensure at all times that these employees have the technical and practical training needed to execute this plan.

005.11A Daily Assessment. Identify any specific steps, measures, or maintenance plans that can be taken to ensure proper functioning of the monitoring systems. Develop a plan to detect any thermocouple, flow monitoring, and sensor failures. If the PEMS is developed to operate in a specific operating range, develop a plan that will ensure continuous operation within the specified operating range. It is the responsibility of the owner or operator to make sure that the model is trained over a wide range of operating parameters. Operation outside any of the operating ranges will be considered monitor downtime.

005.11B Quarterly Assessment. The owner or operator will develop and implement a plan that will ensure proper accuracy and calibration of all

operational parameters that affect emissions and serve as input to the predictive monitoring system. All sensors will be calibrated as often as needed but never to exceed the time recommended by the manufacturers, for the specific applications these sensors are being used.

005.11C Semiannual or Annual Assessment. Following initial RATA, conduct RATA semiannually, pursuant to 005.09D1, at normal load operations, for each unit. If the relative accuracy for the initial or most recent audit for the NO_x, CO, CO_2, (or O_2) monitors is 7.5 percent or less, subsequent RATA may be performed on an annual basis.

005.12 PEMS Partial Certification. In certain cases, the owner or operator may not be able to adjust all of the parameters of the model over the entire desired range of operation at one time. In this case, the owner or operator may certify the PEMS in a restricted range of operation in accordance with the PEMS certification procedure.

005.12A If, at a later date, the owner or operator wishes to operate outside the demonstrated range of the certified PEMS, the owner or operator may extend the demonstrated range by certifying at a new range within 60 days of cumulative operation of the parameter at that range.

005.13 Monitor downtime periods for PEMS include the following:

005.13A Operating out of range of any operational parameters that affect NOx.

005.13B One or more sensor failures

005.13C Uncertified fuel switching or fuel composition changes unless approved.

005.13D Failing the RATA or any applicable statistical tests. If a PEMS fails the RATA or statistical tests, downtime is the time corresponding to the completion of the sampling that results in the failure, until the time corresponding to the completion of the subsequent successful sampling.

005.13E Failure of any quality assurance procedure specified in accordance with 005.11.

005.13F Failure to complete a minimum of one cycle of operation (sampling, analyzing and data recording) for each successive 15 minute period of emission unit operation.

005.14 PEMS Adjustments and Tuning. Adjustments and tuning are permissible provided that the date, reasons, and details of the PEMS adjustments are

documented, submitted to the Department and the documentation placed in an accessible location on the plant site, suitable for inspection by the Department at any time, sufficient to identify that the PEMS for any unit has been inspected, the occurrence of the last PEMS adjustment, and the last RATA performed for that unit. The PEMS will be retrained on an augmented set of data which includes the set of data used for training the model prior to adjustment and the newly collected set of data needed for adjustment of the model. When PEMS retraining is performed within the demonstrated range of certification, no RATA testing is required. No tampering with the PEMS is allowed during periods when no PEMS adjustments or tuning are being performed.

005.15 Notification, recordkeeping, and reporting. Owners or operators using predictive emissions monitoring systems will maintain for each unit a file of all measurements, data, reports, and other information in a form suitable for inspection for at least five years from the date of each record.

005.15A Notification.

005.15A1 The owner or operator will submit written notification to the Department in accordance with this Chapter of the date of any predictive emissions monitoring system (PEMS) relative accuracy test audit (RATA).

005.15A2 The owner or operator will submit to the Department a copy of results of any PEMS RATA and statistical testing conducted in accordance with section 005.11C.

005.15B Recordkeeping. The owner or operator will maintain written or electronic records of the data specified below. Such records will be kept for a period of at least five years and will be made available upon request by authorized representatives of the Department or EPA. The PEMs monitoring records will include:

005.15B1 Hourly emissions in units of the standard and fuel usage (or stack exhaust flow)

005.15B2 Records to verify minimum data collection requirement of one cycle of operation (sampling, analyzing and data recording) for each successive 15 minute period of emission unit operation.

005.15B3 Pounds per million British thermal units (lb/MMBtu) heat input;

005.15B4 Detailed records of any daily, quarterly, and semiannual or annual quality assurance programs or monitoring plans.

006.15B5 Compliance with the applicable recordkeeping requirements of 40 CFR 75.57 (d) and (e).

006.15B6 Compliance with the certification, quality assurance and quality control record provisions of 40 CFR 75.59, (a)(5),(6), and (7).

006.15C Reporting. The owner or operator of a unit approved to utilize a PEMS for demonstrating continuous compliance, will report in writing to the Department on a quarterly basis the monitoring system performance and any exceedance of the applicable emission standard. All reports will be postmarked or received by the 30th day following the end of each calendar quarter. Written reports will include the following information:

006.15C1 The magnitude of excess emissions computed in accordance with 40 CFR 60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the unit operating time during the reporting period;

006.15C2 Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, and malfunctions of the affected unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted;

006.15C3 The date and time identifying each period during which the continuous monitoring system was inoperative or down as described in section 006.13 and the nature of the system repairs or adjustments;

006.15C4 The results of any quality assurance assessments conducted during the quarter;

006.15C5 When no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information will be stated in the report.

006 Compliance; Exceptions Due to Startup, Shutdown, or Malfunction ~~Reopening for cause, revocation and reissuance, and termination~~

006.01 ~~Any operating or construction permit issued by the Director shall be reopened, revoked and reissued or terminated, during its term for cause, including but not limited to:~~ Upon receipt of a notice of excess emissions issued by the Department the source to which the notice is issued may provide information showing that the excess emissions were the result of a malfunction, start-up, or shutdown. Based upon any information submitted by the source,

operator, and any other pertinent information available, the Director will make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action. In determining whether enforcement action is warranted, the Director will consider the following:

006.01A ~~Additional applicable requirements under the Act or the State Act become applicable to a source holding a Class I or Class II operating permit with a remaining permit term of 3 or more years. Such reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended.~~ Whether the excess emissions during start-up, shutdown or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process.

006.01B ~~Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program under Chapter 26.~~ Whether the air pollution control equipment, process equipment, or processes were maintained and operated to the maximum extent practical for minimizing emissions.

006.01C ~~The Director, or the Administrator of EPA determines that the permit must be revoked and reissued to assure compliance with the applicable requirements.~~ Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring.

006.01D ~~The Director, or the Administrator of EPA, determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.~~ Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions.

006.01E ~~The Director, or the Administrator of EPA, determines that an applicable requirement or applicable requirement under the Act applies which was not identified by the permittee in its application.~~ Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.

006.02 ~~A permit may be revoked during its term for cause, including but not limited to:~~ The information provided by the source operator under 006.01 will include, at a minimum, the following:

006.02A ~~The existence at the source of unresolved noncompliance with applicable requirements or a term or condition of the permit, and refusal of the permittee to agree to an enforceable schedule of compliance to resolve the noncompliance.~~Name and location of installation.

006.02B ~~The permittee has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA.~~Name and telephone number of the person responsible for the installation.

006.02C ~~The Director determines that the permitted source or activity endangers human health or the environment and that the danger cannot be removed by a revision of the permit, or~~The identity of the equipment causing the excess emissions.

006.02D ~~The permittee has failed to pay a penalty owed pursuant to a court order, stipulation and agreement, or an order issued by the Administrator of EPA.~~The time and duration of the period of excess emissions.

006.02E The cause of the excess emissions.

006.02F The type of air contaminant involved.

006.02G A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude.

006.02H The measures taken to mitigate the extent and duration of the excess emissions.

006.02I The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

006.03 ~~The Department shall initiate a reopening or revocation under 006.01 or 006.02 above by providing a notice of intent to the permittee 30 days in advance of the date that the permit is to be reopened, unless the Director determines that an emergency exists which necessitates a shorter time period. Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.~~ The information specified in 006.02 will be submitted to the Director not later than 15 days after receipt of the notice of excess emissions.

006.04 ~~If the Department receives a notification from the Administrator of EPA that a Class I operating permit should be reopened for cause pursuant to this section, the Department shall, within 90 days of receipt of such notification,~~

~~forward to EPA a proposed determination of revision, or revocation and reissuance, as appropriate.~~Planned Start-Up and Shutdown Reporting. The owner or operator of an installation subject to this Chapter will notify the Director, in writing, whenever a planned start-up or shutdown may result in excess emissions. This notice will be mailed no later than 10 days prior to such action, and will include, but not be limited to, the following information:

006.04A Name and location of the installation.

006.04B Name and telephone number of the person responsible for the installation.

006.04C The identity of the equipment which may cause excess emissions.

006.04D Reasons for proposed shutdown or start-up.

006.04E Duration of anticipated period of excess emissions.

006.04F Date and time of proposed shutdown or start-up.

006.04G Physical and chemical composition of pollutants whose emissions are affected by the action.

006.04H Methods, operating data, and/or calculations used to determine these emissions.

006.04I Quantification of emissions during such action in the units of the applicable emission control regulation.

006.04J All measures planned to minimize the extent and duration of excess emissions during the shutdown and ensuing start-up.

006.05 ~~If the Administrator of EPA does not object to the Department's determination under 006.04 above within 90 days, the Department shall proceed as indicated.~~ Malfunction and Unplanned Shutdown Reporting. The owner or operator of an installation subject to this chapter will notify the Director, in writing, whenever emissions due to malfunctions, unplanned shutdowns or ensuing start-ups are, or may be, in excess of applicable emission control regulations. Such notification will be mailed within 48 hours of the beginning of each period of excess emissions, and will include, but not be limited to, the information required by 006.04. This notice is not required provided the following conditions are met:

006.05A A certified continuous emissions monitor is in operation throughout the duration of the period of malfunction, shutdown or ensuing start-up; and

006.05B The period of malfunction, shutdown or ensuing start-up is less than 1 hour in duration.

006.06 ~~If the Administrator of EPA objects to the Department's determination to revise, revoke, or reissue the permit under 006.04 above within 90 days, the Department shall have an additional 90 days from receipt of EPA's objection during which the Department may take the action to terminate, revise, or revoke and reissue the permit in accordance with the EPA's objection.~~The Director will make a determination of whether or not excess emissions were due to start-up, shutdown, or malfunction, and what, if any, enforcement action should be taken. The Director will consider the following in making his determination:

006.06A All notification requirements of the chapter have been met.

006.06B The malfunction, shutdown, or start-up did not result entirely or in part from poor maintenance, careless operation, or any other preventable upset conditions or equipment breakdowns.

006.06C All reasonable steps were taken to correct the conditions causing the excess emissions, as expeditiously as practicable, including the use of off-shift labor and overtime if necessary.

006.06D All reasonable steps were taken to minimize the emissions and their effect on air quality.

006.06E The malfunction or shutdown is not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

006.06F The excess emissions are not a threat to public health or ambient air quality.

006.07 ~~If the Department fails to take action as stated in any EPA objection under 006.06, the permit may be subject to action by the Administrator of EPA.~~If the Director determines that the reporting requirements of 006.02 and/or 006.04 are inappropriate to a particular installation, he may establish other reporting requirements which are sufficient to allow the determinations described in 006.06.

006.08 Nothing in this regulation will be construed to limit the authority of the Director to take appropriate action to enforce the provisions of the State Act, and the regulations promulgated thereunder.

007 ~~Changes allowed for Class I and Class II operating permits only~~ Control Regulations; Circumvention, When Excepted

007.01 ~~A permittee may make the following changes within a permitted facility without a permit revision, if: the change is not a modification under Chapters 18, 23, 27, or 28; the change does not require a construction permit under Chapters 17 or 19; and the change does not result in the emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions) being exceeded, provided that the facility provides the Director with written notification a minimum of seven (7) days in advance of the proposed changes, unless the Director determines a shorter timeframe is necessary for emergency reasons. The permit shield described in Chapter 8, section 014, shall not apply to any change made under this section.~~ No person will cause or permit the installation or use of any machine, equipment, device or other article, or alter any process in any manner which conceals or dilutes the emissions of contaminants without resulting in a reduction of the total amounts of contaminants emitted.

~~007.01A Changes in the configuration of the facility's equipment, defined as "Section 502(b) (10) changes" in Chapter 1, provided that the written notification required by 007.01 above includes:~~

~~007.01A1 A brief description of the change within the permitted facility;~~

~~007.01A2 The date on which the change will occur;~~

~~007.01A3 Any change in emissions; and,~~

~~007.01A4 Any permit term or condition that is no longer applicable as a result of the change.~~

~~007.01B Trading of increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision, provided that the written notification required in 007.01 above includes such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum:~~

~~007.01B1 When the proposed change will occur;~~

~~007.01B2 A description of each such change;~~

~~007.01B3 Any change in emissions;~~

~~007.01B4 The regulatory provisions and permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan; and,~~

~~007.01B5 The pollutants emitted subject to the emissions trade.~~

~~007.01C Trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that has been established in the permit pursuant to Chapter 8, section 019, provided that the written notification required above shall include:~~

~~007.01C1 When the change will occur;~~

~~007.01C2 A description of the changes in emissions that will result; and~~

~~007.01C3 How these increases and decreases in emissions will comply with the terms and conditions of the permit.~~

~~007.01D For Class I sources, the written notifications above shall also be submitted to the Administrator of EPA.~~

~~007.01E Notwithstanding any other part of this rule, the director may, upon review of a notice submitted in accordance with 007.01, require a source to apply for an operating permit if the change does not meet the requirements of section 007.01.~~

007.02 ~~A permittee may make changes within a permitted facility without a permit revision, if the change is not a modification under Chapters 18, 23, 27, or 28; the change is not a change which would require a construction permit under Chapters 17 or 19, provided that~~ Exception to 007.01 may be granted by the Department, upon request, provided that such action is intended to convert the physical and/or chemical nature of the contaminant emission and that failure to reduce total contaminant emissions results solely from the introduction of contaminants which are not deemed to be detrimental to the public interest.

~~007.02A Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition;~~

~~007.02B The source shall provide contemporaneous written notice to the Director of each such change, except for changes that qualify as insignificant activities under the provisions of Chapter 7, sections 006.03 and 006.04. Such written notice shall describe each change; include the date the change will be made; describe any change in emissions; list the pollutants emitted; and list any applicable requirement that would apply as~~

~~a result of the change, including terms and conditions established in the relevant operating permit for synthetic minor purposes;~~

~~007.02B1 For Class I sources, the written notice required above shall also be provided contemporaneously to the Administrator of EPA.~~

~~007.02C Any change under section 007.02 shall not qualify for a permit shield under Chapter 8, section 014; and;~~

~~007.02D The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.~~

~~007.02E Notwithstanding any other part of this rule, the director may, upon review of a notice submitted in accordance with 007.02B, require a source to apply for an operating permit if the change does not meet the requirements of section 007.02.~~

~~008 No permit revision shall be required, under any State-approved programs providing for economic incentives, marketable permits, emissions trading or other similar programs or processes for change that are provided for in the permit.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2)(4)(11)(25); 81-1505(12)(16); 81-1513(1) to (7)

~~Legal Citation: Title 129, Ch. 15, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY Air Quality Regulations

Chapter 16 - STACK HEIGHTS, GOOD ENGINEERING PRACTICE (GEP) SULFUR COMPOUND EMISSIONS; EXISTING SOURCES EMISSION STANDARDS

001 The degree of emission limitation required of any source for control of any air pollutant shall not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided 002. No person will allow sulfur oxides to be emitted from any existing fossil fuel burning equipment in excess of two and one half (2.5) pounds per million BTU input, maximum 2-hour average. For purposes of this Chapter, "existing fossil fuel burning equipment" will mean equipment, machines, devices, articles, contrivances, or installations in operation prior to February 26, 1974.

Commented [GR48]: NDEE is checking our files to determine the date in which this chapter was incorporated into the SIP, and see if that date should be used instead.

002 The provisions of 001 shall not apply to: For the purpose of these regulations, the heat input will be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater.

002.01 Stack heights in existence, or dispersion techniques implemented prior to December 31, 1970, except where pollutants are being emitted from such stacks or using such dispersion techniques by sources which were constructed or reconstructed, or for which major modifications were carried out after December 31, 1970, or.

002.02 Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act, which commenced operation before July 1, 1957, and whose stacks were constructed under a construction contract awarded before February 8, 1974.

003 No emission limitation will be established, or permit to construct or modify issued, involving any dispersion technique, unless approved by the Council following public hearing noticed at least 30 days in advance. The public notice will announce the availability of any fluid model or field study demonstration.

004 For purposes of this chapter, the definitions and specifications in sections 005 through 008 apply.

005 "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or increasing final exhaust gas plume rise by manipulating source process.

~~parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:~~

~~005.01 The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;~~

~~005.02 The use of smoke management in agricultural or silvicultural prescribed burning;~~

~~005.03 The merging of exhaust gas streams where:~~

~~005.03A The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;~~

~~005.03B After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or~~

~~005.03C Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source.~~

~~005.04 Episodic restrictions on residential woodburning and open burning;~~

~~005.05 Techniques such as manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams, which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.~~

006. "Excessive concentrations" for the purpose of determining good engineering practice stack height under section 007.04 below mean:

006.01. For sources seeking credit for stack height exceeding that established under section 007.02 and 007.03 below, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (40 CFR 51.166 and 52.21), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator.

006.02. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under sections 007.02 and 007.03 below, either a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in section 006.01 above, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or the actual presence of a local nuisance caused by the existing stack, as determined by the Director.

006.03. For sources seeking credit after January 12, 1979 for a stack height determined under sections 007.02 and 007.03 below where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in sections 007.02 and 007.03, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

007. "Good Engineering Practice (GEP) Stack Height" means the greater of:

007.01 Sixty-five (65) meters;

007.02 For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required,

Hg = 2.5H, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limit, where:

Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack.
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

007.03 For all other stacks, Hg = H + 1.5L, where:

Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack.
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.
L = lesser dimension (height or projected width) of nearby structure(s).

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

007.04 The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

008 "Nearby" means, as pertains to Good Engineering Practice Stack Height:

008.01 That distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile), and

008.02 For conducting demonstrations under section 007.04 above that distance not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (H_T) of the feature, not to exceed 2 miles if such feature achieves a height (H_T) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in section 007.02 above or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of

~~the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.~~

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(2)

~~Legal Citation: Title 129, Ch. 16, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 17 — CONSTRUCTION PERMITS – WHEN REQUIRED

001 Except as provided under section 014 of this chapter or Chapter 19 or 42 of Title 129, no person shall cause the construction, reconstruction, or modification at any of the following without first having obtained a construction permit from the Department in the manner prescribed by this Chapter:

001.01 Any stationary source or emission unit, such that there is a net increase in potential emissions at the stationary source equal to or exceeding the following levels:

001.01A Fifteen (15) tons/year of PM_{10} emissions.

001.01B Ten (10) tons/year of $PM_{2.5}$ emissions.

001.01C Forty (40) tons/year of sulfur dioxide (SO_2) or sulfur trioxide (SO_3), or any combination of the two.

001.01D Forty (40) tons/year of oxides of nitrogen (calculated as NO_2).

001.01E Forty (40) tons/year of volatile organic compounds (VOC).

001.01EF Fifty (50) tons/year of carbon monoxide (CO).

001.01G Six-tenths (0.6) tons/year of lead.

001.01H Two and one-half (2.5) tons/year of any hazardous air pollutant or an aggregate of ten (10) tons/year of any hazardous air pollutants, including all associated fugitive emissions (see Chapter 27, section 003).

001.02 When determining applicability under 001.01 above, sources in the following source categories must include fugitive emissions:

001.02A Coal cleaning plants (with thermal dryers);

001.02B Kraft pulp mills;

001.02C Portland cement plants;

001.02D Primary zinc smelters;

001.02E Iron and steel mills;

001.02F Primary aluminum ore reduction plants;

~~001.02G Primary copper smelters;~~

~~001.02H Municipal incinerators capable of charging more than 250 tons of refuse per day;~~

~~001.02I Hydrofluoric, sulfuric, or nitric acid plants;~~

~~001.02J Petroleum refineries;~~

~~001.02K Lime plants;~~

~~001.02L Phosphate rock processing plants;~~

~~001.02M Coke oven batteries;~~

~~001.02N Sulfur recovery plants;~~

~~001.02O Carbon black plants (furnace process);~~

~~001.02P Primary lead smelters;~~

~~001.02Q Fuel conversion plants;~~

~~001.02R Sintering plants;~~

~~001.02S Secondary metal production plants;~~

~~001.02T Chemical process plants. – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140;~~

~~001.02U Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;~~

~~001.02V Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~

~~001.02W Taconite ore processing plants;~~

~~001.02X Glass fiber processing plants;~~

~~001.02Y Charcoal production plants;~~

~~001.02Z Fossil fuel-fired steam electric plants of more than~~

250 million British thermal units per hour heat input;

001.02AA Any other stationary source category which is being regulated by a standard promulgated under Section 111 or 112 of the Act as of August 7, 1980.

001.03 Any incinerator used for refuse disposal or for the processing of salvageable materials except refuse incinerators located on residential premises containing five or less dwelling units used only for the disposal of residential waste generated on the said property.

002 The standards which would have been imposed under a construction permit are applicable to those sources who have failed to obtain a permit to the same extent as if a permit had been obtained.

003 The owner or operator of any source required to obtain a construction permit or requesting permit applicability under this Chapter, or submitting a significant permit revision, shall submit an application on forms provided by the Department.

003.01 Application Fee. Each application for a construction permit shall be accompanied by a non-refundable fee. The amount of the fee will be based on the amount of pollutants (including fugitive emissions) the entire source will directly emit or have the potential to emit, as follows:

Directly Emit or Have Potential to Emit:	Fee
Less than 50 tons per year of any listed air pollutant; or Less than 2.5 tons per year of any single HAP; or Less than 10 tons per year of any combination of HAPs	$250
50 tons or more but less than 100 tons per year of any listed air pollutant; or 2.5 tons or more but less than 10 tons per year of any single HAPs; or 10 tons or more but less than 25 tons per year of any combination of HAPs	$1,500
100 tons or more per year of any listed air pollutant; or 10 tons or more per year of any single HAP; or 25 tons or more per year of any combination of HAPs	$3,000

003.02 Listed air pollutants for application fee purposes include PM_{10}, SO_2 or SO_3 or any combination of the two, NO_x, VOC, and CO.

004 An application will be deemed complete if it provides all the information required and is sufficient to evaluate the subject source and to determine all applicable requirements. The application shall be certified by a responsible official for the source.

006 If the Department determines that the application is not complete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response.

006 Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

007 The Department shall require in the application information as necessary to determine if the new or modified source will interfere directly or indirectly with the attainment or maintenance of National Primary and Secondary Ambient Air Quality Standards, or violate any portion of an existing control strategy.

008 If an air quality impact analysis is deemed necessary by the Director as a part of a construction permit application, concentrations of pollutants that may be expected to occur in the vicinity of a source or combination of sources will be determined by use of an air pollution dispersion model acceptable to the Director. Meteorological and operating conditions that may occur that will produce the greatest concentrations of the pollutants emitted shall be used in evaluating the effect of the source(s) on air quality.

009 Disapproval of Application for Permits.

009.01 If it is determined by the Director that emissions resulting from the operation of a source to be constructed or modified will violate any portion of these rules and regulations, violate any applicable federal air quality regulation, or interfere with attainment or maintenance of a National Ambient Air Quality Standard, no permit will be granted until necessary changes are made in the plans and specifications to Obviate the objections to issuance.

009.02 A construction permit will not be issued for any major source or major modification when such source or modification would cause or contribute to a violation of a national ambient air quality standard by exceeding, at a minimum, the following significant levels at any locality that does not or would not meet the applicable national standard.

Pollutant	Averaging period Annual	24 hour	8 hour	3 hour	1 hour
SO_2	1.0 ug/m³	5 ug/m³	-----	25 ug/m³	-----
PM_{10}	1.0 ug/m³	5 ug/m³	-----	-----	-----
$PM_{2.5}$	0.3 ug/m³	1.2 ug/m³			

NO_2	1.0 µg/m³	—	—	—	—
CO	—	—	0.5 mg/m³	—	2 mg/m³

010 Issuance of permits. The Director shall publish notice of intent to approve or disapprove the application in accordance with the procedures of Chapter 14.

011 Approval, by issuance of a permit for any construction, reconstruction, or modification, does not relieve the owner or operator from the responsibility to comply with the applicable portions of the Implementation Plan control strategy. The permittee must comply with all conditions of the construction permit. Any permit noncompliance shall constitute a violation of the State Act and the Act, and is grounds for enforcement action or permit revocation.

012 If construction, reconstruction, or modification of the source is not commenced within 18 months, the construction permit shall lapse except upon a showing by the permittee that the complexity of the construction, reconstruction, or modification requires additional time.

013 Additional Requirements for Construction or Modification of Sources in Nonattainment Areas.

013.01 No permit to construct or modify will be issued for a proposed major source or a major modification if the source is located or is to be located in an area that is nonattainment for a pollutant for which the source or modification is major unless it is determined that:

013.01A By the time the facility is to commence operation, total allowable emissions from the same source or existing sources in the same nonattainment area, from new sources which are not major emitting facilities, and from existing sources allowed under the Implementation Plan prior to the application for such permit to construct or modify represent a net decrease in emissions and show reasonable further progress toward attainment and maintenance of the ambient air quality standards, and provided that any emissions reductions required as a precondition of the issuance of a permit shall be federally enforceable before such permit is issued.

013.01B The proposed source is required to comply with the lowest achievable emission rate; and

013.01C The owner or operator of the proposed new or modified source has demonstrated that all other major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State subject to emissions limitations are in

compliance, or on a schedule for compliance, with all applicable emission limitations and standards.

013.01D The proposed source is in compliance with requirements established under the Implementation Plan and the State shall not issue a permit if the Administrator has determined that the applicable Implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified.

013.01E The source has completed an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

013.02 The requirements of section 013.01A for emission reductions from existing sources in the vicinity of proposed new sources or modifications shall be determined on a case-by-case basis. The offset baseline shall be the actual emissions of the source from which offset credit is obtained.

013.03 The following shall apply to emission offsets.

013.03A If the emissions limit under these regulations allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.

013.03B For an existing fuel combustion source, credit shall be based on the allowable emissions under the applicable State Implementation Plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The Director will ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.

013.03C Emissions reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels may be credited, provided that the work force to be affected has been notified of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed generally may not be used for emissions offset credit. However, where an applicant can establish that it

shut down or curtailed production less than one year prior to the date of permit application, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source;

013.03D No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds", (42 FR 35314, July 8, 1977);

013.03E The procedures set out in 40 CFR Part 51, Appendix S, Section IV.D, relating to the permissible location of offsetting emissions, shall be followed, unless the Director determines that an equally stringent or more stringent procedure is appropriate.

013.03F Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51 Subpart I or in demonstrating attainment or reasonable further progress.

013.03G Emission reductions otherwise required by this Title shall not be creditable as emissions reductions for purposes of any offset.

013.04 The provisions of 013 do not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

013.04A Coal cleaning plants (with thermal dryers);

013.04B Kraft pulp mills;

013.04C Portland cement plants;

013.04D Primarily zinc smelters;

013.04E Iron and steel mills;

013.04F Primary aluminum ore reduction plants;

013.04G Primary copper smelters;

013.04H Municipal incinerators capable of charging more than 250 tons of refuse per day;

~~013.04I Hydrofluoric, sulfuric, or nitric acid plants;~~

~~013.04J Petroleum refineries;~~

~~013.04K Lime plants;~~

~~013.04L Phosphate rock processing plants;~~

~~013.04M Coke oven batteries;~~

~~013.04N Sulfur recovery plants;~~

~~013.04O Carbon black plants (furnace process);~~

~~013.04P Primary lead smelters;~~

~~013.04Q Fuel conversion plants;~~

~~013.04R Sintering plants;~~

~~013.04S Secondary metal production plants;~~

~~013.04T Chemical process plants. The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140;;~~

~~013.04U Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;~~

~~013.04V Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~

~~013.04W Taconite ore processing plants;~~

~~013.04X Glass fiber processing plants;~~

~~013.04Y Charcoal production plants;~~

~~013.04Z Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;~~

~~013.04AA Any other stationary source category which is being regulated by a standard promulgated under Section 111 or 112 of the Act as of August 7, 1980.~~

013.05 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

014 Any source not required to obtain a construction permit pursuant to 001 may request a construction permit to be issued in the manner prescribed by 002 through 013 for the following purposes:

014.01 Establishing enforceable limits to avoid otherwise applicable requirements under the provisions of Title 129.

014.02 Revising existing construction permits to incorporate significant permit revisions as defined in Chapter 15.

014.03 Establishing a PAL pursuant to the provisions of Chapter 19 of Title 129. The construction permit used to establish a PAL must include the information and conditions listed in Chapter 19, section 011.06.

014.04 Establishing a Best Available Retrofit Technology (BART) permit or other permit required to reduce visibility impairment in a Class I Federal area pursuant to the provisions of Chapter 43.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12); 81-1505.06.

Legal Citation: Title 129, Ch. 47, Nebraska Department of Environmental Quality

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 18 – New Source Performance Standards and Emission Limits For Existing Sources~~

~~001 Standards of Performance for New Stationary Sources. Notwithstanding any other provisions of these regulations, the following "Standards of Performance for New Stationary Sources" published at 40 CFR Part 60, effective July 1, 2013, unless otherwise indicated are hereby adopted by reference and incorporated herein:~~

~~001.01 General Provisions — Subpart A as revised at 74 Federal Register 51368 on October 6, 2009.~~

~~001.02 Ammonium sulfate manufacture — Subpart PP.~~

~~001.03 Asphalt processing and asphalt roofing manufacture — Subpart UU.~~

~~001.04 Automobile and light-duty truck surface coating operations — Subpart MM.~~

~~001.05 Beverage can surface coating industry — Subpart WW.~~

~~001.06 Bulk gasoline terminals — Subpart XX.~~

~~001.07 Calciners and dryers in mineral industries — Subpart UUU.~~

~~001.08 Coal preparation plants — Subpart Y.~~

~~001.09 Electric arc furnaces and argon-oxygen decarbonization vessels constructed after August 17, 1983 — Subpart AAa.~~

~~001.10 Electric arc furnaces constructed after October 21, 1974 and on or before August 17, 1983 — Subpart AA.~~

~~001.11 Superseded by Section 001.83~~

~~001.12 Equipment leaks of VOC from onshore natural gas processing plants — Subpart KKK Title 129 Chapter 18~~

~~001.13 Equipment leaks of VOC in petroleum refineries for which construction, reconstruction, or modification commenced after January 4, 1983 and on or before November 7, 2006 — Subpart GGG.~~

~~001.14 Equipment leaks of VOC in the synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after January 5, 1981 and on or before November 7, 2006 — Subpart VV.~~

~~001.15 Ferroalloy production facilities—Subpart Z~~

~~001.16 Flexible vinyl and urethane coating and printing—Subpart FFF~~

~~001.17 Fossil-fuel-fired steam generators for which construction is commenced after August 17, 1971—Subpart D~~

~~001.18 Glass manufacturing plants—Subpart CC~~

~~001.19 Grain elevators—Subpart DD~~

~~001.20 Graphic arts industry: publication rotogravure printing—Subpart QQ~~

~~001.21 Hot mix asphalt facilities (asphalt concrete plants)—Subpart I~~

~~001.22 Industrial-commercial-institutional steam generating units—Subpart Db~~

~~001.23 Industrial surface coating: large appliances—Subpart SS~~

~~001.24 Industrial surface coating: plastic parts for business machines—Subpart TTT~~

~~001.25 Lead-acid battery manufacturing plants—Subpart KK~~

~~001.26 Lime manufacturing plants—Subpart HH~~

~~001.27 Magnetic tape coating facilities—Subpart SSS~~

~~001.28 Metal coil surface coating—Subpart TT~~

~~001.29 Metallic mineral processing plants—Subpart LL~~

~~001.30 Municipal incinerators—Subpart E~~

~~001.31 Municipal waste combustors—Subpart Ea~~

~~001.32 Nitric acid plants—Subpart G~~

~~001.33 Nonmetallic mineral processing plants—Subpart OOO~~

~~001.34 Onshore natural gas processing; SO2 emissions—Subpart LLL~~

~~001.35 Petroleum dry cleaners—Subpart JJJ~~

~~001.36 Petroleum refineries—Subpart J~~

~~001.37 Phosphate fertilizer plants—Subparts T through X~~

~~001.38 Phosphate rock plants—Subpart NN~~

~~001.39 Polymeric coating of supporting substrates facilities—Subpart VVV~~

~~001.40 Portland cement plants—Subpart F~~

~~001.41 Pressure sensitive tape and label surface coating operations—Subpart RR~~

~~001.42 Primary aluminum reduction plants—Subpart S~~

~~001.43 Primary copper smelters—Subpart P~~

~~001.44 Primary emissions from basic oxygen process furnaces for which construction is commenced after June 11, 1973—Subpart N~~

~~001.45 Primary lead smelters—Subpart R~~

~~001.46 Primary zinc smelters—Subpart Q~~

~~001.47 Rubber tire manufacturing industry—Subpart BBB~~

~~001.48 Secondary brass and bronze production plants—Subpart M~~

~~001.49 Secondary emissions from basic oxygen process steelmaking facilities for which construction commenced after January 20, 1983—Subpart Na~~

~~001.50 Secondary lead smelters—Subpart L~~

~~001.51 Sewage treatment plants—Subpart O~~

~~001.52 Small industrial-commercial-institutional steam generation units—Subpart Dc~~

~~001.53 Stationary gas turbines—Subpart GG~~

~~001.54 Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after June 11, 1973, and prior to May 19, 1978—Subpart K~~

~~001.55 Storage vessels for petroleum liquids for which construction, reconstruction, or modification commenced after May 18, 1978, and prior to July 23, 1984—Subpart Ka~~

~~001.56 Sulfuric acid plants — Subpart H~~

~~001.57 Surface coating of metal furniture — Subpart EE~~

~~001.58 Synthetic fiber production facilities — Subpart HHH~~

~~001.59 Volatile organic compounds (VOC) emissions from petroleum refinery wastewater systems — Subpart QQQ~~

~~001.60 Volatile organic compounds (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) air oxidation unit process — Subpart III~~

~~001.61 Volatile organic compounds (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) distillation operations — Subpart NNN~~

~~001.62 Volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984 — Subpart Kb~~

~~001.63 Wool fiberglass insulation manufacturing plants constructed after February 7, 1984 — Subpart PPP~~

~~001.64 Appendices A, B, C, and F~~

~~001.65 Municipal solid waste landfills — Subpart WWWW~~

~~001.66 Municipal waste combustors — Subpart Eb~~

~~001.67 Hospital/medical/infectious waste incinerators — Subpart Ec~~

~~001.68 Small municipal waste combustion units — Subpart AAAA~~

~~001.69 Superseded by Section 001.85~~

~~001.70 Volatile organic compounds (VOC) emissions from the synthetic organic chemical manufacturing industry (SOCMI) reactor processes — Subpart RRR~~

~~001.71 New residential wood heaters — Subpart AAA~~

~~001.72 Volatile organic compound (VOC) emissions from the polymer manufacturing industry — Subpart DDD~~

~~001.73 Superseded by Section 001.86~~

~~001.74 Standards of Performance for Other Solid Waste Incineration Units for~~

~~which Construction is Commenced After December 9, 2004, or for which Modification or Reconstruction is Commenced on or After June 16, 2006 — Subpart EEEE~~

~~001.75 Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004 — Subpart FFFF~~

~~001.76 Standards of Performance for Stationary Compression ignition Internal Combustion Engines — Subpart IIII~~

~~001.77 Standards of Performance for Stationary Combustion Turbines — Subpart KKKK~~

~~001.78 Equipment leaks of VOC in petroleum refineries for which construction, reconstruction, or modification commenced after November 7, 2006 — Subpart GGGa~~

~~001.79 Equipment leaks of VOC in synthetic organic chemicals manufacturing industry for which construction, reconstruction, or modification commenced after November 7, 2006 — Subpart VVa~~

~~001.80 Petroleum refineries for which construction, reconstruction, or modification commenced after May 14, 2007 — Subpart Ja~~

~~001.81 Kraft pulp mills — Subpart BB~~

~~001.82 Stationary Spark Ignition Internal Combustion Engines — Subpart JJJJ~~

~~001.83 Electric Utility Steam Generating Units — Subpart Da~~

~~001.84 Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011 — Subpart Ga~~

~~001.85 Commercial & Industrial Solid Waste Incineration Units — Subpart CCCC~~

~~001.86 Emission Guidelines & Compliance Times for Commercial & Industrial Solid Waste Incineration Units — Subpart DDDD~~

~~001.87 New Sewage Sludge Incineration Units — Subpart LLLL~~

~~001.88 Emission Guidelines & Compliance Times for Existing Sewage Sludge Incineration Units — Subpart MMMM~~

~~001.89 Crude Oil & Natural Gas Production, Transmission & Distribution — Subpart OOOO~~

002 Except as provided in 004 below, standards of performance are applicable only to those new, modified, or reconstructed facilities specified or defined as an "affected facility".

003 Should the source need assistance in determining the CFR requirements the Department will provide the needed information on request.

004 Emission Limits for Existing Stationary Sources. Notwithstanding any other provisions of these regulations, the following emission limits are applicable to existing sources as follows:

004.01 Municipal solid waste (MSW) landfills. The designated facility to which these limits apply is each existing MSW landfill for which construction, reconstruction or modification was commenced before May 30, 1991, which has accepted waste at any time since November 8, 1987, or has additional capacity available for future waste deposition.

004.01A Each designated facility shall submit an initial design capacity report 90 days after September 8, 1997 on forms provided by the Department. The final determination of design capacity shall be subject to review and approval by the Department. Any change in the physical boundaries, operation or waste deposition practices which increase or decrease the design capacity of the landfill shall require the submittal of an amended design capacity report.

004.01B Each designated facility having an aggregate design capacity of 2.5 million megagrams or 2.5 million cubic meters or more shall calculate and report nonmethane organic compound (NMOC) emissions as provided for new MSW landfills under section 001.65 of this chapter beginning 90 days after September 8, 1997.

004.01C Each designated facility having an NMOC emission rate of 50 megagrams per year or more shall design, install and operate a landfill gas collection and control system (LGCCS) as provided for new MSW landfills under section 001.65 of this chapter. An alternate design plan may be approved by the Department provided the source demonstrates that

004.01C1 Meeting the requirements of section 001.65 of this chapter will result in unreasonable costs of control due to plant age, location, or basic process design;

004.01C2 It will be physically impossible to install the necessary control equipment needed to meet the requirements of section 001.65 of this chapter; or

004.01C3 Other factors specific to the facility will make application of a less stringent standard significantly more reasonable than meeting the requirements of section 001.65 of this chapter.

004.01D Each designated facility subject to the control provisions of 004.01C above shall submit the LGCCS design for Department review within 1 year of the first report in which NMOC emissions equal or exceed 50 megagrams per year, and shall install the approved LGCCS within 30 months of that report, except as provided under section 001.65 of this chapter.

004.01E Each designated facility subject to the control provisions of 004.01C above shall conduct testing, monitoring, recordkeeping and reporting for the LGCCS as provided for new MSW landfills under section 001.65 of this chapter.

004.01E1 If a source receives approval for an alternate design plan under section 004.01C, the Department may also approve alternate testing and monitoring procedures for the source, provided the source demonstrates that the testing and monitoring requirements in section 001.65 are not practical for the alternate design and that the alternate procedures are adequate to determine compliance with the approved alternate design plan.

004.02 Hospital/medical/infectious waste incinerators. The designated facility to which these limits apply is each individual hospital/medical/ infectious waste incinerator for which construction, reconstruction or modification was commenced on or before June 20, 1996. The emission limits under this section apply at all times except during startup, shutdown or malfunction, provided that no hospital waste or medical/infectious waste is charged to the designated facility during startup, shutdown or malfunction. For purposes of this section, the definitions in 40 CFR Part 60, §60.31 and the exceptions and exemptions from the definition of designated facility in 40 CFR Part 60, §§60.32e(b) through (h), are adopted by reference and incorporated herein.

004.02A Beginning September 15, 2000, each designated facility subject to this section shall be operated pursuant to a Class I operating permit.

004.02B For purposes of this section, the size classifications and emission limits provided in Tables 1 and 2 of 40 CFR Part 60, Subpart Ce are adopted by reference and incorporated herein. On or after the date on which the initial compliance test is required, no designated facility shall cause to be discharged into the atmosphere any gases that contain stack emissions in excess of the limits for its size, as provided in either Table 1 or 2, as applicable, or exhibit greater than 10 percent opacity, as

~~evaluated by Method 9 in Appendix A of 40 CFR Part 60.~~

~~004.02C Each designated facility subject to the provisions of this section shall comply with the requirements for operator training and qualification, waste management plans, and recordkeeping and reporting, except for requirements relating to siting and fugitive emissions, as provided for new sources in section 001.67 of this chapter.~~

~~004.02D Each designated facility subject to the provisions of Table 1 as adopted in 004.02B shall comply with the requirements for compliance and performance testing and monitoring, except for fugitive emissions testing, as provided for new sources in 001.67 of this chapter.~~

~~004.02E Each designated facility subject to the provisions of Table 2 as adopted in 004.02B shall undergo an initial equipment inspection within 1 year of December 15, 1995, and subsequent equipment inspections no more than 12 months following each previous equipment inspection. For purposes of this paragraph, the inspection requirements in 40 CFR Part 60 §§60.38e(a)(1) and (2) are adopted by reference.~~

~~004.02F Each designated facility subject to the provisions of Table 2 as adopted in 004.02B shall comply with the following:~~

~~004.02F1 Requirements for compliance and performance testing as provided in 40 CFR Part 60, §§60.37e(b)(1) through (5);~~

~~004.02F2 Requirements for monitoring as provided in 40 CFR Part 60, §§60.37e(d)(1) through (3); and~~

~~004.02F3 Requirements for reporting and recordkeeping as provided in 40 CFR Part 60, §§60.38e(b)(1) and (2).~~

~~004.02G Each designated facility subject to the provisions of this section shall comply with all provisions of this section no later than 1 year after the EPA approval of the state plan for existing hospital/medical/infectious waste incinerators.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(1)(2); 81-1505(12)~~
~~Legal Citation: Title 129, Ch. 18, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 19 – Prevention of Significant Deterioration of Air Quality (PSD)

001 The following subsections of 40 CFR 52.21 published on July 1, 2009 are incorporated by reference into Chapter 19 of Title 129: (b) (34), (35), (36), (37), and (38) definitions related to clean coal technology demonstration projects; (e) Restrictions on area classifications; and (g) Redesignation. 40 CFR 52.21 (p), "Sources impacting Federal Class I area", as published at 75 Federal Register 64906 is incorporated by reference into Chapter 19 of Title 129.

002 The requirements of this chapter apply to the construction of any new major stationary source or the major modification of any existing major stationary source, as defined in Chapter 2, section 008. The provisions of this chapter apply only to sources located in areas designated as attainment or unclassifiable. Sources not subject to PSD review may still require a construction permit pursuant to provisions in Chapter 17.

003 Prior to beginning actual construction of a new major stationary source or a major modification of an existing major stationary source, the owner or operator must obtain a permit, issued by the Department, stating that the source will comply with the requirements of this chapter.

004 For any construction project at an existing major stationary source, the owner or operator must determine if the project is a major modification for a regulated NSR pollutant by assessing the following criteria:

> 004.01 The status of each relevant emissions unit, either new or existing, as defined in Chapter 1, section 051.
>
> 004.02 The baseline actual emissions (BAE) for each unit, as defined in section 005.
>
> 004.03 The projected actual emissions (PAE) or potential to emit (PTE) for each unit, as defined in sections 006 and 007.
>
> 004.04 Whether the emissions increase (PAE (or PTE) minus BAE) is significant, as defined in section 008.
>
> 004.05 If the emissions increase is significant, whether the net emissions increase, as defined in section 009, is significant as defined in section 010.

005 Baseline actual emissions (BAE) for a new unit is defined in section 006.12. BAE for an existing emissions unit means the average rate, in tons per year, at which an emissions unit actually emitted the regulated NSR pollutant during any consecutive 24-month period selected by the owner or operator that is representative of normal source operation and that meets the following criteria:

005.01 For units at an electric utility steam generating unit, within the five year period immediately preceding when the owner or operator begins actual construction of the project, unless the Department determines that a different time period within the preceding ten years is more representative of normal source operations.

005.02 For all other units, within the ten year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Department for a permit required under this section, whichever is earlier.

005.03 In no case may the consecutive 24-month period begin before January 1, 1986.

005.04 The average rate per unit shall include emissions associated with startups, shutdowns, and malfunctions.

005.05 Fugitive emissions.

005.05A The average rate per unit shall include fugitive emissions, to the extent quantifiable, for sources belonging to one of the categories listed in Chapter 2, sections 002.01 through 002.27. Fugitive emissions shall be considered quantifiable if emission factors are available or if emissions can be calculated using mass balance equations or other means deemed acceptable to the Department.

005.05B The average rate per unit shall not include fugitive emissions for sources not belonging to one of the categories specified in section 005.05A.

005.06 The average rate per unit shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

005.07 The average rate per unit shall be adjusted downward to reflect any regulatory changes becoming effective since the beginning of the consecutive 24-month period that would have required reduced emissions for any of the emissions units being changed if the regulatory changes had been in effect during the consecutive 24-month period.

005.08 When a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the BAE for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

~~005.09 The average rate per unit shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions or for measuring non-compliant emissions, in tons per year.~~

~~005.10 BAE shall be calculated using the following methodologies in this order of preference where possible:~~

~~005.10A Continuous Emissions Monitors (CEMS) complying with requirements in Chapter 34.~~

~~005.10B Predictive Emissions Monitors (PEMS) complying with requirements in Chapter 34.~~

~~005.10C Source-specific stack test data, if such stack test occurred during the baseline period.~~

~~005.10D Emission factors as defined in Chapter 6, sections 003.03 and 003.04.~~

~~005.10E Mass Balance~~

~~005.11 Other methodologies or a different order of preference of methodologies than those listed in 005.10 may be used to calculate the BAE with prior concurrence of the Department.~~

~~005.12 For a new emissions unit, the BAE for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's PTE.~~

~~005.13 For a PAL for a stationary source, the BAE shall be calculated in accordance with the procedures contained in section 005.01 through 005.12.~~

~~006 Projected actual emissions (PAE) is the maximum annual rate, in tons per year (consecutive 12 month period), at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years following the date the unit resumes regular operation after the project. If the project involves increasing the emissions unit's design capacity or its potential to emit the regulated NSR pollutant, and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source, the PAE is the maximum annual rate in any one of the ten years following the date the unit resumes regular operation after the project.~~ To determine PAE, the owner or operator:

~~006.01 Shall consider all relevant information, including but not limited to the source's historical operational data, its own representations, expected business~~

activity and highest projections of business activity, compliance plans, and filings with state or federal regulatory authorities; and

006.02 Shall include emissions associated with startup, shutdown, and malfunctions.

006.03 Shall consider fugitive emissions as follows:

006.03A The average rate per unit shall include fugitive emissions, to the extent quantifiable, for sources belonging to one of the categories listed in Chapter 2, sections 002.01 through 002.27. Fugitive emissions shall be considered quantifiable if emission factors are available or if emissions can be calculated using mass balance equations or other means deemed acceptable to the Department.

006.03B The average rate per unit shall not include fugitive emissions for sources not belonging to one of the categories specified in section 006.03A.

006.04 Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the BAE and that are also unrelated to the particular project, including any increased utilization due to product demand growth. The Department shall provide guidance for use by the owner or operator to determine the amount of emissions that may be attributed to demand growth.

006.05 May, in lieu of using the method set out in sections 006.01, 006.02, 006.03, and 006.04, elect to use the emissions unit's potential to emit (PTE), in tons per year, as defined in section 007.

007 Potential to emit (PTE) is the maximum capacity of a major stationary source to emit a regulated NSR pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit such a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

008 Calculating significant emissions increase of a regulated NSR pollutant.

008.01 Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between PAE and BAE, for each existing emissions unit, equals or exceeds the significant amount for that

~~pollutant, as described in section 010.~~

~~008.02 As an alternative to section 008.01, the actual-to-potential test may be used for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the PTE from each existing emissions unit following completion of the project and the BAE of these units before the project equals or exceeds the significant amount for that pollutant, as described in section 010.~~

~~008.03 Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the PTE from each new emissions unit following completion of the project and the BAE of these units before the project equals or exceeds the significant amount for that pollutant, as described in section 010.~~

~~008.04 Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for all emissions units involved in the project (using the methods specified in sections 008.01, 008.02, and 008.03) equals or exceeds the significant amount for that pollutant, as described in section 010.~~

~~008.05 For any major stationary source with a Plant-wide Applicability Limit (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements in section 011.~~

~~009 If a project results in a significant emissions increase as calculated in section 008, then a determination must be made as to whether the project also results in a significant net emissions increase. The net emissions increase is the amount over zero of the sum of the emissions increase and any other increases and decreases in actual emissions at the major stationary source that are contemporaneous (as defined in section 009.01) with the project and are otherwise creditable. BAE for calculating such increases and decreases shall be as defined in section 005.~~

~~009.01 An increase or decrease in actual emissions is contemporaneous with the increase from the project for which an emissions increase has been calculated in section 008 only if it occurs between the date five years before the source begins actual construction (as defined in Chapter 1, section 023) of the project and the date that the increase from the project occurs.~~

~~009.02 An increase or decrease is creditable only if the Department has not relied on it in issuing a PSD permit for the source which was in effect when the increase from the project occurred.~~

~~010 Significant means, in reference to an emission increase or a net emissions increase~~

~~or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the~~ following rates:

~~010.01 Carbon monoxide: 100 tons per year;~~

~~010.02 Nitrogen oxides: 40 tons per year;~~

~~010.03 Sulfur dioxide: 40 tons per year;~~

~~010.04 Particulate matter (PM): 25 tons per year;~~

~~010.05 PM_{10}: 15 tons per year;~~

~~010.06 $PM_{2.5}$: 10 tons per year of direct $PM_{2.5}$ emissions; 40 tons per year of sulfur dioxide emissions; 40 tons per year of nitrogen oxide emissions;~~

~~010.07 Ozone: 40 tons per year of volatile organic compounds or nitrogen oxides;~~

~~010.08 Lead: 0.6 tons per year;~~

~~010.09 Fluoride: 3 tons per year;~~

~~010.10 Sulfuric acid mist: 7 tons per year;~~

~~010.11 Hydrogen sulfide (H_2S): 10 tons per year;~~

~~010.12 Total reduced sulfur compounds (including H_2S): 10 tons per year;~~

~~010.13 Reduced sulfur compounds (including H_2S): 10 tons per year;~~

~~010.14 Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year);~~

~~010.15 Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year);~~

~~010.16 Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);~~

~~010.17 Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year);~~

~~010.18 For any regulated NSR pollutant not listed in sections 010.01 through 010.17: any increase is significant.~~

011 Actuals PALs. The term "Plantwide Applicability Limitations" (PAL) refers to an "actuals PAL" in the following sections. The Department may approve a PAL in accordance with the following requirements.

011.01 A PAL may only be approved for an existing major stationary source.

011.02 The PAL shall impose an annual emission limitation in tons per year that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

011.03 Any physical change or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets all requirements in section 013 and complies with the provisions of the construction permit establishing the PAL.

011.03A Is not considered a major modification for the PAL pollutant, and

011.03B Is not subject to the provisions in Chapter 19, sections 024.02.

011.04 Except as provided under section 011.03B, a major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations and work practice requirements that were established prior to the effective date of the PAL.

011.05 Permit application to establish a PAL. An owner or operator of a major stationary source wishing to establish a PAL must submit to the Department the following information.

011.05A A list of all emissions units at the source and each unit's designation as small, significant or major based on its PTE.

011.05B An indication of which, if any, Federal or State applicable requirements, emission limitations, or work practices apply to each unit and, if any do so, whether such requirements, emission limitations, or work practices were taken to comply with BACT.

011.05C Calculations of the BAE with supporting documentation.

011.05D The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by 011.12.

011.06 The PAL shall be established in a construction permit in accordance with Chapter 17. The construction permit establishing the PAL shall include the following information and conditions:

011.06A The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

011.06B Each PAL shall regulate emissions of only one pollutant.

011.06C Each PAL shall have an effective period of 10 years.

011.06D The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in sections 011.12, 011.13, and 011.14 for each emissions unit under the PAL throughout the PAL effective period.

011.06E The PAL pollutant and the applicable source-wide emissions limitation in tons per year.

011.06F The PAL effective date and expiration date.

011.06G Specification that if the owner or operator of the source with a PAL applies to renew a PAL in accordance with section 011.15 before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised permit renewing the PAL is issued or denied by the Department.

011.06H A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

011.06I A requirement that, once a PAL expires, the major stationary source is subject to the requirements under section 011.18.

011.06J The calculation procedures that the owner or operator of the source shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by section 011.12.

011.06K A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provision under section

~~011.12~~

~~011.06L A requirement to retain the records required under section 011.13 onsite. Such records may be retained in an electronic format.~~

~~011.06M A requirement to submit the reports required under section 011.14 by the required deadlines.~~

~~011.06N At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under Chapter 17, section 013.03, unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.~~

~~011.06O Any other requirements that the Department deems necessary to implement and enforce the PAL.~~

~~011.07 Setting the PAL emissions level. The PAL level for a major stationary source shall be established as the sum of the BAE of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under section 010 or under the Act, whichever is lower. Emissions associated with units that were permanently shut down after the 24-month period used for the BAE must be subtracted from the PAL level. Emissions from units on which actual construction began after the 24-month period must be added to the PAL level in an amount equal to the PTE of the units. The Department shall specify a reduced PAL level in tons per year in the construction permit establishing the PAL to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Department is aware of prior to issuance of the construction permit establishing the PAL.~~

~~011.08 During the PAL effective period, the Department is required to reopen the construction permit to:~~

~~011.08A Correct typographical or calculation errors made in setting the PAL or to reflect a more accurate determination of emissions used to establish the PAL.~~

~~011.08B Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Chapter 17, section 013.03.~~

~~011.08C Revise the PAL to reflect an increase in the PAL as provided in section 011.11.~~

~~011.09 During the PAL effective period the Department may, at its discretion, reopen the construction permit to:~~

~~011.09A Reduce the PAL to reflect newly applicable Federal requirements with compliance dates after the PAL effective date.~~

~~011.09B Reduce the PAL consistent with any other requirement, such as statute, rule, or court decision that is enforceable as a practical matter.~~

~~011.09C Reduce the PAL if the Department determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an Air Quality Related Values (AQRV) that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.~~

~~011.10 Except for the permit reopening to correct typographical errors or calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with public participation procedures in Chapter 14.~~

~~011.11 Increasing a PAL emission limitation during the PAL effective period.~~

~~011.11A A PAL emission limitation may be increased during the PAL effective period only if the owner or operator of the major stationary source complies with the following:~~

~~011.11A1 The owner or operator shall submit a complete construction permit application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.~~

~~011.11A2 As part of this application, the owner or operator shall demonstrate that the sum of the BAE of the small emissions units, plus the sum of the BAE of the significant and major emissions units (assuming application of BACT equivalent controls), plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT with which that emissions unit must currently comply.~~

~~011.11A3 The owner or operator must obtain a major PSD permit for all emissions unit(s) identified in section 011.11A1, without regard to whether the increase in emissions for the unit will be significant. These emissions unit(s) shall comply with any emissions requirements resulting from the major PSD process, even though they have also become subject to the PAL or continue to be subject to the PAL.~~

~~011.11A4 The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.~~

~~011.11B The Department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the BAE of the significant and major emissions units (assuming application of BACT equivalent controls), plus the sum of the BAE of the small emissions units.~~

~~011.11C The construction permit reflecting the increased PAL level shall be issued pursuant to compliance with requirements for public participation in Chapter 14.~~

~~011.12 Monitoring requirements for PALS. Each operating permit that includes a PAL must contain enforceable requirements for the monitoring system that accurately determines plant-wide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for a PAL must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the permit that includes the PAL. Failure to use a monitoring system that meets the requirements of section 011.12 renders the PAL invalid. The PAL monitoring system must employ one of the monitoring approaches listed in sections 011.12A through 011.12D or an alternative approach approved by the Department:~~

~~011.12A CEMS which meet the following requirements:~~

~~011.12A1 CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B, and~~

~~011.12A2 CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.~~

~~011.12B PEMS which meet the following requirements:~~

011.12B1 Any PEMS must be approved for use by the Department in accordance with Chapter 34, section 009.

011.12B2 Any PEMS approved for use in accordance with Chapter 34, section 009 must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Department, while the emissions unit is operating.

011.12C Emissions factors which meet the following requirements:

011.12C1 All emissions factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

011.12C2 The emissions unit shall operate within the designated range of use for the emissions factor if applicable; and

011.12C3 If technically practicable, the owner or operator of a significant emissions unit that relies on an emissions factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emissions factor in accordance with Chapter 34, section 007, unless the Department determines that such testing is not required.

011.12D Mass balance calculations for activities using coatings or solvents which meet the following requirements:

011.12D1 Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

011.12D2 Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

011.12D3 Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

011.12E An owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or

~~operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the permit.~~

~~011.12F Notwithstanding the requirements in sections 011.12A through 011.12D, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Department shall, at the time of permit issuance:~~

~~011.12F1 Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or~~

~~011.12F2 Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.~~

~~011.12G Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Department. Such testing must occur at least once every five years after issuance of the PAL.~~

~~011.13 Recordkeeping requirements. The construction permit which contains the PAL shall require the owner or operator to retain a copy of all records necessary to determine compliance with any requirement of section 011 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record. Such permit shall also require the owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus five years.~~

~~011.13A A copy of the permit application requesting a PAL and applications for revisions to the PAL; and~~

~~011.13B Each annual certification of compliance pursuant to Chapter 8, section 012.05 and the data relied on in certifying the compliance.~~

~~011.14 Reporting and notification requirements. The owner or operator shall submit the following reports to the Department in accordance with Chapter 8, sections 004.03 and 004.04:~~

~~011.14A Semiannual report. The semiannual report shall be submitted to the Department within 30 days of the end of each reporting period. This report shall contain the following information.~~

~~011.14A1 The identification of the owner or operator and the permit number.~~

~~011.14A2 Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to section 011.13.~~

~~011.14A3 All data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.~~

~~011.14A4 A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.~~

~~011.14A5 The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.~~

~~011.14A6 A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by section 011.12E.~~

~~011.14A7 A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.~~

~~011.14B Deviation report. The owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 8, section 004.03B including time limits, shall satisfy this reporting requirement. The reports shall contain the following information:~~

~~011.14B1 The identification of the owner or operator and the permit number.~~

~~011.14B2 The PAL requirement that experienced the deviation or that was exceeded.~~

~~011.14B3 Emissions resulting from the deviation or the~~

~~exceedance; and~~

~~011.14B4 A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.~~

~~011.14C Re-validation results. The owner or operator shall **submit to the Department the results of any re-validation test or method within 45 days after completion of such test or method.**~~

~~011.15 PAL Renewal. The owner or operator of a source with a PAL may apply for PAL renewal no sooner than 18 months and no later than six months prior to the end of the PAL effective period. If the owner or operator submits a complete application for renewal within this time period, the PAL shall continue to be effective until the revised permit with the renewed PAL is issued or denied. A complete application shall consist of the following:~~

~~011.15A All of the information required for an initial application as listed in section 011.05.~~

~~011.15B A proposed PAL level.~~

~~011.15C The sum of the PTE of all emissions units under the PAL, with supporting documentation.~~

~~011.15D Any other information the owner or operator wants the Department to consider in determining the appropriate level for renewing the PAL.~~

~~011.16 The Department shall follow the procedures specified in Chapter 14 in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Department.~~

~~011.17 Adjusting the PAL at the time of renewal~~

~~011.17A If the emissions level calculated in accordance with section 011.07 at the time of renewal is equal to or greater than 80 percent of the currently permitted PAL level, the Department may renew the PAL at the currently permitted level without considering the factors set forth in section 011.17B.~~

~~011.17B At the Department's discretion, it may set the PAL at a level that it determines to be more representative of the source's BAE, or that it~~

~~determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Department in its written rationale.~~

~~011.17C Notwithstanding the discretion allowed in sections 011.17A and 011.17B,~~

~~011.17C1 If the PTE of the source is less than the PAL, the Department shall adjust the PAL to a level no greater than the PTE of the source.~~

~~011.17C2 The Department shall not approve a renewed PAL level higher than the current PAL, unless the source has complied with the provisions of section 011.11.~~

~~011.17D If the compliance date for a State or Federal requirement that applied to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL renewal or operating permit renewal whichever occurs first.~~

~~011.18 Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in section 011.15 shall expire at the end of the PAL effective period and the requirements in section 011.18 shall apply. If an application for PAL renewal is denied, the PAL shall expire on the date the application is denied and the requirements in section 011.18 shall apply:~~

~~011.18A Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emissions limitation under a new construction permit established as a major modification, as specified below:~~

~~011.18A1 Within the time frame specified for PAL renewals in section 011.15, the source shall submit a proposed allowable emissions limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Department) by distributing the PAL allowable emissions for the source among each of the emissions units that existed under the PAL, if the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under section 011.17D, such distribution shall be made as if the PAL had been adjusted.~~

~~011.18A2 The Department shall decide whether and how the PAL allowable emissions will be distributed and issue a construction~~

permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Department determines is appropriate.

011.18B Each emissions unit(s) shall comply with the allowable emissions limitation on a 12-month rolling basis. The Department may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS or PEMS to demonstrate compliance with the allowable emissions limitation.

011.18C Until the Department issues the new construction permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under section 011.18A, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emissions limitation.

011.18D Any physical change or change in the method of operation at the major stationary source will be subject to major PSD requirements if such change meets the definition of major modification in Chapter 1, section 076.

011.18E The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except for those emissions limitations that had been established pursuant to section 024.02, but were eliminated by the PAL in accordance with section 011.11.

012 Ambient air increments. For any period other than an annual period listed below, the applicable maximum allowable increase may be exceeded during one such period per year at any one location. In any area of the state, increases in pollutant concentration over the baseline concentration shall be limited to the following:

012.01 $PM_{2.5}$ annual arithmetic mean: 4 micrograms per cubic meter

012.02 $PM_{2.5}$ 24 hour maximum: 9 micrograms per cubic meter

012.03 PM_{10}, annual arithmetic mean: 17 micrograms per cubic meter

012.04 PM_{10}, 24 hour maximum: 30 micrograms per cubic meter

012.05 Sulfur dioxide, annual arithmetic mean: 20 micrograms per cubic meter

012.06 Sulfur dioxide, 24 hour maximum: 91 micrograms per cubic meter

012.07 Sulfur dioxide, 3 hour maximum: 512 micrograms per cubic meter

012.08 Nitrogen dioxide, annual arithmetic mean: 25 micrograms per cubic meter

013 Ambient air ceilings. No concentration of a pollutant shall exceed:

013.01 The concentration permitted under the national secondary ambient air quality standard, or

013.02 The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

014 **Exclusions from increment consumption. The concentrations listed in** sections 014.01 through 014.04 shall **be excluded in determining compliance with a maximum allowable increase. No exclusions of concentrations referred to in** sections 014.01 and 014.02 shall **apply more than five years after the effective date of the applicable order or plan.**

014.01 Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order.

014.02 Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

014.03 Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and

014.04 The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

015 Stack heights. Requirements for control of pollutants under this chapter shall be in accordance with Chapter 16.

016 Exemptions for particular major stationary source or major modification. The requirements of sections 017 through 024 shall not apply to a particular major stationary source or major modification if:

016.01 The source or major modification would be a nonprofit health or nonprofit

~~educational institution, or a major modification would occur at such an institution and the Governor of the State of Nebraska requests that it be exempt from those requirements;~~

~~016.02 The source or major modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the PTE of the stationary source or modification and the source does not belong to any of the categories listed in Chapter 2, sections 002.01 through 002.27.~~

~~016.03 The source or major modification is a portable stationary source which has previously received a permit under requirements equivalent to those in sections 017 through 024, if~~

> ~~016.03A The owner or operator proposes to temporarily relocate the source so that emissions at the new location would be temporary; and~~
>
> ~~016.03B The emissions for the source would not exceed its allowable emissions; and~~
>
> ~~016.03C The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and~~
>
> ~~016.03D Notice of relocation is given to the Department in accordance with Chapter 10.~~

~~016.04 Requirements equivalent to those in sections 017 through 024 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or major modification is located in an area designated as nonattainment under section 107 of the Act.~~

~~016.05 Requirements equivalent to those contained in sections 018, 020, and 022 do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a major modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.~~

~~016.06 Requirements equivalent to those contained in sections 018, 020, and 022 as they relate to any maximum allowable increase for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tons per year.~~

~~016.07 The Department may exempt a proposed major stationary source or major modification from the requirements of section 020, with respect to monitoring for a particular pollutant, if:~~

~~016.07A The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following amounts:~~

~~016.07A1 Carbon monoxide — 575 micrograms per cubic meter, 8-hour average;~~

~~016.07A2 Nitrogen dioxide — 14 micrograms per cubic meter, annual average;~~

~~016.07A3 PM2.5 — 4 micrograms per cubic meter, 24-hour average;~~

~~016.07A4 PM_{10} — 10 micrograms per cubic meter, 24-hour average;~~

~~016.07A5 Sulfur dioxide — 13 micrograms per cubic meter, 24-hour average;~~

~~016.07A6 Ozone — no de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOCs or NO_x subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.~~

~~016.07A7 Lead — 0.1 micrograms per cubic meter, 3-month average;~~

~~016.07A8 Fluorides — 0.25 micrograms per cubic meter, 24-hour average;~~

~~016.07A9 Total reduced sulfur — 10 micrograms per cubic meter, 1-hour average;~~

~~016.07A10 Hydrogen sulfide — 0.2 micrograms per cubic meter, 1-hour average;~~

~~016.07A11 Reduced sulfur compounds — 10 micrograms per cubic meter, 1-hour average, or~~

~~016.07B The concentrations of the pollutant in the area that the source or major modification would affect are less than the concentrations listed in section 016.07A, or~~

016.07C The pollutant is not listed in section 016.07A.

016.08 Permitting requirements equivalent to those contained in section 018.01B do not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved or promulgated under the Act before the provisions embodying the maximum allowable increase took effect as part of the plan and the Department subsequently determined that the application as submitted before that date was complete.

016.09 Permitting requirements equivalent to those contained in section 018.01B shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM_{10} took effect as part of the plan, and the Department subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to section 018.01B shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

017 Control technology review.

017.01 A major stationary source or major modification shall meet each applicable emissions limitation under the SIP and each applicable emission standard and standard of performance under Chapters 18 and 23.

017.02 A new major stationary source shall apply best available control technology (BACT) for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

017.03 A major modification shall apply BACT for each regulated NSR pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

017.04 For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the earliest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

~~018 Source impact analysis.~~

~~018.01 Required Demonstration. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, (including secondary emissions) would not cause or contribute to air pollution in violation of~~

~~018.01A Any national ambient air quality standard in any air quality control region; or~~

~~018.01B Any applicable maximum allowable increase over the baseline concentration in any area.~~

~~018.02 Significant impact levels. For purposes of $PM_{2.5}$, the demonstration required in section 018.01 of this chapter is deemed to have been made if the emissions increases of the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following amounts:~~

~~018.02A $PM_{2.5}$ — 0.3 micrograms per cubic meter, annual average;~~

~~018.02B $PM_{2.5}$ — 1.2 micrograms per cubic meter, 24-hour average~~

~~019 Air quality models.~~

~~019.01 All applications of air quality modeling referred to in Chapter 19 shall be based on the applicable models, data bases, and other requirements specified in 40 CFR 51, appendix W (Guideline on Air Quality Models).~~

~~019.02 Where an air quality model specified in 40 CFR 51, appendix W (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis adopted by the Department. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 14.~~

~~020 Air quality analysis.~~

~~020.01 Pre-application analysis.~~

~~020.01A Any application for a major PSD permit shall contain an analysis~~

of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

020.01A1 For the source, each pollutant that it would have the potential to emit in a significant amount;

020.01A2 For the major modification, each pollutant for which it would result in a significant net emissions increase.

020.01B With respect to any pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

020.01C With respect to any pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

020.01D The continuous air monitoring data that is required shall have been gathered over a period of one year and shall represent the year preceding receipt of the application, except that, if the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not less than four months), the data that is required shall have been gathered over at least that shorter period.

020.01E The owner or operator of a proposed major stationary source or major modification of volatile organic compounds (VOCs) who satisfies all conditions of Chapter 17, section 012, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under section 020.01.

020.02 Post-construction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or major modification, conduct such ambient monitoring as the Department determines is necessary to determine the effect emissions from the stationary source or major modification may have, or are having, on air quality in any area.

020.03 Operation of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of 40 CFR 58, Appendix B during the operation of monitoring stations for purposes of satisfying the requirements of section 020.

021 Source information.

021.01 The owner or operator of a proposed source or major modification shall submit all information necessary to perform any analysis or make any determination required under procedures established in accordance with Chapter 18. Such information shall include

021.01A A description of the nature, location, design capacity, and typical operating schedule of the source or major modification, including specifications and drawings showing its design and plant layout;

021.01B A detailed schedule for construction of the source or major modification;

021.01C A detailed description as to what system of continuous emission reduction is planned by the source or major modification, emissions estimates, and any other information as necessary to determine that BACT as applicable would be applied.

021.02 Upon request by the Department, the owner or operator shall also provide information on:

021.02A The air quality impact of the source or major modification, including meteorological and topographical data necessary to estimate such impact; and

021.02B The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or major modification would affect.

022 Additional impact analyses:

022.01 The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

022.02 The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or major modification.

023 Notification to permit applicants and public:

023.01 The Department shall determine if a permit application is complete within

~~60 days after receipt of the application and so notify the applicant. If the Department determines that the application is incomplete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.~~

~~023.02 If the Department does not determine that the application is incomplete, the application is automatically deemed to be complete 60 days after it was received by the Department. Nothing in this section shall prohibit the Department from requesting additional information that is necessary to evaluate or take final action on the application or release the applicant from providing such information.~~

~~023.03 Within one year after receipt of a complete application, the Department shall make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.~~

~~023.04 The Department shall provide opportunity to the public to submit comments or request a public hearing on every PSD permit application approved or approved with conditions, in accordance with section 010 of Chapter 14.~~

~~024 Source obligation.~~

~~024.01 Approval to construct and issuance of a major PSD construction permit shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state or Federal law.~~

~~024.02 At any time that a source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of sections 016 through 024 shall apply to the source or modification as though construction had not yet commenced on the source or modification.~~

~~024.03 The following provisions apply to projects at existing emissions units at a major stationary source where the project is not a part of a major modification and where the owner or operator elects to use the method specified in sections 006.01 through 006.04 for calculating projected actual emissions.~~

~~024.03A Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information.~~

~~024.03A1 A description of the project;~~

~~024.03A2 Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and~~

~~024.03A3 The applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the BAE, the PAE, and any netting calculations if applicable. The owner or operator must also include the amount of emissions excluded due to demand growth, as defined in section 006.04, and an explanation for why such amount was excluded.~~

~~024.03B **Before beginning actual construction, the owner or operator** shall meet face-to-face with a Department representative to discuss the PAE determination, and shall provide a copy of the information set out in section 024.03A to the Department. **The owner or operator of such a unit is not required to obtain any determination from the Department before beginning actual construction.**~~

~~024.03C The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in section 024.03A2 and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.~~

~~024.03D If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within 60 days after the end of each calendar year during which records must be generated under section 024.03C, setting out the unit's annual emissions during the calendar year that preceded submission of the report.~~

~~024.03E If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tons per year, from the project identified in section 024.03A exceed the BAE (as documented and maintained pursuant to section 024.03A3) by 80 percent of the significant amount for that regulated NSR pollutant, as listed in section 010. Such report shall be submitted to the Department within 60 days after the end of such calendar year. The report shall contain the following:~~

~~024.03E1 The name, address and telephone number of the major~~

~~stationary source;~~

~~024.03E2 The annual emissions as calculated pursuant to section 024.03E.~~

~~024.03E3 An explanation as to whether the emissions differ from the preconstruction projections, and, if so, why.~~

~~024.03F A PSD construction permit is required for each unit with annual net emissions of a regulated NSR pollutant exceeding the significant level listed in section 010 notwithstanding PAE below the significant level.~~

~~024.04 The owner or operator shall make the information required to be documented and maintained pursuant to section 024.03 available for review upon request for inspection by the Department or the general public pursuant to the requirements contained in Chapter 14.~~

~~025 If any provisions of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.~~

~~Enabling Legislation: Neb Rev Stat. §§81-1504(1)(2); 81-1505(12)~~
~~Legal Citation: Title 129, Ch 19, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 20 — PARTICULATE EMISSIONS; LIMITATIONS AND STANDARDS

For exceptions due to breakdowns or scheduled maintenance, see Chapter 35 — COMPLIANCE; EXCEPTIONS DUE TO STARTUP, SHUTDOWN, OR MALFUNCTION

001 No person shall cause, suffer, allow or permit the emission of particulates from any processing machine, equipment, device or other articles, or combination thereof, except indirect heating equipment and incinerators, in excess of the amounts allowed in Table 20-1 during any one hour.

001.01 Interpolation of the data in Table 20-1 for process weight rates up to 60,000 Lb/Hr shall be accomplished by use of the equation $E = 4.10\ p^{.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 Lb/Hr shall be accomplished by use of the equation $E = 55.0\ p^{.11} - 40$, where E = rate of emission in Lb/Hr and P = process weight rate in Tons/Hr. If two or more units discharge into a single stack, the allowable emission rate will be determined by the sum of all process weights discharging into the single stack.

Table 20-1

Process Weight Rate		Rate of Emissions	Process Weight Rate		Rate of Emissions
Lb/Hr	Tons/Hr	Lb/Hr	Lb/Hr	Tons/Hr	Lb/Hr
100	0.05	0.551	16,000	8.000	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4
1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000.	92.7
12,000	6.00	13.6			

002 No person shall cause or allow particulate matter caused by the combustion of fuel to be emitted from any stack or chimney into the outdoor atmosphere in excess of the hourly rate set forth in Table 20-2:

Table 20-2

Total Heat Input in Million British Thermal Units Per Hour (MMBtu/Hr)	Maximum Allowable Emissions of Particulate Matter in Pounds per Million British Thermal Units (lb/MMBtu)
10 or less	0.60
Between 10 and 10,000	$\frac{1.026}{L^{0.233}}$ L = The total heat input in MMBtu/Hr
10,000 or more	0.12

003 For the purpose of these regulations, the total heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or chimney, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.

004 No person shall cause or allow emissions, from any source, which are of an opacity equal to or greater than twenty percent (20%), as evaluated by an EPA approved method, or recorded by a continuous opacity monitoring system operated and maintained pursuant to 40 CFR Part 60 Appendix B except as provided for in section 005 of this chapter.

005 Exceptions

005.01 No person shall cause or allow emissions from any existing teepee waste wood burner which are of an opacity equal to or greater than forty percent (40%).

005.02 No person shall cause or allow emissions from any existing alfalfa

dehydration plant dryer which are of an opacity equal to or greater than thirty percent (30%).

005.03 Emission sources subject to monitoring requirements of Chapter 34, 005 of this Title are allowed to have one six minute period per hour of not more than 27 percent opacity.

005.04 Furnaces owned and operated by a law enforcement agency to dispose of ammunition, fireworks or similar flammable or explosive materials are exempt from the provisions of this Chapter solely while being used for this purpose.

006 All sources shall comply with section 004 of this Chapter unless an opacity standard applies as specified elsewhere in this Title.

007 Reserved.

008 Section 001 and Section 002 of this Chapter shall apply unless a more stringent particulate matter standard is specified in the underlying requirements of an applicable federal rule or is specified within a construction permit issued pursuant to this Title.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)

Legal Citation: Title 129, Ch. 20, Nebraska Department of Environmental Quality

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 21 — CONTROLS FOR TRANSFERRING, CONVEYING, RAILCAR AND TRUCK LOADING AT ROCK PROCESSING OPERATIONS IN CASS COUNTY~~

~~The owner or operator of any rock processing operation located in Cass County shall install, operate and maintain a system to reduce potential emissions from conveying, transfer operations, and railcar and truck loading by 85 percent. Compliance with this Chapter may be demonstrated by the application of a system of sprays, hoods, enclosures, and/or filters deemed adequate by the Director.~~

~~Enabling Legislation: Neb. Rev. Stat. §81-1504(1)(2), 81-1505(12).~~

~~Legal Citation: Title 129, Ch. 21, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 22 — INCENERATORS; EMISSION STANDARDS

001. The provisions of this chapter shall apply to all new and existing incinerators except for those listed in sections 001.01 through 001.05 of this chapter. Incinerators not included in the exceptions listed in sections 001.01 through 001.05 must comply with construction permit requirements listed in Chapter 17, section 001.03.

001.01. Incinerators located on residential premises containing five or less dwelling units and used exclusively for the disposal of waste originating on said premises.

001.02. Incinerators used solely for space heating.

001.03. Incinerators used to burn hazardous waste and subject to regulations under Nebraska Administrative Code Title 128, Chapter 7, section 008.

001.04. Furnaces used for law enforcement purposes specified in definition of "Incinerator" in Chapter 1.

001.05. Air curtain incinerators subject to Chapter 18 sections 001.68 or 001.69 or which operate in compliance with Chapter 30, section 002.07G and combust only 100 percent wood waste, 100 percent clean lumber, 100 percent yard waste, or a 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

001.05A. Air curtain incinerators must meet additional requirements in section 007 of this chapter.

002. No person shall cause or permit particulate matter emissions from any incinerator to be discharged into the outdoor atmosphere to exceed 0.10 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to 7% oxygen.

003. The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director in accordance with good engineering practice.

004. Waste burned during performance testing required by Chapter 34 shall be representative of the waste normally generated by the affected facility and shall be charged at a rate equal to the burning capacity of the incinerator. Copies of any additional operational data recorded during the test shall be submitted to the Department together with the completed test report forms.

~~005 Instructions for proper operation of each incinerator shall be posted on site and written certification that each operator has read these instructions, understands them and intends to comply, shall be kept on record by the owner.~~

~~006 Except as provided in sections 006.01 and 006.02 below, each incinerator shall consist of (a) refractory lined combustion furnace(s) employing adequate design parameters necessary for maximum combustion of the materials to be burned, and shall be designed to vent the products of combustion through an adequate stack, duct, or chimney.~~

> ~~006.01 An alternate design for a new unit may be permitted provided it can be shown that the alternative design is at least as effective in controlling pollutant emissions as the design criteria of this section.~~
>
> ~~006.02 An operating permit can be issued to an existing unit not meeting the design criteria set forth in section 006 above, provided compliance with both section 002 of this chapter and the visible emission standard in section 005 of Chapter 20 can be demonstrated.~~

~~007 Air curtain incinerators which combust only clean lumber, wood waste, and/or yard waste shall meet the following requirements:~~

> ~~007.01 Within 60 days after the air curtain incinerator reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, the limitations in sections 007.01A and 007.01B must be met:~~
>
> > ~~007.01A The opacity limitation is 10 percent (6 minute average), except as described in section 007.01B.~~
> >
> > ~~007.01B The opacity limitation is 35 percent (6 minute average) during the startup period that is within the first 30 minutes of operation.~~
>
> ~~007.02 Except during malfunctions, the requirements of section 007.01 apply at all times, and each malfunction must not exceed 3 hours.~~
>
> ~~007.03 Opacity monitoring of the air curtain incinerator shall include:~~
>
> > ~~007.03A Use of Method 9 of appendix A of New Source Performance Standards (40 CFR 60) to determine compliance with the opacity limitation.~~
> >
> > ~~007.03B Conducting an initial test for opacity as specified in 40 CFR 60.8.~~
> >
> > ~~007.03C After the initial test for opacity, conducting annual opacity tests no more than 12 calendar months following the date of the previous test.~~

~~007.04 Prior to commencing construction on the air curtain incinerator, submit all items described in sections 007.04A through 007.04C.~~

~~007.04A Notification of intent to construct the air curtain incinerator.~~

~~007.04B Planned initial startup date.~~

~~007.04C Types of materials to be burned in the air curtain incinerator.~~

~~007.05 Recordkeeping requirements for air curtain incinerators.~~

~~007.05A Keep records of results of all initial and annual opacity tests onsite (or readily available) in either paper copy or electronic format, unless the Director approves another format, for at least five years.~~

~~007.05B Make all records available for submittal to the Director or for an inspector's onsite review.~~

~~007.05C The results (each 6-minute average) of the initial opacity tests must be submitted no later than 60 days following the initial test. Submit annual opacity test results within 12 months following the previous report.~~

~~007.05D Submit initial and annual opacity test reports in electronic or paper copy on or before the applicable submittal date.~~

~~007.05E Keep a copy of the initial and annual reports onsite (or readily available) for a period of five years.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(2)~~
~~Legal Citation: Title 129, Ch. 22, Nebraska Department of Environmental Quality.~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 23 HAZARDOUS AIR POLLUTANTS—EMISSION STANDARDS~~

~~001 Notwithstanding any other provisions of these regulations, the following "National Emissions Standards for Hazardous Air Pollutants", published at 40 CFR Part 61, effective July 1, 2001, are hereby adopted and incorporated herein:~~

~~001.01 Subpart A - General Provisions~~

~~001.02 Subpart C - National Emission Standard for Beryllium~~

~~001.03 Subpart D - National Emission Standard for Beryllium Rocket Motor Firing~~

~~001.04 Subpart E - National Emission Standard for Mercury~~

~~001.05 Subpart F - National Emission Standard for Vinyl Chloride~~

~~001.06 Subpart J - National Emission Standard for Equipment Leaks (fugitive emission sources) of Benzene~~

~~001.07 Subpart L - National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants~~

~~001.08 Subpart M - National Emission Standards for Asbestos, and the following:~~

~~001.08A All asbestos-containing waste covered under 40 CFR 61.144, 61.145, 61.146, and 61.147 Subpart M shall be maintained in an adequate wetted state until disposed of by acceptable methods.~~

~~001.08B All asbestos-containing waste bags shall be transparent so that the asbestos-containing material (ACM) is visible after packaging.~~

~~001.08C Containment projects shall use a viewing window or windows wherever practical.~~

~~001.09 Subpart N - National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants~~

~~001.10 Subpart O - National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters~~

~~001.11 Subpart P - National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities~~

~~001.12 Subpart V - National Emission Standard for Equipment Leaks (Fugitive Emission Sources)~~

~~001.13 Subpart Y - National Emission Standard for Benzene Emissions from Benzene Storage Vessels~~

~~001.14 Subpart BB - National Emission Standard for Benzene from Benzene Transfer Operations~~

~~001.15 Subpart FF - National Emission Standard for Benzene Waste Operations~~

~~001.16 Appendices A, B, and C~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(12).~~

~~Legal Citation: Title 129, Ch. 23, Nebraska Department of Environmental Quality~~

~~Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 24 – SULFUR COMPOUND EMISSIONS; EXISTING SOURCES EMISSION STANDARDS~~

~~001 No person shall allow sulfur oxides to be emitted from any existing fossil fuel burning equipment in excess of two and one half (2.5) pounds per million BTU input, maximum 2-hour average.~~

~~002 For the purpose of these regulations, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(2).~~

~~Legal Citation: Title 129, Ch. 24, Nebraska Department of Environmental Quality~~

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~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 25 — NITROGEN OXIDES (CALCULATED AS NITROGEN DIOXIDE), EMISSIONS STANDARDS FOR STATIONARY SOURCES~~

~~001 No owner or operator of an installation producing nitric acid, either as an end product or for use in intermediate steps in production of other products, will allow emissions of oxides of nitrogen (calculated as nitrogen dioxide) to exceed 5.5 pounds per ton of 100 percent nitric acid produced, or a concentration equivalent to 400 parts per million (ppm) by volume, whichever is more stringent. Compliance with the nitrogen oxides emission limit is determined using the arithmetic average of three contiguous one-hour periods.~~

~~002 Section 001 of this Chapter shall apply unless:~~

~~002.01 The installation is subject to 40 CFR 60, Subpart Ga;~~

~~002.02 a more stringent oxides of nitrogen standard for nitric acid production is specified in the underlying requirements of an applicable federal rule; or~~

~~002.03 a more stringent oxides of nitrogen standard for nitric acid production is specified within a construction permit issued pursuant to this Title.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2), 81-1505(1)(12).~~

~~Legal Citation: Title 129, Ch. 25, Nebraska Department of Environmental Quality~~

~~Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 26 – ACID RAIN~~

~~001. The provisions of 40 CFR part 72, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference. The term "permitting authority" shall mean the Department and the term "Administrator" shall mean the Administrator of the EPA.~~

~~002. If the provisions or requirements of 40 CFR part 72 conflict with other provisions of this Title as they apply to affected sources, the part 72 provisions and requirements shall apply and take precedence.~~

~~003. The provisions of 40 CFR part 75, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.~~

~~004. The provisions of 40 CFR part 76, as in effect on July 1, 2001, for purposes of implementing an acid rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2), 81-1505(12)(16)~~

~~Legal Citation: Title 129, Ch. 26, Nebraska Department of Environmental Quality~~

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Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 27 — HAZARDOUS AIR POLLUTANTS, MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT)

001 Notwithstanding any other provisions of these regulations, Sections 63.70 through 63.81 of Title 40 Code of Federal Regulations (CFR) Part 63, Subpart D, effective December 29, 1992, pertaining to compliance extensions for early reductions, are hereby adopted and incorporated by reference.

002 Requirement for new, modified, or reconstructed sources of hazardous air pollutants. A permit as required under section 001.01H of Chapter 17 will be issued for construction, reconstruction, or modification of a source with the potential to emit any hazardous air pollutant in an amount equal to or in excess of two and one-half (2.5) tons/year or more of any hazardous air pollutant or an aggregate of ten (10.0) tons/year or more of any hazardous air pollutants only if best available control technology (BACT), as determined by the Director, is applied for each hazardous air pollutant and the source will comply with all other requirements of these regulations. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Chapters 18, 23, 27, or 28.

003 Requirements for new or reconstructed major sources of hazardous air pollutants. A permit as required under section 001.01H of Chapter 17 for construction or reconstruction of a source with the potential to emit an amount equal to or in excess of 10 tons per year of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, will only be issued if maximum achievable control technology (MACT), as determined by the Director, is applied, and the source is required to comply with all other requirements of these regulations.

003.01 For purposes of this section, 40 CFR Part 63, sections 63.40(b); 63.41; 63.42(c); 63.43(a), (b), and (d); and 63.44, as in effect on December 27, 1996, are hereby adopted and incorporated by reference.

003.02 Except as provided in 003.01, the provisions and procedures of Chapter 17 and 002 above apply.

004 This section is reserved for requirements to be established under Section 112(i) of the Act.

005 Notwithstanding any other provisions of these regulations, Sections 63.50 through 63.56 of Title 40 Code of Federal Regulations (CFR) Part 63, Subpart B, as amended at 67 Federal Register 16582 on April 5, 2002, pertaining to maximum achievable control technology determinations for emission units subject to case-by-case determination of equivalent emission limitations, are hereby adopted and incorporated by reference.

~~006. This section is reserved for requirements to be established under Section 112(r) of the Act.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(16)~~

~~Legal Citation: Title 129, Ch. 27, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 28 — HAZARDOUS AIR POLLUTANT EMISSIONS STANDARDS~~

~~001 Notwithstanding any other provisions of these regulations, the following "National Emission Standards for Hazardous Air Pollutants", published at 40 CFR Part 63, effective July 1, 2013, unless otherwise indicated are hereby adopted and incorporated herein.~~

~~001.01 General Provisions, Subpart A~~

~~001.02 Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, Subpart N~~

~~001.03 Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), Subpart R~~

~~001.04 Industrial Process Cooling Towers, Subpart Q~~

~~001.05 Halogenated Solvent Cleaning, Subpart T~~

~~001.06 Aerospace Industry (Surface Coating), Subpart GG~~

~~001.07 Secondary Lead Smelters, Subpart X~~

~~001.08 Wood Furniture Manufacturing (Surface Coating), Subpart JJ~~

~~001.09 Perchloroethylene Dry Cleaning Facilities, Subpart M~~

~~001.10 Butyl Rubber Production, Subpart U~~

~~001.11 Epoxy Resins Production and Non-Nylon Polyamides Production, Subpart W~~

~~001.12 Off-Site Waste and Recovery Operations, Subpart DD~~

~~001.13 Printing and Publishing Industry, Subpart KK~~

~~001.14 Tanks Level 1, Subpart OO~~

~~001.15 Containers, Subpart PP~~

~~001.16 Surface Impoundments, Subpart QQ~~

~~001.17 Individual Drain Systems, Subpart RR~~

~~001.18 Oil Water Separators and Organic Water Separators, Subpart VV~~

~~001.19 Polyethylene Terephthalate and Styrene Polymer Production, Subpart JJJ~~

~~001.20 Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry, Subpart F~~

~~001.21 Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations and Wastewater, Subpart G~~

~~001.22 Organic Hazardous Air Pollutants for Equipment Leaks, Subpart H~~

~~001.23 Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Rulemaking for Equipment Leaks, Subpart I~~

~~001.24 Ethylene Oxide Emissions from Sterilization Facilities, Subpart O~~

~~001.25 Pulp and Paper Industry, Subpart S~~

~~001.26 Phosphoric Acid Manufacturing Plants, Subpart AA~~

~~001.27 Phosphate Fertilizers Production Plants, Subpart BB~~

~~001.28 Petroleum Refineries, Subpart CC~~

~~001.29 Magnetic Tape Manufacturing, Subpart EE~~

~~001.30 Oil and Natural Gas Production Facilities, Subpart HH~~

~~001.31 Primary Aluminum Reduction Plants, Subpart LL~~

~~001.32 Closed Vent Systems/Control Devices, Subpart SS~~

~~001.33 Equipment Leaks Control Level 1, Subpart TT~~

~~001.34 Equipment Leaks Control Level 2, Subpart UU~~

~~001.35 Storage Tanks Control Level 2, Subpart WW~~

~~001.36 Generic MACT Standards, Subpart YY~~

~~001.37 Steel Pickling Plants (HCl Process and Hydrochloric Acid Regeneration Processes), Subpart CCC~~

~~001.37 Mineral Wool Production, Subpart DDD~~

~~001.38 Pharmaceutical Production, Subpart GGG~~

~~001.40 Natural Gas Transmission and Storage Facilities, Subpart HHH~~

~~001.41 Flexible Polyurethane Foam Production, Subpart III~~

~~001.42 Portland Cement Manufacturing, Subpart LLL~~

~~001.43 Pesticide Active Ingredient Production, Subpart MMM~~

~~001.44 Wool Fiberglass Manufacturing, Subpart NNN~~

~~001.45 Polyether Polyols Production, Subpart PPP~~

~~001.46 Primary Lead Smelting, Subpart TTT~~

~~001.47 Ferromanganese and Silicomanganese Production, Subpart XXX~~

~~001.48 Amino Phenolic Resins Production, Subpart CCC~~

~~001.49 Secondary Aluminum Production, Subpart RRR~~

~~001.50 Publicly Owned Treatment Works, Subpart VVV~~

~~001.51 Chemical Recovery Combustion Source at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills, Subpart MM~~

~~001.51 Solvent Extraction for Vegetable Oil Production, Subpart GGGG~~

~~001.52 Manufacturing of Nutritional Yeast, Subpart CCCC~~

~~001.53 Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units, Subpart UUU~~

~~001.54 Wet Formed Fiberglass Mat Production, Subpart HHHH~~

~~001.55 Leather Finishing Operations, Subpart TTTT~~

~~001.56 Boat Manufacturing, Subpart VVVV~~

~~001.57 Metal Coil Surface Coating, Subpart SSSS~~

~~001.58 Cellulose Products Manufacturing, Subpart UUUU~~

~~001.59 Hazardous Waste Combustion, Subpart EEE~~

~~001.60 Tire Manufacturing, Subpart XXXX~~

~~001.61 Large Appliance Surface Coating, Subpart NNNN~~

~~001.62 Paper and Other Web Coating, Subpart JJJJ~~

~~001.63 Municipal Solid Waste Landfills, Subpart AAAA~~

~~001.64 Flexible Polyurethane Foam Fabrication, Subpart MMMMM~~

~~001.65 Refractory Products Manufacturing, Subpart SSSSS~~

~~001.66 Hydrochloric Acid Production, Subpart NNNNN~~

~~001.67 Reinforced Plastics Composite Manufacturing, Subpart WWWWW~~

~~001.68 Asphalt Processing and Asphalt Roofing Manufacturing, Subpart LLLLL~~

~~001.69 Industrial, Commercial and Institutional Boilers and Process Heaters (major sources), Subpart DDDDD~~

~~001.70 Industrial, Commercial, and Institutional Boilers (area sources), Subpart JJJJJJ~~

~~001.71 Integrated Iron and Steel, Subpart FFFFF~~

~~001.72 Metal Furniture Surface Coating, Subpart RRRRR~~

~~001.73 Engine Test Cells and Stands, Subpart PPPPP~~

~~001.74 Wood Building Products Surface Coating, Subpart QQQQ~~

~~001.75 Printing, Coating, and Dying of Fabrics and Other Textiles, Subpart OOOO~~

~~001.76 Site Remediation, Subpart GGGGG~~

~~001.78 Miscellaneous Organic Chemical Manufacturing, Subpart FFFF~~

~~001.79 Surface Coating of Metal Cans, Subpart KKKK~~

~~001.80 Miscellaneous Coating Manufacturing, Subpart HHHHH~~

~~001.81 Miscellaneous Metal Parts Surface Coating, Subpart MMMM~~

~~001.82 Lime Manufacturing, Subpart AAAAA~~

~~001.83 Organic Liquids Distribution (Non-gasoline), Subpart EEEE~~

~~001.84 Stationary Combustion Turbines, Subpart YYYY~~

~~001.85 Surface Coating of Plastic Parts and Products, Subpart PPPP~~

~~001.86 Iron and Steel Foundries, Subpart EEEEE~~

~~001.87 Surface Coating of Automobiles and Light Duty Trucks, Subpart IIII~~

~~001.88 Reciprocating Internal Combustion Engines, Subpart ZZZZ~~

~~001.89 Coal and Oil Fired Electric Utility Steam Generating Units, Subpart UUUUU~~

~~001.90 Reserved~~

~~001.91 Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations, Subpart XX~~

~~001.92 Polyvinyl Chloride and Copolymers Production Area Sources, Subpart DDDDDD~~

~~001.93 Primary Copper Smelting Area Sources, Subpart EEEEEE~~

~~001.94 Secondary Copper Smelting Area Sources, Subpart FFFFFF~~

~~001.95 Primary Nonferrous Metals Area Sources – Zinc, Cadmium, Beryllium, Subpart GGGGGG~~

~~001.96 Acrylic and Modacrylic Fibers Production Area Sources, Subpart LLLLLL~~

~~001.97 Carbon Black Production Area Sources, Subpart MMMMMM~~

~~001.98 Chemical Manufacturing Area Sources: Chromium Compounds, Subpart NNNNNN~~

~~001.99 Flexible Polyurethane Foam Production and Fabrication Area Sources, Subpart OOOOOO~~

~~001.100 Lead Acid Battery Manufacturing Area Sources, Subpart PPPPPP~~

~~001.101 Wood Preserving Area Sources, Subpart QQQQQQ~~

~~001.102 Hospital Ethylene Oxide Sterilizers, Subpart WWWWWW~~

~~001.103 Electric Arc Furnace Steelmaking Facilities, Subpart YYYYY~~

~~001.104 Iron and Steel Foundries Area Sources, Subpart ZZZZZ~~

~~001.105 Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, Subpart BBBBBB~~

~~001.106 Gasoline Dispensing Facilities, Subpart CCCCCC~~

~~001.107 Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources, Subpart HHHHHH~~

~~001.108 Clay Ceramics Manufacturing, Subpart RRRRRR~~

~~001.109 Glass Manufacturing Area Sources, Subpart SSSSSS~~

~~001.110 Secondary Nonferrous Metals Processing, Subpart TTTTTT~~

~~001.111 Plating and Polishing Area Sources, Subpart WWWWWWWW~~

~~001.112 Metal Fabrication Area Sources, Subpart XXXXXX~~

~~001.113 Ferroalloys Production, Subpart YYYYYY~~

~~001.114 Aluminum, Copper, and Other Non-ferrous Foundries, Subpart ZZZZZZ~~

~~001.115 Chemical Manufacturing Area Source, Subpart VVVVVV~~

~~001.116 Asphalt Processing and Roofing Manufacturing, Subpart AAAAAAA~~

~~001.117 Chemicals Preparation Facilities, Subpart BBBBBBB~~

~~001.118 Paints and Allied Products Manufacturing Area Sources, Subpart CCCCCCC~~

~~001.119 Prepared Feeds Manufacturing, Subpart DDDDDDD~~

~~001.120 Gold Ore Mining, Subpart EEEEEEE~~

~~001.121 Polyvinyl Chloride and Copolymers Production, Subpart HHHHHHHH~~

~~001.122 Wool Fiberglass Manufacturing Area Sources, Subpart NN as published at 40 CFR Part 63, effective July 1, 2016.~~

~~002 Should the source need assistance in determining the CFR requirements the Department will provide the needed information on request.~~

~~003 Operational Limits for Area Sources. Area sources subject to a standard adopted by reference in section 001, and specifically referenced in section 003, may accept operational limits to avoid the requirements associated with operating at the source's maximum design capacity or monthly throughput.~~

~~003.01 General Provisions. An owner or operator of a source may apply for coverage under this provision if the following criteria are met.~~

~~003.01A The Director has established operational limitations for the industry category in section 003.06.~~

~~003.01B The responsible official for the source certifies that it will comply with the applicable section(s) of this chapter.~~

~~003.01C Records are collected and maintained as described for each applicable section and retained for a period of not less than five years and made available to the Department for review upon request.~~

~~003.01D A source may change its status under section 003.06 without violating this rule by meeting the following requirements.~~

~~003.01D1 The owner or operator of the source must provide written notification to the Department of the intent to change status. The notification must be certified by the responsible official for the source.~~

~~003.01D2 The source must comply with the requirements for its industry category.~~

~~003.01D3 Once a source changes status, it is no longer eligible for coverage under section 003.~~

~~003.02 Approval Procedures~~

~~003.02A Notice of Intent. The owner or operator of a source intending to be covered under this provision shall submit a complete Notice of Intent Form provided by the Department.~~

~~003.02B Department approval. Department approval of the Notice of Intent Form request shall be in writing. Upon approval, the source must comply with the applicable limitations specified in section 003.03 of this rule.~~

~~003.03 Duty to Comply. Each source approved for coverage under this provision must comply with all sections of this chapter applicable to the source. Any non-compliance shall constitute a violation of the State Act and the Act, and is grounds for enforcement action and/or for disapproval of the Notice of Intent to operate under this provision.~~

~~003.04 Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under Title 129 or the Act not specifically addressed in this chapter.~~

~~003.05 Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as required in Chapter 6, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 4, must be provided upon Department request.~~

~~003.06 Industry Categories Eligible to Accept Operational Limits~~

~~003.06A A bulk gasoline terminal subject to section 001.105 Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities, with a maximum calculated design throughput capacity greater than or equal to 20,000 gallons per day, may be approved to operate pursuant to the provisions of section 003 if the owner or operator certifies that the source will comply with sections 003.01 through 003.05 above and each of the following:~~

~~003.06A1 Limit actual gasoline throughput to less than 20,000 gallons per day; and~~

~~003.06A2 Maintain a daily record of actual gasoline throughput, in accordance with the provisions of section 003.01C; and,~~

~~003.06A3 Comply with the requirements specified in section 001.105 for bulk gasoline plants with a maximum design throughput capacity of less than 20,000 gallons per day.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(12)~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 29 – OPERATING PERMIT EMISSION FEES

001 Applicability. The provisions of this Chapter shall apply to any person who owns or operates a major source as defined in Chapter 2, who is required to obtain a Class I permit in accordance with Chapter 5.

002 Calculation of Fee. Beginning July 1, 1995, owners or operators of major sources, identified in 001 above, shall pay an annual emission fee for each ton of a regulated pollutant for fee purposes emitted to the air by the facility. Any temporary source issued a Class I permit under Chapter 10 shall pay an annual emission fee for emissions during the time period the source was located and operated in the State. The fee shall be based on the actual emission tonnages and as established in the emission inventory for the previous calendar year, beginning with calendar year 1994. For purposes of this Chapter, a pollutant which may be regulated under more than one provision of this Title, need only be counted once.

002.01 The emission fee shall be determined by multiplying $25 per ton of regulated pollutant for fee purposes reported in the annual emission inventory report required in Chapter 6. The emission fee shall be increased or decreased annually by the Department in each year, beginning after 1991, by the percentage difference between the Consumer Price Index (CPI) for the most recent year ending before the beginning of such year and the CPI for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit programs as identified in Neb. Rev. Stat. §81-1505.04.

002.02 Except as provided in 002.03 below, the emission fee is due and payable on actual emissions up to and including 4,000 tons per year for each regulated pollutant.

002.03 In the case of an electric generation facility with a nameplate generating capacity of between seventy and one-hundred fifteen megawatts, beginning with calendar year 2001 emissions, the emission fee is due and payable on actual emissions up to and including 400 tons per year for each regulated pollutant.

003 Any person subject to the requirements of this Chapter who fails to submit an annual emissions inventory report when required by Chapter 6 shall pay an annual emission fee based on the source's potential to emit as defined in Chapter 1.

004 Payment of fees. Any person required to submit fees pursuant to this Chapter, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Nebraska Department of Environmental Quality. The fees shall be due and payable on July 1 of each year, beginning with calendar year 1995,

with submission of the annual emission inventory report form. All fees paid in accordance with this Chapter shall be non-refundable.

005 Failure to submit the fees required by this Chapter, in addition to other relief allowed by law, shall be cause for:

005.01 Revocation of the source's Class I operating permit; and

005.02 Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in 004.

006 If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this Chapter, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If such additional data or information changes the annual emission inventory report and results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with 004 above.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1504; 81-1505(12)

Legal Citation: Title 129, Ch. 29, Nebraska Department of Environmental Quality

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 30 – OPEN FIRES

001 No person shall cause or allow any open fires.

002 Exceptions.

002.01 Fires set solely as part of a religious activity, for recreational purposes or for outdoor cooking of food for human consumption on non-commercial premises, provided no nuisance or hazard is created.

002.02 Fires set for the purpose of training public and industrial fire fighting personnel.

002.03 Fires set in the operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of Chapter 20, Particulate Emissions, Limitations and Standards.

002.04 Fires set in an agricultural operation where no nuisance or traffic hazard is created. For the purpose of this regulation, "fires set in an agricultural operation" shall mean:

002.04A The burning of any trees or vegetation indigenous to the property of the owner or person in lawful possession of the land; and

002.04B The burning of any agriculturally related material that is potentially hazardous and where disposal by burning is recommended by the manufacturer. Such materials must have been used on the owner's property or person in legal possession of the said property.

002.05 Unless prohibited by local ordinances, fires set to destroy household refuse on residential premises containing ten or less dwelling units, by individuals residing on the premises, providing no nuisance or traffic hazard is created.

002.06 For the purpose of plant and wildlife and parks management, provided such burning is conducted by the Nebraska Game Commission, the United States Forest Service, the University of Nebraska, or other groups as determined by the Department.

002.07 Unless prohibited by local ordinances or regulations, fires set in compliance with a general open fire permit or a community open fire permit issued by the Department.

002.07A ~~For the purpose of the destruction of dangerous materials, diseased vegetation or abatement of a fire hazard.~~

002.07B ~~For the purpose of destruction of trees, brush and other vegetation removed from road and utility right-of-ways.~~

002.07C ~~For the purpose of the destruction of trees, brush, vegetation and untreated lumber generated as a result of land clearing, and construction activities.~~

002.07D ~~For the purpose of the destruction of straw used as a winter insulating cover on agricultural products.~~

002.07E ~~For the purpose of destroying untreated wood and trees at community land disposal sites. (Materials being burned must be in an area separate from materials not being burned).~~

002.07F ~~For the purpose of destruction of materials after cleanup from a natural disaster.~~

002.07G ~~In compliance with rules for air curtain incinerators in Chapter 22, sections 001 and 007.~~

002.08 ~~Permits for open fires as specified in this regulation will be granted only if there is no other practical means of disposal. Any burning of materials not specified in the burning permit may result in withdrawal of the permit.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2), 81-1505(12).~~

~~Legal Citation: Title 129, Ch. 30, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 31 — COMPLIANCE ASSURANCE MONITORING~~

001. ~~The provisions of 40 CFR Part 64, as in effect on July 1, 2001, for purposes of implementing the compliance assurance monitoring program, is hereby adopted and incorporated by reference.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(g)~~

~~Legal Citation: Title 129, Ch. 26, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 32 — DUST, DUTY TO PREVENT ESCAPE OF~~

~~001 Handling, Transportation, Storing. No person may cause or permit the handling, transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.~~

~~002 Construction, Use, Repair, Demolition. No person may cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates. The Director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust free surfaces; application of water; and the planting and maintenance of vegetative ground cover.~~

~~003 Notwithstanding any other provision of this Chapter, the Department shall not regulate emissions from normal farming practices, on-farm crop drying and handling, and animal feeding activities, provided that reasonable and practical measures to limit particulate matter from such sources are utilized.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12).~~

~~Legal Citation: Title 129, Ch. 32, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 33 – COMPLIANCE; TIME SCHEDULE FOR

001 Except as otherwise noted in specific emission control regulations, compliance with these regulations shall be according to the following schedule:

001.01 All new or modified installations that required approval under the provisions of Chapter 17 shall be in compliance with all applicable emission control regulations at start-up after the effective date of the applicable emission control regulation. Provided, however, such installation may, at the request of the operator and under conditions approved by the Department, be operated for such specified time periods as are required to make necessary adjustments on the equipment. Compliance must be demonstrated in conformance with Chapter 34.

001.02 All existing installations and open burning operations subject to Chapter 5, 001.01 and 001.02 shall be in compliance with these regulations within 180 days after the effective date of these regulations and shall certify compliance and state the method used to determine compliance, unless the person responsible for the operation of such installation or open burning operation has submitted a request to, and received a variance from, the Department to continue such operation in nonconformance with the regulations for a specified period of time beyond the 180 day period provided for compliance.

001.03 All requests for variance as provided for in Neb. Rev. Stat. §81-1513 shall be submitted in writing to the Department and, in addition to statutory requirements, shall contain the following information:

001.03A A description of the particular operation or installation affected.

001.03B The reason for being unable to meet the requirements for these regulations.

001.03C A specific time schedule showing increments of progress toward compliance, including:

001.03C1 Date of submittal of the source's final control plan to the appropriate air pollution control agency;

001.03C2 Date by which contracts for emission control systems or process modifications will be awarded; or date by which orders will be issued for the purchase of component parts to accomplish emission control or process modification;

001.03C3 Date of initiation of on site construction or installation of emission control equipment or process change;

001.03C4 Date by which on site construction or installation of emission control equipment or process modification is to be completed, and

001.03C5 Date by which final compliance is to be achieved.

001.03D The notarized signature of the person responsible for the operation or installation.

001.03E Any other supporting documentation specifically requested by the Department and deemed pertinent to consideration of the individual request.

002 Compliance schedules requiring more than 12 months to conform with applicable rules and regulations to meet National Primary and Secondary Ambient Air Quality Standards will be accomplished in progressive steps. A report will be made in writing to the Director within 5 days after each step is completed.

003 Failure to meet time schedules approved in accordance with Sections 001.02 and 001.03 of this Chapter of this regulation shall constitute a violation of these regulations unless a request to amend the time schedule is received at least 30 days before the end of any specified period approved for a particular activity. Such a request to amend the schedule shall contain the same type of information as required for the initial request for variance as described in Section 001.03 of this Chapter.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2)(4)(11)(25), 81-1505(12), 81-1513(1) to (7).

Legal Citation: Title 129, Ch. 33, Nebraska Department of Environmental Quality

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 34 — EMISSION SOURCES; TESTING; MONITORING~~

~~001. The Department may order any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe on the basis of estimates of potential contaminant emissions rates from the source and due consideration of probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations required in these control regulations. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. Should the Department determine that the test did not represent normal operating conditions or emissions, additional tests may be required.~~

~~002. Required tests shall be conducted in accordance with the following test methods and procedures, as applicable:~~

~~002.01. 40 CFR Part 51, Appendix M, effective July 1, 2002~~

~~002.02. 40 CFR Part 60, Appendices A,B,C,F, effective July 1, 2002~~

~~002.03. 40 CFR Part 61, Appendix B, effective July 1, 2002~~

~~002.04. 40 CFR Part 63, Appendix A, effective July 1, 2002~~

~~002.05. 40 CFR Part 266, Appendix IX, effective July 1, 2002~~

~~002.06. Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 (3rd Edition) (November 1986) and its Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA and IVB.~~

~~002.07. Such tests shall be conducted by reputable, qualified individuals. A certified written copy of the test results signed by the person conducting the test shall be provided to the Department within 60 days of completion of the test unless a different period is specified in the underlying requirements of an applicable Federal Rule.~~

~~003. The owner or operator of a source shall provide the Department 30 days notice prior to testing to afford the Department an opportunity to have an observer present. The Department may, in writing, approve a notice of less than 30 days. If the testing is pursuant to an underlying requirement contained in a federal rule, the notice provisions of the underlying requirement apply.~~

~~004. The Department may conduct tests of emissions of contaminants from any stationary source.~~

004.01 ~~Upon written request from the Department, the person responsible for the source to be tested shall cooperate with the Department in providing all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably required to conduct the test with due regard being given to expenditures and possible disruption of normal operations of the source.~~

004.02 ~~A report concerning the findings of such tests shall be furnished to the person responsible for the source upon request.~~

005 ~~A continuous monitoring system for the measurement of opacity shall be installed and placed in operation by the owner or operator of any fossil fuel-fired steam generator with greater than 250 million BTUs per hour heat input. Exemptions from this requirement will be made if gaseous fuel and oil is the only fuel burned and the source has never been out of compliance with Chapter 20 of these regulations. Installation, calibration, operation and reporting shall be in accordance with the procedures specified in 40 CFR Part 60.~~

006 ~~The Director may require the owner or operator of any other emission source which is subject to the provisions of these regulations to install, use and maintain such monitoring equipment as is required to demonstrate continuing compliance with any applicable emissions limitations, and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.~~

007 ~~When a new or modified stationary source becomes operational, the owner or operator will conduct performance tests, if required, within 60 days after reaching maximum capacity but not later than 180 days after the start-up of operations. Failure to meet established performance standards will result in withdrawal of the provisional approval granted to operate the new or modified stationary source. Final approval and issuance of an operating permit will be withheld for operation of the affected facility until such time as the owner or operator has corrected the deficiencies determined by the performance tests. Upon satisfactory accomplishment of a valid series of performance tests, approval for operation of the new or modified stationary source will be granted through issuance of an operating permit in accordance with Chapter 6.~~

008 ~~Notwithstanding any other provisions of this Title, the following methods may be used to determine compliance with applicable requirements:~~

008.01 ~~A monitoring method approved for the source and incorporated in an operating permit pursuant to Chapter 6;~~

008.02 ~~Any compliance test method specified in the State Implementation Plan;~~

~~008.03 Any test or monitoring method approved for the source in a permit issued pursuant to Chapters 17, 19, or 27;~~

~~008.04 Any test or monitoring method provided for in this Title; or~~

~~008.05 Any other test, monitoring, or information gathering method that produces information comparable to that produced by any method described in 008.01 through 008.04.~~

~~009 Predictive Emissions Monitoring System (PEMS) requirements. Where allowed by the Department, the owner or operator of any PEMS used to meet a pollutant monitoring requirement must comply with the following:~~

~~009.01 The PEMS must predict the pollutant emissions in the units of the applicable emission limitations.~~

~~009.02 Monitor diluent, either O2 or CO2 when applicable:~~

~~009.02A Using a CEMS:~~

~~009.02A1 In accordance with 40 CFR Part 60 Appendix B, Performance Specification 3 for diluent; or~~

~~009.02A2 With a similar alternative method approved by the Director and EPA; or~~

~~009.02B Using a PEMS with a method approved by the Director and EPA.~~

~~009.03 Any PEMS shall meet the requirements of 40 CFR Part 75, Subpart E except as provided in section 009.05.~~

~~009.04 The owner or operator of any PEMS installed subsequent to adoption of Chapter 34, section 009 shall perform the following initial certification procedures:~~

~~009.04A Conduct initial Relative Accuracy Test Audit (RATA) at low, medium, and high operating levels using 40 CFR Part 60, Appendix B:~~

~~009.04A1 Performance Specification 2, subsection 8.4 (pertaining to NOx) in terms of the applicable standard (in ppmv, lb/MMBtu, or g/hp-hr), except the relative accuracy shall be 10%, or within 2 ppm absolute difference;~~

~~009.04A2 Performance Specification 3, subsections 8 and 13.2 (pertaining to O_2 or CO_2); and~~

009.04A3 ~~Performance Specification 4, subsections 8 and 13.2 (pertaining to CO), for owners or operators electing to use a CO PEMS; and~~

009.04B ~~Conduct a t-test, an F-test, and a correlation analysis using 40 CFR Part 75, Appendix A, section 7.6 and section 75.41(c)(1) and (2) at low, medium, and high load levels.~~

009.04B1 ~~Calculations shall be based on a minimum of 27 successive emission data points at each tested level which are at least seven-minute averages;~~

009.04B2 ~~The t-test and the correlation analysis shall be performed using all data collected at the three tested levels;~~

009.04B3 ~~The correlation analysis may be waived following review of the waiver request submittal if:~~

~~(a) The process design is such that it is technically impossible to vary the process to result in a concentration change sufficient to allow a successful correlation analysis statistical test. Any waiver request must also be accompanied with documentation of the reference method measured concentration. The waiver is to be based on the measured value at the time of the waiver. Should a subsequent RATA effort identify a change in the reference method measured value by more than 30%, the statistical test must be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement; or~~

~~(b) The data for a measured compound (e.g., NOx, O_2) are determined to be autocorrelated according to the procedures of 40 CFR §75.41(b)(2). A complete analysis of autocorrelation with support information shall be submitted with the request for waiver. The statistical test shall be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement.~~

009.04B4 ~~Allowable Test Adjustments~~

~~(a) For either NOx or CO and for the purpose of conducting an f-test, if the standard deviation of the EPA reference method is less than either 3% of the span or five parts per million (ppm), use an EPA reference method standard deviation of either five ppm or 3% of span.~~

~~(b) For the diluent CO_2 or O_2, and for the purpose of conducting an f-test, if the standard deviation of the reference method is less than 3% of span, use an EPA reference method standard deviation of 3% of span.~~

~~(c) For either NOx or CO and at any one test level, if the mean value of the EPA reference method is less than either ten ppm or 5% of the standard, all statistical tests are waived for that emission parameter at that specific test level.~~

~~(d) For the diluent O_2 or CO_2 and at any one test level, if the mean value of the reference method is less than 3% of span, all statistical tests are waived for that diluent parameter at that specific test level.~~

009.04C ~~All requests for waivers shall be submitted to the Department for review and approval. The Director shall approve or deny each waiver request.~~

009.04D ~~The owner or operator shall, for each alternative fuel fired in a unit, certify the PEMS in accordance with sections 009.04A and 009.04B unless the alternative fuel effects on NOx, CO, and O_2 (or CO_2) emissions were addressed in the model training process.~~

009.04E ~~The PEMS shall be subject to the approval of the Director.~~

009.05 ~~The owner or operator may vary from sections 009.03 or 009.04 if the owner or operator:~~

009.05A ~~Demonstrates to the satisfaction of the Director that the alternative is substantially equivalent to the requirements; or~~

009.05B ~~Demonstrates to the satisfaction of the Director that the requirement is not applicable.~~

~~010 Applying for Approval of a PEMs system~~

010.01 ~~Owners or operators shall submit the following information in the application for certification or recertification of a predictive emissions monitoring system. Approval to use PEMS will be limited to the specific unit and fuel type for which certification testing was conducted. Any future change in the type or composition of the fuel, or combustion characteristics of the boiler, will require that the PEMS be recertified, unless the PEMS was initially constructed to account for different fuel types and/or compositions. In this case, fuel switching would be permitted without recertification. Owners or operators may attempt to justify that a slight change in fuel composition does not affect emissions and the PEMS does~~

~~not need be recertified. The approval of such justification will be determined by the Director.~~

~~010.02 Owners or operators shall submit the following:~~

~~010.02A Source identification information including unit description, heat rate, and fuel type.~~

~~010.02B A general description of the software and hardware components of the PEMS including manufacturer, type of computer, name(s) of software product(s), and monitoring technique (e.g. method of emission correlation). Manufacturer literature and other similar information shall also be submitted, as appropriate.~~

~~010.02C A detailed description of the predictive emissions monitoring system. Identify all operational parameters or ambient conditions which are determined to have an effect on the predicted emissions. If the PEMS is developed on the basis of physical principles, identify any specific physical assumptions or mathematical manipulations made that justify suitability of the model. If the PEMS is developed on the basis of linear or nonlinear regression analysis, submit the paired raw data used in developing or training the model and specifically identify the tested operating range for every input parameter and the number of data points used in the development of the model.~~

~~010.02D A detailed description of the hardware CEMS or the reference method used during the testing period.~~

~~010.02E Data collection procedures including location of the sampling probe and methods to ensure accurate representativeness of emissions being measured.~~

~~010.02F A detailed description of all PEMS operation, maintenance, and quality assurance and control procedures to be implemented.~~

~~010.02G Identification of all sensors pertaining to the PEMS and a detailed description of the sensor validation procedure and calibration frequency for each sensor.~~

~~010.02H Description of monitor reliability, accessibility, and timeliness analysis from section 011.~~

~~010.02I A description of the method used to calculate heat input, if applicable.~~

010.02J ~~Data, calculations, and results of the RATA test and the statistical tests performed at all three loads and fuel types as listed under 40 CFR 75.48(a) (3).~~

010.02K ~~Data plots as specified in 40 CFR 75.41(a) (9) and 75.41(c) (2) (i).~~

010.02L ~~A summary of all results and calculations which demonstrates that PEMS is equivalent in performance to that of the certified hardware CEMS or EPA reference method.~~

011 ~~Quality Assurance Procedure for PEMS. The owner or operator must develop and implement a quality assurance and quality control (QA/QC) manual for the PEMS and its components. The manual should include daily, quarterly, and semiannual or annual assessment procedures or operations to ensure continuous and reliable performance of the PEMS. The QA/QC manual should also include a ready and detailed specific corrective action plan that can be executed at times when the monitoring systems are inoperative. The QA/QC manual shall be placed in a readily accessible location on the plant site. Owners or operators must assign the responsibility of implementing the QA/QC manual to designated employees and must ensure at all times that these employees have the technical and practical training needed to execute this plan.~~

011.01 ~~Daily Assessment. Identify any specific steps, measures, or maintenance plans that can be taken to ensure proper functioning of the monitoring systems. Develop a plan to detect any thermocouple, flow monitoring, and sensor failures. If the PEMS is developed to operate in a specific operating range, develop a plan that will ensure continuous operation within the specified operating range. It is the responsibility of the owner or operator to make sure that the model is trained over a wide range of operating parameters. Operation outside any of the operating ranges will be considered monitor downtime.~~

011.02 ~~Quarterly Assessment. The owner or operator must develop and implement a plan that will ensure proper accuracy and calibration of all operational parameters that affect emissions and serve as input to the predictive monitoring system. All sensors must be calibrated as often as needed but never to exceed the time recommended by the manufacturers, for the specific applications these sensors are being used.~~

011.03 ~~Semiannual or Annual Assessment. Following initial RATA, conduct RATA semiannually, pursuant to 009.04A, at normal load operations, for each unit. If the relative accuracy for the initial or most recent audit for the NO_x, CO, CO_2, (or O_2) monitors is 7.5 percent or less, subsequent RATA may be performed on an annual basis.~~

012 ~~PEMS Partial Certification. In certain cases, the owner or operator may not be able to adjust all of the parameters of the model over the entire desired range of~~

~~operation at one time. In this case, the owner or operator may certify the PEMS in a restricted range of operation in accordance with the PEMS certification procedure.~~

~~012.01 If, at a later date, the owner or operator wishes to operate outside the demonstrated range of the certified PEMS, the owner or operator may extend the demonstrated range by certifying at a new range within 60 days of cumulative operation of the parameter at that range.~~

~~013 Monitor downtime periods for PEMS include the following:~~

~~013.01 Operating out of range of any operational parameters that affect NOx.~~

~~013.02 One or more sensor failures~~

~~013.03 Uncertified fuel switching or fuel composition changes unless approved.~~

~~013.04 Failing the RATA or any applicable statistical tests. If a PEMS fails the RATA or statistical tests, downtime is the time corresponding to the completion of the sampling that results in the failure, until the time corresponding to the completion of the subsequent successful sampling.~~

~~013.05 Failure of any quality assurance procedure specified in accordance with 011.~~

~~013.06 Failure to complete a minimum of one cycle of operation (sampling, analyzing and data recording) for each successive 15 minute period of emission unit operation.~~

~~014 PEMS Adjustments and Tuning. Adjustments and tuning are permissible provided that the date, reasons, and details of the PEMS adjustments are documented, submitted to the Department and the documentation placed in an accessible location on the plant site, suitable for inspection. The Department must be able to identify, at any time, that the PEMS for any unit has been inspected, the occurrence of the last PEMS adjustment, and the last RATA performed for that unit. The PEMS must be retrained on an augmented set of data which includes the set of data used for training the model prior to adjustment and the newly collected set of data needed for adjustment of the model. When PEMS retraining is performed within the demonstrated range of certification, no RATA testing is required. No tampering with the PEMS is allowed during periods when no PEMS adjustments or tuning are being performed.~~

~~015 Notification, recordkeeping, and reporting. Owners or operators using predictive emissions monitoring systems shall maintain for each unit a file of all measurements, data, reports, and other information in a form suitable for inspection for at least five years from the date of each record.~~

~~015.01 Notification.~~

~~015.01A The owner or operator shall submit written notification to the Department in accordance with Chapter 34 of the date of any predictive emissions monitoring system (PEMS) relative accuracy test audit (RATA).~~

~~015.01B The owner or operator shall submit to the Department a copy of results of any PEMS RATA and statistical testing conducted in accordance with section 011.03.~~

~~015.02 Recordkeeping. The owner or operator shall maintain written or electronic records of the data specified below. Such records shall be kept for a period of at least five years and shall be made available upon request by authorized representatives of the Department or EPA. The PEMs monitoring records shall include:~~

~~015.02A Hourly emissions in units of the standard and fuel usage (or stack exhaust flow)~~

~~015.02B Records to verify minimum data collection requirement of one cycle of operation (sampling, analyzing and data recording) for each successive 15 minute period of emission unit operation.~~

~~015.02C Pounds per million British thermal units (lb/MMBtu) heat input;~~

~~015.02D Detailed records of any daily, quarterly, and semiannual or annual quality assurance programs or monitoring plans.~~

~~015.02E Compliance with the applicable recordkeeping requirements of 40 CFR 75.57 (d) and (e).~~

~~015.02F Compliance with the certification, quality assurance and quality control record provisions of 40 CFR 75.59, (a)(5),(6), and (7).~~

~~015.03 Reporting. The owner or operator of a unit approved to utilize a PEMS for demonstrating continuous compliance, shall report in writing to the Department on a quarterly basis the monitoring system performance and any exceedance of the applicable emission standard. All reports shall be postmarked or received by the 30th day following the end of each calendar quarter. Written reports shall include the following information:~~

~~015.03A The magnitude of excess emissions computed in accordance with 40 CFR 60.13(h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the unit operating time during the reporting period;~~

~~015.03B Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, and malfunctions of the affected unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted;~~

~~015.03C The date and time identifying each period during which the continuous monitoring system was inoperative or down as described in section 013 and the nature of the system repairs or adjustments;~~

~~015.03D The results of any quality assurance assessments conducted during the quarter;~~

~~015.03E When no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2)(11), 81-1505(12)(16)~~
~~Legal Citation: Title 129, Chapter 35, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 35 – COMPLIANCE; EXCEPTIONS DUE TO STARTUP, SHUTDOWN, OR MALFUNCTION~~

001 ~~Upon receipt of a notice of excess emissions issued by the Department the source to which the notice is issued may provide information showing that the excess emissions were the result of a malfunction, start-up, or shutdown. Based upon any information submitted by the source operator, and any other pertinent information available, the Director~~ shall ~~make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action. In determining whether enforcement action is warranted, the Director~~ shall ~~consider the following:~~

001.01 ~~Whether the excess emissions during start-up, shutdown or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process.~~

001.02 ~~Whether the air pollution control equipment, process equipment, or processes were maintained and operated to the maximum extent practical for minimizing emissions.~~

001.03 ~~Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring.~~

001.04 ~~Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions.~~

001.05 ~~Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.~~

002 ~~The information provided by the source operator under~~ 001 ~~shall include, at a minimum, the following:~~

002.01 ~~Name and location of installation.~~

002.02 ~~Name and telephone number of the person responsible for the installation.~~

002.03 ~~The identity of the equipment causing the excess emissions.~~

002.04 ~~The time and duration of the period of excess emissions.~~

002.05 ~~The cause of the excess emissions.~~

002.06 ~~The type of air contaminant involved.~~

002.07 A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude.

002.08 The measures taken to mitigate the extent and duration of the excess emissions.

002.09 The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

003 The information specified in 002 shall be submitted to the Director not later than 15 days after receipt of the notice of excess emissions.

004 Planned Start-Up and Shutdown Reporting.

The owner or operator of an installation subject to this chapter shall notify the Director, in writing, whenever a planned start-up or shutdown may result in excess emissions. This notice shall be mailed no later than 10 days prior to such action, and shall include, but not be limited to, the following information.

004.01 Name and location of the installation.

004.02 Name and telephone number of the person responsible for the installation.

004.03 The identity of the equipment which may cause excess emissions.

004.04 Reasons for proposed shutdown or start-up.

004.05 Duration of anticipated period of excess emissions.

004.06 Date and time of proposed shutdown or start-up.

004.07 Physical and chemical composition of pollutants whose emissions are affected by the action.

004.08 Methods, operating data, and/or calculations used to determine these emissions.

004.09 Quantification of emissions during such action in the units of the applicable emission control regulation.

004.10 All measures planned to minimize the extent and duration of excess emissions during the shutdown and ensuing start-up.

~~005 Malfunction and Unplanned Shutdown Reporting. The owner or operator of an installation subject to this chapter shall notify the director, in writing, whenever emissions due to malfunctions, unplanned shutdowns or ensuing start-ups are, or may be, in excess of applicable emission control regulations. Such notification shall be mailed within 48 hours of the beginning of each period of excess emissions, and shall include, but not be limited to, the information required by 004. This notice is not required provided the following conditions are met:~~

~~005.01 A certified continuous emissions monitor is in operation throughout the duration of the period of malfunction, shutdown or ensuing start-up; and~~

~~005.02 The period of malfunction, shutdown or ensuing start-up is less than 1 hour in duration.~~

~~006 The Director shall make a determination of whether or not excess emissions were due to start-up, shutdown, or malfunction, and what, if any, enforcement action should be taken. The Director will consider the following in making his determination:~~

~~006.01 All notification requirements of the chapter have been met.~~

~~006.02 The malfunction, shutdown, or start-up did not result entirely or in part from poor maintenance, careless operation, or any other preventable upset conditions or equipment breakdowns.~~

~~006.03 All reasonable steps were taken to correct the conditions causing the excess emissions, as expeditiously as practicable, including the use of off-shift labor and overtime if necessary.~~

~~006.04 All reasonable steps were taken to minimize the emissions and their effect on air quality.~~

~~006.05 The malfunction or shutdown is not part of a recurring pattern indicative of inadequate design, operation, or maintenance.~~

~~006.06 The excess emissions are not a threat to public health or ambient air quality.~~

~~007 If the Director determines that the reporting requirements of 002 and/or 004 are inappropriate to a particular installation, he may establish other reporting requirements which are sufficient to allow the determinations described in 006.~~

~~008 Nothing in this regulation shall be construed to limit the authority of the Director to take appropriate action to enforce the provisions of the Nebraska Environmental Protection Act, and the regulations promulgated thereunder.~~

.....

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2)(11), 81-1505(12)(16).~~

~~Legal Citation: Title 129, Ch. 35, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 36 – CONTROL REGULATIONS; CIRCUMVENTION, WHEN EXCEPTED~~

~~001 No person shall cause or permit the installation or use of any machine, equipment, device or other article, or alter any process in any manner which conceals or dilutes the emissions of contaminants without resulting in a reduction of the total amounts of contaminants emitted.~~

~~002 Exception to 001 may be granted by the Department, upon request, provided that such action is intended to convert the physical and/or chemical nature of the contaminant emission and that failure to reduce total contaminant emissions results solely from the introduction of contaminants which are not deemed to be detrimental to the public interest.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12).~~

~~Legal Citation: Title 129, Ch. 36, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 37 — COMPLIANCE; RESPONSIBILITY OF OWNER/OPERATOR PENDING REVIEW BY DIRECTOR~~

~~Application for review of plans or advice furnished by the Director will not relieve an owner or operator of a new or modified stationary source of legal compliance with any provision of these regulations, or prevent the Director from enforcing or implementing any provision of those regulations.~~

~~Enabling Legislation: Neb. Rev. Stat. §81-1504(1)(2)(11); 81-1505(12)(16)~~

~~Legal Citation: Title 129, Chapter 37, Nebraska Department of Environmental Quality~~

Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 38 – EMERGENCY EPISODES, OCCURRENCE AND CONTROL, CONTINGENCY PLANS

001 Whenever the Director finds that an emergency exists requiring immediate action to protect the public health and welfare, he shall issue an announcement to the general public. In addition, he is required to issue an order, showing the date of issuance, stating the existence of such an emergency and requiring such action be taken as deemed necessary to meet the emergency. The Director shall hold a hearing on the emergency order 10 days after its issuance if requested in accordance with Neb. Rev. Stat §81-1507(4).

002 Regulations which shall be enforced in the event of an Air Pollution Emergency Episode are attached hereto as Appendix I and hereby incorporated in these regulations the same as if set out herein verbatim. Appendix I is designed to prevent the excessive buildup of air pollutants to concentrations which can result in an imminent and substantial danger to public health.

003 Episode Criteria.

003.01 Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air pollutants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons. In making this determination, the Director will be guided by the following:

003.01A Air Pollution Forecast – An internal watch by the Department shall be actuated by National Weather Service Advisory that Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric conditions.

003.01B Alert – The "Alert" level is defined as that concentration of pollutants which require initiation of first stage emission control actions. An air pollution "Alert" will be declared when any one of the following levels is reached at any monitoring site.

SO_2 – 800 ug/m^3 (0.3 ppm), 24 hour average

PM_{10} – 360 ugs/m^3, 24 hour average

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~~CO – 17 mg/m³ (15 ppm), 8 hour average~~

~~Ozone (O_3) – 400 ug/m³ – (0.2 ppm), 1 hour average~~

~~NO_2 – 1130 ug/m³ (0.6 p.p.m.), 1 hour average;~~

~~282 ug/m³ (0.15 ppm), 24 hour average.~~

~~and, that meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.~~

~~003.01C Warning – The "Warning" level indicated that air quality is continuing to degrade – pollutant concentrations are increasing – and that additional control actions are necessary. An air pollution "Warning" will be declared when any one of the following levels is reached at any monitoring site:~~

~~SO_2 – 1600 ug/m³ (0.6 ppm), 24 hour average~~

~~PM_{10} – 420 ug/m³, 24 hour average~~

~~CO – 34 mg/m³ (30 ppm), 8 hour average~~

~~Ozone (O_3) – 800 ug/m³ (0.4 ppm), 1 hour average~~

~~NO_2 – 2260 ug/m³ (1.2 ppm), 1 hour average;~~

~~565 ug/m³ (0.3 ppm), 24 hour average.~~

~~and, meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) or more hours or increase unless control actions are taken.~~

~~003.01D Emergency – The "Emergency" level indicated that air quality is continuing to degrade to a level that should never be reached, totally unacceptable, and that the most stringent actions are necessary. An air pollution "Emergency" will be declared when any one of the following levels is reached at any monitoring sites:~~

~~SO_2 – 2100 ug/m³, (0.8 ppm), 24 hour average~~

~~PM_{10} – 500 ugs/m³, 24 hour average~~

~~CO – 46 mg/m³ (40 ppm), 8 hour average~~

Ozone (O_3) – 1000 ug/m^3 (0.5 ppm), 1 hour average

NO_2 – 3000 ug/m^3 (1.6 ppm), 1 hour average;

750 ug/m^3 (0.4 ppm), 24 hour average.

and, meteorological conditions are such that this condition can be expected to continue for 12 or more hours.

003.01E Termination – When any of the above three levels of air pollution has been declared (by virtue of pollutant concentrations meeting the defined criteria for the level) the declared level will remain in effect until the concentrations fall below the specified criteria. The new lower level(s) will be assumed until the pollutant concentrations decrease below the criteria defined for the "alert" level, at which time the episode will be declared "terminated". The concomitant "emission reduction actions" for any declared level cannot be relaxed until the declared level criteria are determined to be no longer met.

004 Emission Reduction Plans.

004.01 Air Pollution Alert – When the Director declares an Air Pollution Alert, any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.1 shall take all Air Pollution Alert actions as are required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Alert.

004.02 Air Pollution Warning – When the Director declares an Air Pollution Warning, any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.2 shall take all Air Pollution Emergency Actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Warning.

004.03 Air Pollution Emergency – When the Director declares an Air Pollution Emergency, any person responsible for the operation of a source of air pollutants as described in Appendix I, Paragraph 1.3 shall take all Air Pollution Emergency Actions as required for such source of air pollutants and shall put into effect the preplanned abatement strategy for an Air Pollution Emergency.

004.04 When the Director determines that a specified criteria level has been reached at one or more monitoring sites solely because of emissions from a limited number of sources, he shall notify such source(s), that the preplanned abatement strategies of Appendix I, Paragraph 1.2 and 1.3 or of the standby plans are required insofar as it applies to such source(s), and shall be put into effect until the criteria of the specified level are no longer met.

~~005 Preplanned Abatement Strategies.~~

~~005.01 Any person responsible for the operation of a source of air pollutants as set forth in Appendix I, Paragraph 1.4 shall prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth in Appendix I, Paragraph 1.1, 1.2, and 1.3 which are made a part of this section.~~

~~005.02 Any person responsible for the operation of a source of air pollutants not set forth under Appendix I, Paragraph 1.4 shall, when requested by the Director in writing, prepare standby plans for reducing the emission of air pollutants during periods of an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency. Standby plans shall be designed to reduce or eliminate emissions of air pollutants in accordance with the objectives set forth as above.~~

~~005.03 Standby plans as required under sections 005.01 and 005.02 of this Chapter shall be in writing and identify the sources of air pollutants, the approximate amount of reduction of pollutants and a brief description of the manner in which the reduction will be achieved during an Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency.~~

~~005.04 During a condition of Air Pollution Alert, Air Pollution Warning, and Air Pollution Emergency, standby plans as required by this section shall be made available on the premises to any person authorized to enforce the provisions of applicable rules and regulations.~~

~~005.05 Standby plans as required by this section shall be submitted to the Director upon request within 30 days of the receipt of such request; such standby plans shall be subject to review and approval by the Director. If, in the opinion of the Director, a standby plan does not effectively carry out the objectives as set forth in Appendix I, Paragraphs 1.1, 1.2 and 1.3, the Director may disapprove it, state his reason for disapproval and order the preparation of an amended standby plan within the time period specified in the order.~~

~~Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(1)(12)(16); 81-1507(4).~~

~~Legal Citation: Title 129, Ch. 38, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 39 — VISIBLE EMISSIONS FROM DIESEL-POWERED MOTOR VEHICLES~~

~~001. No person shall operate a diesel-powered motor vehicle on any public street or highway in such a manner that smoke discharged from the exhaust is of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart or an equivalent opacity of twenty percent (20%) for ten (10) consecutive seconds or longer. A suspected violator may demand that the suspected vehicle be tested by an approved smokemeter prior to a trial on the alleged violation.~~

~~002. Smokemeter tests shall be conducted (a) by or under the supervision of a person or testing facility authorized by the Director to conduct such tests, and (b) by installing an approved smokemeter on the exhaust pipe and operating the suspected vehicle in a manner similar to the manner of operation at the time of the alleged violation.~~

~~Enabling Legislation: Neb. Rev. Stat. §60-2203.~~

~~Legal Citation: Title 129, Ch. 39, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 40 – GENERAL CONFORMITY~~

~~001 Notwithstanding any other provisions of these regulations, Subpart B of~~ Title 40 Code of Federal Regulations (CFR) Part 93, pertaining to Determining ~~Conformity of General Federal Actions to State or Federal Implementation Plans, as published in the Federal Register on November 30, 1993, is hereby adopted and incorporated herein with exceptions as noted in 002 through 005.~~

~~002 The provisions of 001 apply only within that area of Douglas County designated nonattainment for lead in 40 CFR 81.328 (November 6, 1991).~~

~~003 Section 93.151 is not included in this incorporation by reference.~~

~~004 Subsection 93.160(f) shall be modified as follows:~~

> ~~(f) Written commitments to mitigation measures must be obtained prior to a positive conformity determination and such commitment must be fulfilled.~~

~~005 Subsection 93.160(g) shall be modified as follows:~~

> ~~(g) After the effective date of this incorporation by reference and EPA's approval, any agreements, including mitigation measures, necessary for a conformity determination will be both State and federally enforceable. Enforceability through the Nebraska State Implementation Plan will apply to all persons who agree to mitigate direct and indirect emissions associated with a Federal action for a conformity determination.~~

~~Enabling Legislation: Neb. Rev. Stat. §81-1504.~~

~~Legal Citation: Title 129, Ch. 40, Nebraska Department of Environmental Quality~~

~~Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 41 — GENERAL PROVISIONS~~

~~001. Failure to comply with the requirements of these regulations may be grounds for administrative enforcement proceedings as provided by Neb. Rev. Stat. §81-1507 or penalties in proceedings brought in the discretion of the County Attorney or Attorney General pursuant to Neb. Rev. Stat. §81-1508 or in the case of Chapter 39, pursuant to Neb. Rev. Stat. §60-2211.~~

~~002. If any clause, paragraph, subsection or section of these regulations shall be held invalid, it shall be conclusively presumed that the Council would have enacted the remainder of these regulations not directly related to such clause, paragraph, subsection or section.~~

~~003. Any appeal from any final order or final determination of the Director shall be pursuant to Neb. Rev. Stat. §81-1509.~~

~~004. These rules and regulations may be amended, or repealed, pursuant to Title 115, Rules of Practice and Procedure of the Department, which procedure shall conform in all respects to Neb. Rev. Stat. §§84-901 to 84-919, as amended.~~

~~005. These rules and regulations shall become effective five (5) days after filing with the Secretary of State. Upon adoption of these rules and regulations, the prior, inconsistent rules and regulations shall be repealed.~~

~~006. Permits issued under these regulations are exempt from financial responsibility requirements contemplated in Neb. Rev. Stat. §81-1505(21)(a).~~

~~007. All material adopted by reference is available and on file with the Department and with the Secretary of State. References to the CFR and the FR contained in this Title are to the Code of Federal Regulations and Federal Register, respectively, published by the U. S. Government Printing Office.~~

~~Enabling Legislation: Neb. Rev. Stat. §§84-901 through 84-919; 81-1504(13); 81-1505(17) and (21)(a); 81-1506; 81-1507; 81-1508; 81-1509; 60-2211~~

~~Legal Citation: Title 129, Ch. 41, Nebraska Department of Environmental Quality~~

Title 129 — NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 42 — PERMITS-BY-RULE

001 General Provisions. An owner or operator of a source may apply for coverage under a permit-by-rule if the following criteria are met:

001.01 The source, including any proposed emission units, is not subject to review under the prevention of significant deterioration program in Chapter 19 of this Title, nor will it be operated as a major source pursuant to the Class I operating permit program under Chapter 5 of this Title.

001.02 The permit-by-rule provisions shall not supersede any applicable federal regulations such as New Source Performance Standards.

001.03 The Director has established a permit-by-rule for the industry category in this chapter.

001.04 The responsible official for the source certifies that it will comply with the applicable permit-by-rule.

001.05 The source defines its plant boundaries (consistent with worst case modeling) and prohibits access, to the Department's satisfaction, by the general public to plant operations and to non-ambient air which is potentially harmful to human health.

001.06 Unless specifically authorized by the permit-by-rule, the source will not be located or relocated in a non-attainment area or within five miles of Weeping Water, Nebraska.

001.07 Records shall be collected and maintained as described for each applicable permit-by-rule and retained for a period of not less than five years and shall be made available to the Department for review upon request.

002 Construction Permits. Any source approved for coverage under a permit-by-rule shall be considered to have fulfilled the duty to obtain a construction permit under Chapter 17 of this Title, unless required to do so elsewhere under this Title or the Act. For approved sources, compliance with the permit-by-rule shall take precedence over

~~requirements of previously issued construction permits applicable solely to the approved source, except for provisions in sections 002.01 and 002.02.~~

~~002.01 The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued construction permits, unless a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.~~

~~002.02 The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued construction permits, unless the owner/operator can demonstrate that there was no regulatory requirement to limit the source's potential to emit in the previously issued construction permits.~~

~~003 Operating Permits. Any source approved for coverage under a permit-by-rule shall be considered to have fulfilled the duty to obtain an operating permit under Chapter 5 of this Title, unless required to do so elsewhere under this Title or the Act, except for provisions in sections 003.01 and 003.02.~~

~~003.01~~

~~The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued operating permits, unless a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.~~

~~003.02 The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued operating permits, unless the owner/operator can demonstrate that there was no regulatory requirement to limit the source's potential to emit in the previously issued operating permits.~~

~~004 Approval Procedures.~~

~~004.01 Notice of Intent.~~

~~004.01A New Sources. The owner or operator of a new source intending to be covered under a permit-by-rule shall submit a complete Notice of Intent Form provided by the Department to the Department at least 45 calendar~~

~~days prior to the planned date of beginning actual construction, reconstruction or modification of a source that would otherwise be subject to permit requirements under Chapter 17 of this Title; or~~

~~004.01B Existing Sources with an Operating Permit. The owner or operator of a source in existence on the effective date of the permit-by-rule intending to be covered under provisions of this chapter in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete Notice of Intent Form to the Department no sooner than 18 and no later than 6 months prior to the expiration date of the existing operating permit issued pursuant to Chapter 5; or~~

~~004.01C Existing Sources without an Operating Permit. The owner or operator of a source in existence on the effective date of the permit-by-rule intending to be covered under provisions of this chapter in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete Notice of Intent Form to the Department within 12 months of the date on which the source first becomes operational or otherwise subject to the requirement to obtain an operating permit; or~~

~~004.01D Existing Temporary Sources. The owner or operator of a temporary source in existence on the effective date of the permit-by-rule intending to be covered under a permit-by-rule in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete Notice of Intent Form to the Department at least 45 calendar days prior to relocation of the source. The Notice of Intent Form shall be accompanied by the information required in Chapter 10 sections 002.02A through 002.02G.~~

~~004.02 Department Review.~~

~~004.02A If the Department fails to provide the source written notice of its decision to approve or disapprove the Notice of Intent Form or request additional information within 30 calendar days, the responsible official for the source may submit a written request to the Director to make a decision on the Notice of Intent request.~~

~~004.02B Written Request for Decision by Director. Upon receiving a written request for a decision on the Notice of Intent form, the Director shall, in a timely manner, determine whether to approve or disapprove the request.~~

~~The Director will provide written notice of the decision to the responsible official for the source.~~

~~004.03 Department approval. Department approval of the Notice of Intent Form request shall be in writing. Upon approval, the source may begin construction and/or operation under the provisions of the applicable permit by rule.~~

~~004.04 Department disapproval. In the event the Department disapproves the Notice of Intent request, the owner or operator must either resolve the issues for disapproval or apply for a permit under the provisions of Chapters 5, 10 and/or 17.~~

~~004.05 At the Director's discretion, the source may be required to conduct an air quality impact analysis as a part of a permit-by-rule application. Such determination shall be consistent with the Nebraska Atmospheric Dispersion Modeling Guidance for Permits. Meteorological and operating conditions that may occur that will produce the greatest concentrations of the pollutants emitted shall be used in evaluating the effect of the source(s) on air quality.~~

~~004.06 The Department reserves the right to disapprove a request for coverage under the permit-by-rule if the Director believes the emissions from the source may adversely affect human health or the environment, the source is not in compliance with air quality rules or regulations, or the source does not meet the criteria in 004.~~

~~005 Temporary Sources. Temporary sources approved to construct and operate under a permit-by-rule shall:~~

~~005.01 Notify the Director at least 20 calendar days in advance of each change in location by providing the information required by Chapter 10 sections 002.02A through 002.02G.~~

~~005.01A If the proposed location is in Lancaster County, the source shall also notify the Air Quality Program of the Lincoln-Lancaster County Health Department at least 20 days in advance of the proposed change. An additional permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.~~

~~005.01B If the proposed location is in Douglas County, the source shall also notify the Omaha Air Quality Control Agency at least 20 days in advance of the proposed change. An additional permit from the local air quality agency~~

~~may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.~~

~~005.02 The Director may disapprove a new proposed location for a temporary source if operation in the new location would cause or contribute to a violation of state or local standards or otherwise adversely affect human health or the environment.~~

~~006 Duty to Comply. Each source approved for coverage under a permit-by-rule must comply with all the sections of this chapter applicable to the source. Any non-compliance with the permit-by-rule shall constitute a violation of the State Act and the Act, and is grounds for enforcement action, for requiring permits under Chapters 17 and/or 5, or for disapproving of the Notice of Intent to construct and/or operate under the permit-by-rule.~~

~~007 Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under Title 129 or the Act not specifically addressed in this chapter.~~

~~008 Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as required in Chapter 6, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 4, must be provided upon Department request.~~

~~009 Annual Certifications of Compliance. Sources approved for coverage under a permit-by-rule shall complete and submit to the Department an annual certification of compliance on forms acceptable to the Department by March 31.~~

~~010 Certifications. Each Notice of Intent Form, copy of records, annual emissions inventory, annual certification of compliance statements or other information submitted to the Department pursuant to this chapter shall contain a certification signed by a responsible official, as described in Chapter 1 section 098, stating that, based on information and belief formed after reasonable inquiry, the information provided is true, accurate, and complete.~~

~~011 Permit-by-Rule for Hot Mix Asphalt Plants. For purposes of this regulation, a hot mix asphalt plant is a facility that is comprised of any combination of the following:~~

generators; heaters; dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing aggregate materials; systems for mixing hot mix asphalt; and associated emission control systems. Hot mix asphalt plants may be approved to be constructed and/or operated pursuant to the provisions of this chapter if they certify they will comply with sections 001 through 010 above and each of the following:

011.01 The owner or operator shall use an air emissions computation program provided by the Department to establish hourly production limits and hourly generator combustion limits as described in sections 011.03C and 011.05. The owner or operator shall submit input and output files computed by the program as part of the certified Notice of Intent. Upon receipt of these files, the Department will use the submitted data to run a dispersion model to establish hourly limits that comply with the NAAQS. The source shall comply with these limits. The NDEQ modeler will provide a memo to the source and the source's NDEQ file documenting the calculated limits.

011.02 Upon relocation of a temporary source, the owner or operator shall use the parameters of the new site as input for an air emissions computation computer program provided by the Department. The source shall certify the output files generated by the air emissions computation computer program and submit them to the Department for establishment of hourly limits as described in section 011.01.

011.03 Production Limits.

011.03A For batch mix asphalt plants, the production of asphalt shall not exceed a maximum rate of 250,000 tons per calendar month and 400,000 tons per consecutive twelve (12) calendar months.

011.03B For drum mix asphalt plants, the production of asphalt shall not exceed a maximum rate of 500,000 tons per calendar month and 850,000 tons per consecutive twelve (12) calendar months.

011.03C The owner or operator shall use an air emissions computation computer program provided by the Department to establish the plant capacity on a ton per hour basis. The Department will use the data provided by the owner or operator in a dispersion model to establish production limits that are in compliance with the NAAQS.

011.04 The generators shall not combust more than 75,000 gallons of diesel fuel per calendar month and 250,000 gallons of diesel fuel per consecutive twelve (12) calendar months; or if it is more practical for the source to keep track of hours of generator operation, and the generator is equipped with an hour meter, the following equation may be used to determine the maximum hours of generator operation per calendar month and consecutive twelve (12) calendar months:

75,000 gallons x 1 = Operating
month (Generator Capacity) gallons/hour Hours/month

250,000 gallons x 1 = Operating
12 months (Generator Capacity) gallons/hour Hours/12mos

011.05 The owner or operator shall use an air emissions computation computer program provided by the Department to establish the plant capacity pound-per-hour limitations. The Department will use the data provided by the owner or operator in a dispersion model to establish generator operating limits that are in compliance with the NAAQS.

011.06 Moisture and Fuel Content Requirements

011.06A Storage pile and haul road moisture content must be maintained at a level that assures compliance with sections 001 and 002 of Chapter 32.

011.06B The sulfur content of diesel fuel must not exceed 0.5% and the sulfur content of non-diesel fuel must not exceed 1.0%.

011.07 The source shall not exceed a particulate emissions rate of 0.04 grains per dry standard cubic foot of exhaust gas.

011.08 Control Technology. Appropriate emission control technology shall be properly installed, maintained and operated whenever associated equipment is in operation. Manufacturer's instructions shall be kept on site and readily available to Department representatives.

011.08A Fabric Dust Collectors (Baghouses).

011.08A1 Each fabric dust collector shall be equipped with an operational pressure differential indicator.

011.08A2 Fabric dust collector filter bags are to be inspected and/or replaced according to the manufacturer's recommendations or more frequently as indicated by pressure differential readings. To determine whether each fabric dust collector is functioning properly, routine observations (at least once each day of dust collector operation) shall be conducted to determine whether there are visible emissions from the stack, leaks or noise, atypical pressure differential readings, or other indications that may necessitate corrective action. Corrective action shall be taken immediately if necessary.

011.09 The opacity of visible emissions shall not equal or exceed 20 percent as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and Title 129, Chapter 20, Section 004.

011.10 The source shall not allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

011.10A Routine observations (at least once each day of operation) shall be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, necessitating corrective action. Corrective action shall be taken immediately if necessary.

011.11 Facilities constructed, reconstructed or modified after June 11, 1973 shall comply with the provisions of section 001.21 of Chapter 18 of this Title for Hot Mix Asphalt Facilities (asphalt concrete plants) - Subpart I.

011.12 Record keeping. The owner or operator of the facility shall maintain on-site records as follows:

011.12A Records demonstrating that the production restriction set forth in sections 011.03A and 011.03B has not been exceeded and that the source has complied with the hourly limits in section 011.03C. Records shall be updated at least monthly no later than 15 days after the end of the month.

~~011.12B Records demonstrating that storage pile moisture content and haul road moisture content requirements have been maintained at a level that assures compliance with sections 001 and 002 of Chapter 32.~~

~~011.12C Records indicating the quantity of diesel fuel combusted in the generators or the hours of generator operation to demonstrate compliance with section 011.04.~~

~~011.12D Records demonstrating that the source has complied with the hourly limits established in section 011.05.~~

~~011.12E Records indicating the sulfur content of fuel used in the generator and main burner to demonstrate compliance with 11.06B. Records shall be updated at least monthly no later than 15 days after the end of the month.~~

~~011.12F Inspection and maintenance records to ensure control equipment is operated and well maintained. Such records shall, at a minimum, include the following:~~

> ~~011.12F1 Records documenting when routine visual inspections of control equipment were performed with a description including pressure differential readings and any atypical observations;~~
>
> ~~011.12F2 Records documenting when routine maintenance, including bag replacement, and preventive actions were performed with a description of the maintenance and/or preventive action performed;~~
>
> ~~011.12F3 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and when corrections were made.~~
>
> ~~011.12F4 Records and notifications required under Chapter 18, section 001.21 — General Provisions Subpart A.~~

~~011.12G Records documenting routine observations conducted and any corrective action taken to assure compliance with 011.10A.~~

~~011.13 Upon request, the owner or operator shall provide Department personnel access to, or copies of, the records required under this chapter.~~

011.14 The owner or operator of a source approved to construct, reconstruct or modify and operate a hot mix asphalt plant under the provisions of this chapter shall notify the Department of the actual date of startup within 15 calendar days after such date.

011.15 Performance Testing. The owner or operator of a source shall conduct performance testing to demonstrate compliance with section 011.07 and 011.09 and as required under 011.11.

012 Permit-by-Rule for Small Animal Incinerators. For purposes of this regulation, a small animal incinerator is a facility that is used to burn deceased animal remains and is comprised of a dual-chamber design, consisting of a primary charging chamber and a secondary chamber (or afterburner) with burners located in each chamber. The maximum design burning capacity of the incinerator may not exceed 200 lbs/hour. The minimum stack height is seven feet above ground. Small animal incinerators may be approved to be constructed and/or operated pursuant to the provisions of this chapter if the owner/operator certifies that the source will comply with sections 001 through 010 above, Chapter 22, sections 001 through 006, and each of the following:

012.01 Production Limits. Limits on incineration may not exceed the incineration rate, in pounds per hour, specified by the manufacturer, by using the following measures:

012.01A Where the weight of the load is estimated, the incineration period shall last for the maximum duration in hours specified by the manufacturer for a full load.

012.01B Where the weight of the load is known, the incineration period shall be at least an amount of time equivalent to the weight of the load, in pounds, divided by the manufacturer's design incineration rate in pounds per hour.

012.02 Heat shall be provided by the combustion of natural gas, liquefied petroleum gas, or distillate oil. The sulfur content of distillate oil may not exceed 0.05% by weight.

012.03 The materials incinerated in the source shall be limited to deceased animals and medical/infectious waste. Medical/infectious waste may not exceed 10% by weight of all waste incinerated in any single load. Medical/infectious wastes that may be incinerated include sharps that have

been used in animal care or treatment, unused sharps, and carcasses, parts, or bedding of animals known to have been exposed to infectious agents.

012.04 The opacity of visible emissions from the stack shall not equal or exceed 20% as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and Title 129, Chapter 20, Section 005.

012.05 The temperature of the secondary chamber, as indicated by a temperature measuring device, shall not be less than 1400° Fahrenheit with a minimum residence time of 0.5 seconds in which waste gases are released from the charged primary chamber.

012.06 Particulate matter caused by the combustion of fuel shall not be emitted in excess of the hourly rate of 0.60 pounds of particulate matter per million British thermal units total heat input, in accordance with Title 129, Chapter 20, section 002.

012.07 Particulate matter shall not be allowed to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, in accordance with Title 129, Chapter 32, section 001.

012.07A Routine observations (at least once each day of operation) shall be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in ambient air beyond the premises where it originates necessitating corrective action. Corrective action shall be taken immediately if necessary.

012.08 The incinerator shall be properly maintained at all times, in accordance with manufacturer's instructions.

012.09 Record keeping. The owner or operator of the facility shall maintain on-site records as follows, for a minimum of five years:

012.09A Inspection and maintenance records to ensure equipment is properly operated and well maintained. Such records shall, at a minimum, include the following:

012.09A1 Records documenting the type of materials incinerated during each charge, the weight of medical/infectious waste included in each charge, the total weight of each charge (estimated or actual), and the duration of each main burner operating cycle. The duration of an operating cycle is defined as the period of time starting at the initial charge after the preheat period and ending after all material in the final charge of the operating cycle is combusted, and, when the incineration period is less than the maximum period specified by the manufacturer, calculation of the incineration rate for each charge. The incineration rate is calculated by dividing the weight of each charge by the duration of each main burner operating cycle.

012.09A2 Records documenting the sulfur content of distillate fuel, if used.

012.09A3 Records documenting when routine maintenance and preventive actions were performed with a description of the maintenance and/or preventive action performed;

012.09A4 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and when corrections were made.

012.09B Records documenting routine observations conducted and any corrective action taken to determine compliance with 012.07A.

012.10 Upon request, the owner or operator shall provide Department personnel access to, or copies of, the records required under this chapter.

012.11 The owner or operator of a source approved to construct, reconstruct or modify and operate a small animal incinerator under the provisions of this chapter shall notify the Department of the actual date of startup within 15 calendar days after such date.

012.12 Performance Testing

~~012.12A. The owner or operator of a source shall conduct performance testing to demonstrate compliance with sections 012.04, 012.06 and with Title 129, Chapter 22, section 002.~~

~~012.13B. The Director may determine performance testing is not required provided that the owner or operator submits adequate documentation and emission test results of an animal incinerator identical or similar to the one proposed.~~

~~Enabling Legislation: Neb. Rev. Stat. 81-1504(1)(2)(11) and 81-1505(12)(16)~~

~~Legal Citation: Title 129, Ch. 42, Nebraska Department of Environmental Quality~~

Title 129 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 43 – VISIBILITY PROTECTION

001. Code of Federal Regulations, Title 40, part 51.301 (Definitions), as amended, is incorporated by reference. Appendix Y (Guidelines for BART Determinations Under the Regional Haze Rule) of 40 CFR 51, is incorporated by reference.

002. The owner or operator of a stationary source shall submit a Best Available Retrofit Technology (BART) determination to the Department if the Department determines the stationary source is subject to BART according to 40 CFR 51, Appendix Y. The owner or operator shall prepare the BART determination in accordance with Appendix Y of 40 CFR 51
as directed by the Director. The owner or operator of a stationary source shall submit the BART determination to the Department for review. The Department will issue a permit to the source, pursuant to section 003, giving consideration to the source's BART determination.

003. The BART requirements for any BART eligible source that is subject to BART shall be incorporated into a construction permit in accordance with Chapter 17, section 014.04

Enabling Legislation: Neb. Rev. Stat. §§81-1504(1)(2); 81-1505(12)(16).
Legal Citation: Title 129, Ch. 43, Nebraska Department of Environmental Quality