NEBRASKA ADMINISTRATIVE CODE

Title 129 - Department of Environmental Quality

Chapter 1 - DEFINITIONS

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:

001 "Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

002 “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:

002.01 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 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 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.

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

002.03 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.

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.

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

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

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

008 "Affected States" means all States that:

008.01 Are one of the following contiguous States: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming, and in the judgment of the Director

may be affected by emissions from a facility seeking a Class I permit, modification, or renewal; or

008.02 Are a contiguous State within 50 miles of the permitted source.

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

010 ~~"Agency" means the Environmental Protection Agency (EPA).~~ Reserved.

011 "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.

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.

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

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;

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;

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

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.

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 designate each region as non-attainment, attainment, or unclassifiable. The Administrator must approve the designations.

015 "Allowable emissions" means

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:

015.01 A 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);

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

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 112 except that the words "or enforceable as a practical matter" should be added after "federally enforceable".

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

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.

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:

018.01 Any standard or other requirement 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 ~~pre~~construction permits;

018.03 Any standard or other requirement under Chapter 18 relating to standards of performance for new stationary sources;

018.04 Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted by the Council in Chapters 23, 27 and 28 relating to hazardous air pollutants listed in Appendix II or Appendix III;

018.05 Any standard or other requirement of the acid rain program under Chapter 26;

018.06 Any requirements established under Chapter 31 or pursuant to any permit or order issued by the Director under this Title;

018.07 Any standard or other requirement governing solid waste incineration under Chapter 18 or pursuant to Section 129(e) of the Act and regulations adopted by the Council;

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

018.09 Any standard or other requirement for tank vessels established under Section 183(f) and regulations adopted by the Council;

018.10 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

018.11 Any national ambient air quality standard or increment or visibility requirement under ~~Chapter 19~~ the Prevention of Significant Deterioration Program as defined in Chapter 1, but only as it would apply to temporary sources permitted pursuant to Chapter 10.

018.12 "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:

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 not include motor vehicles or nonroad vehicles.

020 "Baseline actual emissions" has the definition given to it in Chapter 19, section 005.

021 "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) 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 equal to or greater than one microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

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.

023 "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.

024 "Best Available Control Technology" or "BACT", 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 ~~reviewing authority~~ 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 ~~reviewing authority~~ 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.

"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.

025 "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 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.

027 "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.

028 "Class I source" means any source subject to the Class I permitting requirements of Chapter 5.

029 "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.

030 "Class II source" means any source subject to the Class II permitting requirements of Chapter 5.

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031 "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:

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

031.02 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.

032 "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.

033 "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).

034 "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.

035 "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.

036 "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).

037 “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.

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

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

040 "Council" means the Environmental Quality Council.

041 "Department" means the Department of Environmental Quality.

042 "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 be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program.

043 “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.

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

045 “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.

046 “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.

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

048 "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.

049 "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.

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

051 "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.

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

(a) 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

(b) An existing emissions unit is any emissions unit that does not meet the requirements in (a) above.

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

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

054 “Federal Land Manager” means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

055 "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.

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

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

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

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

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

061 "General permit" means a Class I or Class II operating permit that meets the requirements of Chapter 9.

062 "Hazardous air pollutant" means any air pollutant:

062.01 listed in Appendix II, or

062.02 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.

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

064 "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.

065 “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.

066 “Indian Reservation” means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

067 “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.

068 “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.

069 "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”)

070 "Interstate air pollution control agency" means:

070.01 An air pollution control agency established by two or more states; or

070.02 An air pollution control agency of two or more political subdivisions located in different states.

071 “Local agency" means any air pollution control agency in this state, other than a state agency, which is charged with responsibility for carrying out part of a plan.

072 “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.

073 “Low terrain” means any area other than high terrain.

074 "Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent emission rate from either:

074.01 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

074.02 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, means 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.

075 “Major emissions unit” means:

075.01 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

075.02 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.

076 "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.

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

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

076.02A Routine maintenance, repair and replacement;

076.02B 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;

076.02C Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

076.02D Use of an alternative fuel at a steam-generating unit to the extent that the fuel is generated from municipal solid waste;

076.02E Use of an alternative fuel or raw material by a stationary source which:

076.02E1 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 ~~Chapter 19~~ the Prevention of Significant Deterioration Program as defined in Chapter 1; or

076.02E2 The source is approved to use under any permit issued under regulations approved pursuant to ~~Chapter 19~~ the Prevention of Significant Deterioration Program as defined in Chapter 1;

076.02F 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 ~~Chapter 19~~, the Prevention of Significant Deterioration Program as defined in Chapter 1; or

076.02G Any change in ownership at a stationary source.

076.02H The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

076.02H1 The State implementation plan for the State in which the project is located; and

076.02H2 Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

076.02I 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.

076.02J The reactivation of a very clean coal-fired electric utility team generating unit.

076.03 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.

077 “Major source baseline date” means, in the case of particulate matter and sulfur dioxide, January 6, 1975, and, in the case of nitrogen dioxide, February 8, 1988.

078 "Major stationary source" or "major source" means any source identified in Chapter 2.

079 “Maximum achievable control technology” or (MACT)” means:

079.01 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.

079.02 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.

080 “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.

081 “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.

082 "Minor source" means any source which is not defined as a major source in Chapter 2.

083 “Minor source baseline date” means the earliest date after the trigger date on which a major stationary source or a major modification subject to ~~Chapter 19~~ the Prevention of Significant Deterioration Program as defined in Chapter 1 submits a complete permit application. The trigger date is, in the case of particulate matter and sulfur dioxide, August 7, 1977, and, in the case of nitrogen dioxide, February 8, 1988. 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, 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)(i)(D) or (E) 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.

084 “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..

085 "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:

085.01 Routine maintenance, repair, and replacement (except as defined as reconstruction) shall not be considered physical changes; and

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

086 "National standard" means either a primary or a secondary standard established pursuant to the Act.

087 "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.

088 "Net emissions increase" means the following:~~,~~

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

088.01A The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to ~~Chapter 19, section 008~~ the Prevention of Significant Deterioration Program as defined in Chapter 1; and

088.0~~2~~1B 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.

088.0~~3~~1C An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs ~~before the date that the increase from the particular change 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.

088.0~~4~~2 An increase or decrease in actual emissions is creditable only if:

088.0~~4~~2A It occurs within ~~a reasonable period, not to exceed one year, to be specified by the Director~~ the contemporaneous period as defined in section 088.01C; and

088.0~~4~~2B 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; and

088.0~~5~~3 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.

088.0~~6~~4 An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

088.0~~7~~5 A decrease in actual emissions is creditable only to the extent that:

088.0~~7~~5A The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

088.0~~7~~5B It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

088.0~~7~~5C 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

088.0~~7~~5~~C~~D It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change~~; and~~.

088.0~~8~~6 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~~t~~ unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

088.0~~9~~7 Section 002.01 shall not apply for determining creditable increases and decreases.

089 "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.

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

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

092 "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.

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

094 "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.

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

096 "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.

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

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098 “PAL pollutant” means the pollutant for which a Plantwide Applicability Limitation (PAL) is established at a major stationary source.

~~099 “PM_{10}” means particulate matter with an aerodynamic diameter less than or equal t a nominal 10 micrometers a measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods.~~

~~10~~099 "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

10~~1~~0 "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 ~~Agency~~ United States Environmental Protection Agency, or by a test method specified in an approved State Implementation Plan.

101 "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.

~~102 "PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the Agency or by a test method specified in an approved State Implementation Plan.~~

~~103 "Permit modification" means a revision to a Class I or Class II operating permit that meets the requirements of Chapter 15.~~

10~~4~~2 "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.

10~~5~~3 "Permit revision" means ~~any Class I or Class II operating permit modification or administrative permit amendment~~. a revision to an operating or construction permit that meets the requirements of Chapter 15.

106~~3~~4 "Permitting authority" means the Department of Environmental Quality.

107~~4~~5 "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.

~~108 "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~~

109~~6~~ "Plan" means an implementation plan adopted by the State pursuant to Section 110 of the Act, to attain and maintain a national standard.

~~1~~107 "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.

108 "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.

109 "PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the ~~Agency~~ United States Environmental Protection Agency or by a test method specified in an approved State Implementation Plan.

110 Reserved.

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111 “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.

112 "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. 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.

113 “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.

114 “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.

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

116 "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.

117 "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.

118 "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 apply.

119 “Project” means a physical change in, or change in method of operation of, an existing major stationary source.

120 “Projected actual emissions” has the definition given to it in Chapter 19, section 006.

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

122 "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.

123 "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 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 be taken into

account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

124 "Region" means:

124.01 An air quality control region designated by the Administrator; or

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

125 "Regional administrator" means the Regional designee appointed by the Administrator.

126 "Regulated air pollutant" means the following:

126.01 Nitrogen oxides or any volatile organic compounds as defined in this Chapter;

126.02 Any pollutant for which a national ambient air quality standard has been promulgated;

126.03 Any pollutant that is subject to any standard in Chapter 18; and

126.04 Any pollutant subject to a standard or other requirements established in Chapters 27 or 28 relating to hazardous air pollutants, including the following:

126.04A Any pollutant subject to requirements under Chapter 27, 005; and

126.04B Any pollutant for which the requirements ~~of~~ relating to construction, reconstruction, and modification in Chapter 27, 003, have been met, but only with respect to the individual source subject to these requirements.

127 “Regulated NSR pollutant” means the following:

127.01 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 (e.g., volatile organic compound are precursors for ozone);

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

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

127.04 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.

128 "Regulated pollutant for fee purposes" means any regulated air pollutant identified in the previous section, except for the following:

128.01 Carbon monoxide;

128.02 Particulate matter, excluding PM_{10};

128.03 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

128.04 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.

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

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

130.01 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.

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

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

130.04 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.

130~~0~~1 "Responsible official" means one of the following:

130~~0~~1.01 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:

130~~0~~1.01A The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

13~~0~~1.01B The delegation of authority to such representatives is approved in advance by the permitting authority;

13~~0~~1.02 For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

13~~0~~1.03 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

13~~0~~1.04 For affected sources:

13~~0~~1.04A The designated representative in so far as actions, standards, requirements, or prohibitions under Chapter 26 are concerned; and

13~~0~~1.04B The designated representative for any other purposes under the Title V program.

13~~1~~2 "Rule or regulation" means any rule or regulation of the Council.

13~~2~~3 "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.

1334 "Secondary standard" means a national secondary ambient air quality standard identified in Chapter 4.

1345 "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 in advance of the proposed changes at least 30 days in advance unless the Director determines a different timeframe due to an emergency. ~~that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements~~.

1356 "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 following rates ("Significant" for purposes of the Prevention of Significant Deterioration Program is defined in Chapter 19):

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

Ozone: 40 tpy of volatile organic compounds

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)

13~~6~~7 "Significant emissions increase" has the definition given to it in Chapter 19, section 008.

13~~7~~8 "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 124 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 075.

13~~8~~9 "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 135 or in the Act, whichever is lower.

13940 "Solid waste" means any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial and mining operations, and from community activities.

1401 "Source" means any property, real or personal, or person contributing to air pollution.

1412 “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.

1423 "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.

1434 "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.

1445 "Stack height" means the distance from the ground level elevation of a stack to the elevation of the stack outlet.

1456 "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.

1467 "Startup of operation" means the beginning of routine operation of an affected facility.

1478 "State" means any non-Federal permitting authority, including any local agency, interstate association, or statewide program.

1489 "State Act" means the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 through §81-1533, as amended. ~~"State agency" means the Nebraska Department of Environmental Quality established by Neb. Rev. Stat. Sections 81-1501 to 81-1533~~.

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

151 “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.

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

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

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

155 “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.

156 "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 following, which have been determined to have negligible photochemical reactivity:

acetone;

1-chloro-1,1-difluoroethane (HCFC-142b);

Chlorodifluoromethane (CFC-22);

1-chloro-1-fluoroethane (HCFC-151a);

chlorofluoromethane (HCFC-31);

Chloropentafluoroethane (CFC-115);

2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

Dichlorodifluoromethane (CFC-12);

1,1-dichloro-1-fluoroethane (HCFC-141b);

1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);

1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);

1,1-difluoroethane (HFC-152a);

difluoromethane (HFC-32);

2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane [$(CF_3)_2CFCF_2OCH_3$];

Ethane;

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2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [$(CF_3)_2CFCF_2OC_2H_5$];

1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane ($C_4F_9OC_2H_5$);

3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trefluoromethyl) hexane (known as HFE-7500, HFE-s702, T-7145, and L-15381);

ethylfluoride (HFC-161);

1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$) (known as HFE-7000); 1,1,1,2,3,3,3-heptafluoropropane (known as HFC 227ea);

1,1,1,2,3,3,3-heptafluoropropane (known as HFC 227ea);

1,1,1,2,3,3-hexafluoropropane (HFC-236ea);

1,1,1,3,3,3-hexafluoropropane (HFC-236fa);

Methane;

Methyl acetate;

methyl formate ($HCOOCH_3$);

Methylene chloride (dichloromethane);

1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$);

parachlorobenzotrifluoride (PCBTF);

1,1,1,3,3-pentafluorobutane (HFC-365mfc);

Pentafluoroethane (HCFC-125);

1,1,1,2,3-pentafluoropropane (HFC-245eb);

1,1,2,2,3-pentafluoropropane (HFC-245ca);

1,1,2,3,3-pentafluoropropane (HFC-245e);

1,1,1,3,3-pentafluoropropane (HFC-245fa);

t-butyl acetate (known at tertiary butyl acetate or TBAC);

tetrachloroethylene (PERC);

1,1,1,2-tetrafluoroethane (HFC-134a);

1,1,2,2-tetrafluoroethane (HFC-134);

1,1,1-trichloroethane (methyl chloroform);

Trichlorofluoromethane (CFC-11);

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);

1,1,1-trifluoroethane (HFC-143a);

Trifluoromethane (FC-23);

volatile methyl siloxanes (VMS);

and perfluorocarbon compounds which fall into the following classes:

a. Cyclic, branched, or linear, completely fluorinated alkanes;

b. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

c. Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

d. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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

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Title 129 - Department of Environmental Quality

Chapter 2 - DEFINITION OF MAJOR SOURCE

001 Hazardous Air Pollutants. A major source of hazardous air pollutants is defined as:

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 II, 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:

002.01 Coal cleaning plants (with thermal dryers);

002.02 Kraft pulp mills;

Proposed changes for August 2007 on pages 2-2 and 2-4.

002.03 Portland cement plants;

002.04 Primary zinc smelters;

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;

 Proposed changes for August 2007 on pages 2-2 and 2-4.

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 313140;

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.

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.

005 A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

006 A major stationary source for purposes of Chapter 17, section 013 includes:

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;

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;

006.03 For carbon monoxide nonattainment areas:

006.03A That are classified as "serious," and

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

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

 Proposed changes for August 2007 on pages 2-2 and 2-4.

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 215193 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

Proposed changes for August 2007 on pages 2-2 and 2-4.

Title 129 – Nebraska Air Quality Regulations

Chapter 14 – PERMITS – 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.

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.

003 The notice shall contain the following:

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.

005 Public Hearings.

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.

005.02 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:

006.01 Reference to the date of the previous notices relating to the permit;

006.02 Date, time, and place of hearing;

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.

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.

007.02 Title 115 shall govern any adjudicative hearing requested under 007.01.

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 19, 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(12)

Legal Citation: Title 129, Ch. 14, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 - Department of Environmental Quality

Chapter 15 - PERMIT REVISIONS; REOPENING FOR CAUSE

001 Administrative permit amendments.

01.01 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 permittee; ~~and~~

001.01D Allows for a change in ownership or operational control of a source where the permitting authority 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 permitting authority; or

001.01E For PAL permits only, corrects both typographical and calculation errors.

001.02 A permittee may request the agency 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 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.

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.

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.

001.07 The permit shield described in Chapter 8, section 014, shall not apply to administrative permit amendments.

002 Permit revisions to the acid rain portion of a Class I permit shall be governed by Chapter 26.

003 Minor Permit Revisions

003.01 The minor permit revision procedures of this section may be used only for those operating permit revisions that:

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 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 which would require a construction permit under Chapter 17; and

003.01D2. An alternative emissions limit approved pursuant to Chapters 27 or 28;

003.01E Do not relate to a modifications which:

003.01E1. Requires a construction permit under Chapter 17;

003.01E2. Is defined as a modification under the General Provisions for the standards of performance for new stationary sources incorporated by reference in Chapter 18, 001.01; and

003.01E3. Is defined as a major modification subject to preconstruction review under Chapter 19.

003.01E4. Is defined as a modification under the National Emissions Standards for Hazardous Air Pollutants incorporated by reference in Chapter 23, 001.

003.01F Is not required by the Director to be processed as a significant revision; and

003.01G Involves 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:

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 A permittee may request a minor permit revision by submitting ~~the appropriate application forms for an operating or construction permit revision, as appropriate, and shall include~~ a request 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 ~~a~~ Class I and PSD construction minor permit revisions only, two extra copies of completed applications and information identified in 003.03A through 003.03C above for the Department to use to notify the Administrator of EPA and affected States.

003.04 For Class I operating permit and PSD construction permit revisions only, within five working days of receipt of a complete 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 requested permit revision. 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 requested permit revision. 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 Revise the draft permit revision and for Class I operating and PSD construction permit revisions only, transmit the new proposed permit to EPA for review as required in 003.04B above.

003.06 A source submitting a 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 comply shall 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.

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.

004.02 Group processing of revisions may only be used for those permit revisions:

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.

004.03 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:

004.03A 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;

004.03B The source's suggested draft permit language;

004.03C Certification by a responsible official, in accordance with Chapter 7, section 008, that the proposed revision meets the criteria for use of groups processing procedures and a request that such procedures be used;

004.03D 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;

004.03E For Class I permit revisions only, two extra copies of completed forms for the Department to use to notify the Administrator of EPA and affected States.

004.03E1 Within five working days of receipt of an 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.

004.03E2 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.

004.03E3 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 permitting authority 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 permit revisions only, transmit to the Administrator of EPA the new proposed permit revision as required by 004.03E3 above.

004.05 A source submitting a 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 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.

005.02 A permittee may request a significant permit revision by submitting the application forms and information ~~described~~ in accordance with ~~003.03~~ Chapter 7 for operation revisions or Chapter 17, section 014 for construction permit revisions.

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.

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.

006 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:

006.01A Additional applicable requirements under the Act or the State Act become applicable to a source holding a Class I or Class II

~~permitted source~~ 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.

006.01B Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program under Chapter 26.

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.

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.

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.

006.02 A permit may be revoked during its term for cause, including but not limited to:

006.02A The existence at the facility 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;

006.02B The permittee has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA;

006.02C The Director determines that the permitted facility 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 permittee has failed to pay a penalty owed pursuant to court order, stipulation and agreement, or order issued by the Administrator of EPA.

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 and publishing notice of such intent following the procedures applicable to permit issuance including public participation. The Department shall provide for EPA and affected states review for Class I and PSD construction permits only. Proceedings to reopen a permit shall affect only those parts of the permit for which cause to reopen exists. The Department shall provide a minimum 30 day public comment period unless the Director determines that an emergency exists which necessitates a shorter time period.

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.

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.

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.

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.

007 For Class I and Class II operating permits only, a permittee may make the following changes within a permitted facility without a permit revision, if the change is not a modification which would require a construction permit under Chapters 17, 18, 19, 23, 27, and 28, and the change does not result in the emissions allowable under the permit being exceeded, provided that the permittee provides the Director with written notification, as required below, a minimum of 30 days in advance of the proposed changes, unless the Director determines a shorter time is necessary for emergency reasons. The permittee shall attach a copy of the notice to its copy of the ~~Class I~~ operating permit. The permit shield described in Chapter 8, section 014, shall not apply to any change made under this section.

007.01 Changes in the configuration of the facility's equipment, defined as "Section 502(b) (10) changes", as defined in Chapter 1, provided that the written notification required above shall include:

007.01A A brief description of the change within the permitted facility,

007.01B The date on which the change will occur,

007.01C Any change in emissions, and

007.01D Any permit term or condition that is no longer applicable as a result of the change.

007.02 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 above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum,:

007.02A When the proposed change will occur,

007.02B A description of each such change,

007.02C Any change in emissions,

007.02D The regulatory provisions and permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and

007.02E The pollutants emitted subject to the emissions trade.

007.03 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:

007.03A When the change will occur,

007.03B A description of the changes in emissions that will result, and

007.03C How these increases and decreases in emissions will comply with the terms and conditions of the permit.

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); 81-1505(12)

Title 129

Chapter 15

Legal Citation: Title 129, Ch. 15, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 - 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 ~~the~~ 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 Forty (40) tons/year of sulfur dioxide (SO_2) or sulfur trioxide (SO_3), or any combination of the two.

001.01C Forty (40) tons/year of oxides of nitrogen (calculated as NO_2).

001.01D Forty (40) tons/year of volatile organic compounds (VOC).

001.01E Fifty (50) tons/year of carbon monoxide.

001.01F Six-tenths (0.6) tons/year of lead.

001.01G 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 313140;;

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. ~~A non-refundable fee based on the proposed potential to emit of the entire source shall be paid in full and shall accompany each application for a construction permit in accordance with the following:~~ 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 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 regulated 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 regulated 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 regulated air pollutant; or 10 tons or more per year of any single hazardous air pollutant (HAP); or 25 tons or more per year of any combination of HAPs	$3,000

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.

005 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 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:

	Averaging period				
Pollutant	Annual	24 hour	8 hour	3 hour	1 hour
SO_2	1.0 ug/m^3	5 ug/m^3	---	25 ug/m^3	---
PM_{10}	1.0 ug/m^3	5 ug/m^3	---	---	---
NO_2	1.0 ug/m^3	---	---	---	---
CO	---	---	0.5 mg/m^3	---	2 mg/m^3

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 313140;;

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 ~~Modifying~~ Revising existing construction permits to incorporate ~~modifications~~ significant permit revisions as defined in Chapter 15. ~~that cannot be processed under the provisions of Chapter 15, section 003.~~

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. 17, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 – Nebraska Air Quality Regulations

Chapter 19 – Prevention of Significant Deterioration of Air Quality (PSD

001 The following subsections of 40 CFR 52.21 published on July 1, 2004 are incorporated by reference into Chapter 19 of Title 129: ~~(b)(2)(iii) *(i), (j),* and *(k)* related to clean coal technology demonstration projects;~~ (b) (34), (35), (36), (37), and (38) definitions related to clean coal technology demonstration projects; (e) Restrictions on area classifications; (g) Redesignation; and (p) Sources impacting Federal Class I area.

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 sections 008.

004.05 If the emissions increase is significant, whether the net emissions increase, as defined in section 008, is significant as defined in section 009.

005 Baseline actual emissions (BAE) for a new unit is defined in section 005.12. 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, 1996.

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.~~02~~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.~~03~~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, ~~and~~ 008.02, and 008.03) equals or exceeds the significant amount for that pollutant, as described in section 010.

008.~~04~~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:

010.01 100 tons per year of carbon monoxide;

010.02 40 tons per year of nitrogen oxides;

010.03 40 tons per year of sulfur dioxide;

010.04 25 tons per year of particulate matter emissions;

010.05 15 tons per year of PM_{10} emissions;

010.06 For ozone, 40 tons per year of volatile organic compounds;

010.07 0.6 tons per year of lead;

010.08 3 tons per year of fluorides;

010.09 7 tons per year of sulfuric acid mist;

010.10 10 tons per year of hydrogen sulfide (H2S);

010.11 10 tons per year of total reduced sulfur compounds (including H_2S);

010.12 10 tons per year of reduced sulfur compounds (including H_2S);

010.13 For 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).

010.14 Municipal waste combuster metals (measured as particulate matter): 14 megagrams per year (15 tons per year);

010.15 For municipal waste combuster acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);

010.16 For municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year).

010.17 For any regulated NSR pollutant not listed in sections 010.01 through 010.16: any increase is significant.

Title 129

Chapter 19

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 that 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 which ever occurs first.

011.18 ~~Termination or e~~Expiration of a PAL. ~~The owner or operator of any source with a PAL that wishes to terminate such PAL prior to the end of the PAL effective period shall comply with the requirements in section 011.18~~. 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_{10}, annual arithmetic mean: 17 micrograms per cubic meter

012.02 PM_{10}, 24 hour maximum: 30 micrograms per cubic meter

012.03 Sulfur dioxide, annual arithmetic mean: 20 micrograms per cubic meter

012.04 Sulfur dioxide, 24 hour maximum: 91 micrograms per cubic meter

012.05 Sulfur dioxide, 3 hour maximum: 512 micrograms per cubic meter

012.06 Nitrogen dioxide, annual arithmetic mean: 25 micrograms per cubic meter

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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~~, provided, that ;~~ .

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.

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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 Particulate matter – 10 micrograms per cubic meter of PM_{10}, 24-hour average;

016.07A4 Sulfur dioxide – 13 micrograms per cubic meter, 24-hour average;

016.07A5 Ozone – no de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of VOCs subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

016.07A6 Lead - 0.1 micrograms per cubic meter, 3-month average;

016.07A7 Fluorides – 0.25 micrograms per cubic meter, 24-hour average;

016.07A8 Total reduced sulfur – 10 micrograms per cubic meter, 1-hour average;

016.07A9 Hydrogen sulfide – 0.2 micrograms per cubic meter, 1-hour average;

016.07A10 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 018.02 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 018.02 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 paragraph 018.02 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. 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

018.01 Any national ambient air quality standard in any air quality control region; or

018.02 Any applicable maximum allowable increase over the baseline concentration in any area.

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 013, 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 19. 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 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.

023.02 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.

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. ~~If the unit is an existing electric utility steam generating unit, t~~ 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

NEBRASKA ADMINISTRATIVE CODE

Title 129 - 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 001.01~~H~~G 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 001.01~~H~~G 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

NEBRASKA ADMINISTRATIVE CODE

Title 129 - 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, 2005, 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

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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

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01.28 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

001.38 Mineral Wool Production, Subpart DDD

001.39 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

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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 OOO

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

001.52 Solvent Extraction for Vegetable Oil Production, Subpart GGGG

001.53 Manufacturing of Nutritional Yeast, Subpart CCCC

001.54 Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units, Subpart UUU

001.55 Wet-Formed Fiberglass Mat Production, Subpart HHHH

001.56 Leather Finishing Operations, Subpart TTTT

001.57 Boat Manufacturing, Subpart VVVV

001.58 Metal Coil Surface Coating, Subpart SSSS

001.59 Cellulose Products Manufacturing, Subpart UUUU

001.60: Hazardous Waste Combustion, Subpart EEE.

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001.61: Tire Manufacturing, Subpart XXXX.

001.62: Large Appliance Surface Coating, Subpart NNNN.

001.63: Paper and Other Web Coating, Subpart JJJJ.

001.64: Municipal Solid Waste Landfills, Subpart AAAA.

001.65: Flexible Polyurethane Foam Fabrication, Subpart MMMMM.

001.66: Refractory Products Manufacturing, Subpart SSSSS.

001.67: Hydrochloric Acid Production, Subpart NNNNN.

001.68: Reinforced Plastics Composite Manufacturing, Subpart WWWW.

001.69: Asphalt Processing and Asphalt Roofing Manufacturing, Subpart LLLLL.

001.70: Brick and Structural Clay Products, Subpart JJJJJ.

001.71: Clay Ceramic Products, Subpart KKKKK.

001.72: Integrated Iron and Steel, Subpart FFFFF.

001.73: Metal Furniture Surface Coating, Subpart RRRR.

001.74: Engine Test Cells and Stands, Subpart PPPPP.

001.75: Wood Building Products Surface Coating, Subpart QQQQ.

001.76: Printing, Coating, and Dying of Fabrics and Other Textiles, Subpart OOOO.

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001.77: Site Remediation, Subpart GGGGG

001.78: Miscellaneous Organic Chemical Manufacturing, Subpart FFFF as revised at 71 Federal Register 10439 published on March 1 2006

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

001.88: Reciprocating Internal Combustion

001.89: Plywood and Composite Wood Products Surface Coating

001.90: Commercial, Industrial, and Institutional Boilers and Process Heaters, Subpart DDDDD

001.91: Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations, Subpart XX.

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002 Should the source need assistance in determining the CFR requirements the Department will provide the needed information on request.

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

Legal Citation: Title 129, Ch. 28, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 - Department of Environmental Quality

Chapter 34 - EMISSION SOURCES; TESTING; MONITORING

001 The Department may ~~require~~ 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. ~~Such a requirement shall be considered as an order and subject to all administrative and legal requirements specified.~~

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 12, 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 Revisions I , II and III, effective June 13, 1997.

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 45 days of completion of the test.

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.

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 5.

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 8;

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.

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Chapter 34
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 O_2 or CO_2 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:

009.04B3(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

009.04B3(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

009.04B4(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.

009.04B4(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.

009.04B4(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.

009.04B4(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)

Title 129

Chapter 34
Legal Citation: Title 129, Chapter 35, Nebraska Department of Environmental Quality

NEBRASKA ADMINISTRATIVE CODE

Title 129 - 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