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

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

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

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 113 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 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 113 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 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.

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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)~~ (A)(ii)or ~~(E)~~ (iii)of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal to or greater than one (1) microgram per cubic meter (annual average) ~~of the pollutant for which the minor source baseline date is established~~ for SO_2, NO_2, or PM_{10} ; or equal to or greater than 0.3 micrograms per cubic meter (annual average) for $PM_{2.5}$. .

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

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

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

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

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

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

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

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

“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.

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

032 “CO_2 equivalent emissions (CO_2e)” shall represent an amount of greenhouse gases (GHGs) emitted, and shall be computed by the sum total of multiplying the mass amount of emissions, in tons per year (tpy), for each of the six greenhouse

gases in the pollutant GHGs, by each of the gas's associated global warming potential (see definition for Global Warming Potential).

033 "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:

> 033.01 Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or
>
> 033.01 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.

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

035 "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).

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

037"Continuous emissions monitoring system (CEMS)" means all of the equipment that may be required to meet the data acquisition and availability requirements of this section, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

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

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

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

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

042 "Council" means the Environmental Quality Council.

043"Department" means the Department of Environmental Quality.

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

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

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

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

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

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

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

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

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

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

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.

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

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

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

057 "Federally enforceable" means all limitations, conditions, and requirements within any applicable State Implementation Plan, any permit requirements established in any permit issued pursuant to this Title, and any requirements in Chapters 18 and 23, 27, or 28 which are enforceable by the Administrator.

058 "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.

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

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

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

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

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

064 “Global Warming Potential” means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram- of a reference gas, i.e., CO_2. The pollutant greenhouse gases (GHGs) is adjusted to calculate CO_2 equivalence using “Table A-1 – Global Warming Potentials” at 40 CFR 98, Subpart A, as published at 74 Federal Register 56395 on October 30, 2009..

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

066 "Hazardous air pollutant" means any air pollutant:

066.01 listed in Appendix II, or

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

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

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

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

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

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

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

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

074 "Interstate air pollution control agency" means:

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

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

075 “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.

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

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

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

078.01 The most stringent emission limitation contained in the implementation plan of any state for such class or category of sources (as adopted by the Council) unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

078.02 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.

079 “Major emissions unit” means:

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

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

080 "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.

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

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

080.02A Routine maintenance, repair and replacement;

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

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

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

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

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

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

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

080.02G Any change in ownership at a stationary source.

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

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

080.02H2 Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

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

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

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

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

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

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

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

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

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

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

085 “Method 22” refers to a visual determination of fugitive emissions from material sources and smoke emissions from flares as defined in 40 CFR 60, Appendix A-7.

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

087 “Minor source baseline date” means the earliest date after the trigger date on which a major stationary source or a major modification subject to the Prevention of Significant Deterioration Program, as defined in Chapter 1, submits a complete permit application. The trigger date is, in the case of ~~particulate matter~~ PM_{10} and sulfur dioxide, August 7, 1977, ~~and,~~ in the case of nitrogen dioxide, February 8, 1988, and in the case of $PM_{2.5}$, October 20, 2011. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM_{10} increments, except that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

The baseline date is established for each pollutant for which increments or other equivalent measures have been established if the area in which the proposed source or modification would construct is designated as attainment or unclassifiable under

section 107(d)(i)~~(D)~~ (A)(ii) or ~~(E)~~ (iii)of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 or to Chapter 19; and, in the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

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

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

> 089.01 Routine maintenance, repair, and replacement (except as defined as reconstruction) shall not be considered physical changes; and
>
> 089.02 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.

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

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

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

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

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

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

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

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

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

092.02B The Director has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in actual emissions from the particular change occurs; and

092.03 An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor

source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

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

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

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

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

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

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

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

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

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

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

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

096 "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.

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

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

099 “PAL effective period” means the period beginning with the PAL effective date and ending 10 years later.

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

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

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

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

104 "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by the United States Environmental Protection Agency, or by a test method specified in an approved State Implementation Plan.

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

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

107 "Permit revision" means a revision to an operating or construction permit that meets the requirements of Chapter 15.

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

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

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

111 “Plantwide applicability limitation (PAL)” means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with Chapter 19, section 011.

112 "PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods.

113 "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 United States Environmental Protection Agency or by a test method specified in an approved State Implementation Plan.

114 Reserved.

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

116 "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a

stationary source. 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.

117 “Predictive emissions monitoring system (PEMS)” means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.

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

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

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

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

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

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

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

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

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

127 "Reconstruction" means a situation where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall 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.

128 "Region" means:

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

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

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

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130 "Regulated air pollutant" means the following:

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

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

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

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

130.04A Any pollutant subject to requirements under Chapter 27, 005; and

130.04B Any pollutant for which the requirements 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.

130.05 Greenhouse gases (GHGs) as follows:

130.05A Beginning July 1, 2011, the GHGs emissions are at a stationary source emitting or having the potential to emit 100,000 tons CO_2e or more.

131 "Regulated NSR pollutant" means the following:

131.01 Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator. ~~(e.g., volatile organic compound are precursors for ozone)~~; Precursors for the purpose of NSR are the following:

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

131.01B Sulfur dioxide and nitrogen oxides are precursors to $PM_{2.5}$ in all attainment and unclassifiable areas.

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

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

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

131.05 Greenhouse gases (GHGs) as follows:

131.05A Beginning January 2, 2011:

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

131.05A2 The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant,

and an emissions increase of 75,000 tons per year CO_2e or more; and

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

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

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

131.05C The term emissions increase as used in 131.05A and 131.05B shall mean that both a significant emissions increase (as calculated in Chapter 19, section 008) and a significant net emissions increase (as defined in Chapter 1, section 092 and Chapter 19, section 010) occur. For the pollutant GHGs, an emissions increase shall be based on tons per year CO_2e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and “significant” is defined as 75,000 tons per year CO_2e instead of applying the value in Chapter 19, section 010.1~~7~~8.

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

132.01 Carbon monoxide;

132.02 Particulate matter, excluding PM_{10};

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

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

132.05 Greenhouse gases (GHGs)

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

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

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

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

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

134.04 The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the

replaced unit is brought back into operation, it shall constitute a new emissions unit.

135 "Responsible official" means one of the following:

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

135.01A The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

135.01B The delegation of authority to such representatives is approved in advance by the permitting authority;

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

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

135.04 For affected sources:

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

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

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

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

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

139 "Section 502(b)(10) changes" are changes provided for in section 502 (b)(10) of the Act. These are changes allowed within a permitted facility without requiring a permit revision if the changes are not modifications under any provision of Title I of the Act and the changes do not exceed the emissions allowable under the permit .The facility must provide the Department with written notification in advance of the proposed changes at least 30 days in advance unless the Director determines a different timeframe due to an emergency.

140 "Significant" means, as pertains to a modification in a non-attainment area, a net increase in actual emissions by a rate that would equal or exceed the 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

$PM_{2.5}$: 10 tpy

Ozone: 40 tpy of volatile organic compounds or nitrogen oxides

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H_2S): 10 tpy

Total reduced sulfur (including H_2S): 10 tpy

Reduced sulfur compounds (including H_2S): 10 tpy

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year)

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

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfill emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

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

142 “Significant emissions unit” means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in section 13~~7~~40 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 07~~6~~9.

143 “Small emissions unit” means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in section 13~~7~~40 or in the Act, whichever is lower.

144 "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.

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

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

147 "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

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

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

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

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

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

153 "State Act" means the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 through §81-1533, as amended.

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

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

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

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

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

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

160 "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);

1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethylpentane (HFE-7300)

1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC-43-10mee)

Dichlorodifluoromethane (CFC-12);

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

1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb)

3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca)

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 [$(CF_3)_2CFCF_2OCH_3$];

dimethyl carbonate

Ethane;

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 ($C_4F_9OC_2H_5$) or HFE-7200;

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-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-245ea);

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

propylene carbonate

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

tetrachloroethylene (perchloroethylene or (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); HFC-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.

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

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

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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 Title 129, no person shall cause the construction, reconstruction, or modification at any of the following without first having obtained a construction permit from the Department in the manner prescribed by this Chapter:

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

001.01A Fifteen (15) tons/year of PM_{10} emissions.

001.01B Ten (10) tons/year of PM2.5 emissions.

001.01~~B~~C Forty (40) tons/year of sulfur dioxide (SO_2) or sulfur trioxide (SO_3), or any combination of the two.

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

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

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

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

001.01~~G~~H Two and one-half (2.5) tons/year of any hazardous air pollutant or an aggregate of ten (10) tons/year of any hazardous air pollutants, including all associated fugitive emissions (see Chapter 27, section 003).

001.02 When determining applicability under 001.01 above, sources in the following source categories must include fugitive emissions:

001.02A Coal cleaning plants (with thermal dryers);

001.02B Kraft pulp mills;

001.02C Portland cement plants;

001.02D Primary zinc smelters**;**

001.02E Iron and steel mills;

001.02F Primary aluminum ore reduction plants;

001.02G Primary copper smelters;

001.02H Municipal incinerators capable of charging more than 250 tons of refuse per day;

001.02I Hydrofluoric, sulfuric, or nitric acid plants;

001.02J Petroleum refineries;

001.02K Lime plants;

001.02L Phosphate rock processing plants;

001.02M Coke oven batteries;

001.02N Sulfur recovery plants;

001.02O Carbon black plants (furnace process);

001.02P Primary lead smelters;

001.02Q Fuel conversion plants;

001.02R Sintering plants;

001.02S Secondary metal production plants;

001.02T Chemical process plants – The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140;

001.02U Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;

001.02V Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

001.02W Taconite ore processing plants;

001.02X Glass fiber processing plants;

001.02Y Charcoal production plants;

001.02Z Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

001.02AA Any other stationary source category which is being regulated by a standard promulgated under Section 111 or 112 of the Act as of August 7, 1980.

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

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

003 The owner or operator of any source required to obtain a construction permit or requesting permit applicability under this Chapter, or submitting a significant permit revision, shall submit an application on forms provided by the Department.

003.01 Application Fee. Each application for a construction permit shall be accompanied by a non-refundable fee. The amount of the fee will be based on the amount of pollutants (including fugitive emissions) the entire source will directly emit or have the potential to emit, as follows:

Directly Emit or Have Potential to Emit:	Fee
Less than 50 tons per year of any ~~regulated~~ listed air pollutant; or Less than 2.5 tons per year of any single HAP; or Less than 10 tons per year of any combination of HAPs	$250
50 tons or more but less than 100 tons per year of any ~~regulated~~ listed air pollutant; or 2.5 tons or more but less than 10 tons per year of any single HAP~~s~~; 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~~ listed 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

003.02 Listed air pollutants for application fee purposes include PM_{10}, SO_2 or SO_3 or any combination of the two, NO_x, VOC, and CO.

004 An application will be deemed complete if it provides all the information required and is sufficient to evaluate the subject source and to determine all applicable requirements. The application shall be certified by a responsible official for the source.

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 violate any portion of these rules and regulations, violate any applicable federal air quality regulation, or interfere with attainment or maintenance of a National Ambient Air Quality Standard, no permit will be granted until necessary changes are made in the plans and specifications to obviate the objections to issuance.

009.02 A construction permit will not be issued for any major source or major modification when such source or modification would cause or contribute to a violation of a national ambient air quality standard by exceeding, at a minimum, the following significant levels at any locality that does not or would not meet the applicable national standard:

	Averaging period				
Pollutant	Annual	24 hour	8 hour	3 hour	1 hour
SO_2	1.0 *u*g/m^3	5 *u*g/m^3	---	25 *u*g/m^3	---
PM_{10}	1.0 *u*g/m^3	5 *u*g/m^3	---	---	---
$PM_{2.5}$	0.3 *u*g/m^3	1.2 *u*g/m^3			
NO_2	1.0 *u*g/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 312140;;

013.04U Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;

013.04V Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

013.04W Taconite ore processing plants;

013.04X Glass fiber processing plants;

013.04Y Charcoal production plants;

013.04Z Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

013.04AA Any other stationary source category which is being regulated by a standard promulgated under Section 111 or 112 of the Act as of August 7, 1980.

013.05 At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

014 Any source not required to obtain a construction permit pursuant to 001 may request a construction permit to be issued in the manner prescribed by 002 through 013 for the following purposes:

014.01 Establishing enforceable limits to avoid otherwise applicable requirements under the provisions of Title 129.

014.02 Revising existing construction permits to incorporate significant permit revisions as defined in Chapter 15.

014.03 Establishing a PAL pursuant to the provisions of Chapter 19 of Title 129. The construction permit used to establish a PAL must include the information and conditions listed in Chapter 19, section 011.06**.**

014.04 Establishing a Best Available Retrofit Technology (BART) permit or other permit required to reduce visibility impairment in a Class I Federal area pursuant to the provisions of Chapter 43.

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

Legal Citation: Title 129, Ch. 17, Nebraska Department of Environmental Quality

 Changes for December 2011 EQC are on pages 17-1, 17-4, and 17-6.

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, 20~~04~~09 are incorporated by reference into Chapter 19 of Title 129: (b) (34), (35), (36), (37), and (38) definitions related to clean coal technology demonstration projects; (e) Restrictions on area classifications; and (g) Redesignation~~;~~. ~~and~~ 40 CFR 52.21 (p), "Sources impacting Federal Class I area", as published at 75 Federal Register 64906 is incorporated by reference into Chapter 19 of Title 129.

002 The requirements of this chapter apply to the construction of any new major stationary source or the major modification of any existing major stationary source, as defined in Chapter 2, section 008. The provisions of this chapter apply only to sources located in areas designated as attainment or unclassifiable. Sources not subject to PSD review may still require a construction permit pursuant to provisions in Chapter 17.

003 Prior to beginning actual construction of a new major stationary source or a major modification of an existing major stationary source, the owner or operator must obtain a permit, issued by the Department, stating that the source will comply with the requirements of this chapter.

004 For any construction project at an existing major stationary source, the owner or operator must determine if the project is a major modification for a regulated NSR pollutant by assessing the following criteria:

> 004.01 The status of each relevant emissions unit, either new or existing, as defined in Chapter 1, section 051.
>
> 004.02 The baseline actual emissions (BAE) for each unit, as defined in section 005.
>
> 004.03 The projected actual emissions (PAE) or potential to emit (PTE) for each unit, as defined in sections 006 and 007.

004.04 Whether the emissions increase (PAE (or PTE) minus BAE) is significant, as defined in section 008.

004.05 If the emissions increase is significant, whether the net emissions increase, as defined in section 00~~8~~9, is significant as defined in section ~~009~~ 010.

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.

008.03 Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the PTE from each new emissions unit following completion of the project and the BAE of these units before the project equals or exceeds the significant amount for that pollutant, as described in section 010.

008.04 Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for all emissions units involved in the project (using the methods specified in sections 008.01, 008.02, and 008.03) equals or exceeds the significant amount for that pollutant, as described in section 010.

008.05 For any major stationary source with a Plant-wide Applicability Limit (PAL) for a regulated NSR pollutant, the major stationary source shall comply with the requirements in section 011.

009 If a project results in a significant emissions increase as calculated in section 008, then a determination must be made as to whether the project also results in a significant net emissions increase. The net emissions increase is the amount over zero of the sum of the emissions increase and any other increases and decreases in actual emissions at the major stationary source that are contemporaneous (as defined in section 009.01) with the project and are otherwise creditable. BAE for calculating such increases and decreases shall be as defined in section 005.

009.01 An increase or decrease in actual emissions is contemporaneous with the increase from the project for which an emissions increase has been calculated in section 008 only if it occurs between the date five years before the source begins actual construction (as defined in Chapter 1, section 023) of the project and the date that the increase from the project occurs.

009.02 An increase or decrease is creditable only if the Department has not relied on it in issuing a PSD permit for the source which was in effect when the increase from the project occurred.

010 Significant means, in reference to an emission increase or a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

010.01 Carbon monoxide: 100 tons per year ~~of carbon monoxide;~~

010.02 Nitrogen oxides: 40 tons per year ~~of nitrogen oxides;~~

010.03 Sulfur dioxide: 40 tons per year ~~of sulfur dioxide;~~

010.04 Particulate matter (PM): 25 tons per year ~~of particulate matter emissions;~~

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

010.06 $PM_{2.5}$: 10 tons per year of direct PM2.5 emissions; 40 tons per year of sulfur dioxide emissions; 40 tons per year of nitrogen oxide emissions.

010.0~~6~~7 Ozone: ~~For ozone,~~ 40 tons per year of volatile organic compounds or nitrogen oxides;

010.0~~7~~8 Lead: 0.6 tons per year ~~of lead;~~

010.0~~8~~9 Flouride: 3 tons per year ~~of fluorides;~~

010.~~09~~10 Sulfuric acid mist: 7 tons per year ~~of sulfuric acid mist;~~

010.1~~0~~1 Hydrogen sulfide (H_2S): 10 tons per year ~~of hydrogen sulfide~~

010.1~~1~~2 Total reduced sulfur compounds (including H_2S): 10 tons per year ~~of total reduced sulfur compounds (including H_2S);~~

010.1~~2~~3 Reduced sulfur compounds (including H_2S): 10 tons per year ~~of reduced sulfur compounds (including H_2S);~~

010.1~~3~~4 ~~For m~~Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2 x 10^{-6} megagrams per year (3.5 x 10^{-6} tons per year).

010.1~~4~~5 Municipal waste combuster metals (measured as particulate matter): 14 megagrams per year (15 tons per year);

010.15~~6~~ ~~For m~~Municipal waste combuster acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);

010.16~~7~~ ~~For m~~Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year).

010.17~~8~~ For any regulated NSR pollutant not listed in sections 010.01 through 010.16~~7~~: any increase is significant.

011 Actuals PALs. The term "Plantwide Applicability Limitations" (PAL) refers to an "actuals PAL" in the following sections. The Department may approve a PAL in accordance with the following requirements:

011.01 A PAL may only be approved for an existing major stationary source.

011.02 The PAL shall impose an annual emission limitation in tons per year that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

011.03 Any physical change or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets all requirements in section 013 and complies with the provisions of the construction permit establishing the PAL:

011.03A Is not considered a major modification for the PAL pollutant; and

011.03B Is not subject to the provisions in Chapter 19, sections 024.02.

011.04 Except as provided under section 011.03B, a major stationary source shall continue to comply with all applicable Federal or State requirements, emission limitations and work practice requirements that were established prior to the effective date of the PAL.

011.05 Permit application to establish a PAL. An owner or operator of a major stationary source wishing to establish a PAL must submit to the Department the following information:

011.05A A list of all emissions units at the source and each unit's designation as small, significant or major based on its PTE.

011.05B An indication of which, if any, Federal or State applicable requirements, emission limitations, or work practices apply to each unit and, if any do so, whether such requirements, emission limitations, or work practices were taken to comply with BACT.

011.05C Calculations of the BAE with supporting documentation.

011.05D The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by 011.12.

011.06 The PAL shall be established in a construction permit in accordance with Chapter 17. The construction permit establishing the PAL shall include the following information and conditions:

011.06A The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

011.06B Each PAL shall regulate emissions of only one pollutant.

011.06C Each PAL shall have an effective period of 10 years.

011.06D The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in sections 011.12, 011.13, and 011.14 for each emissions unit under the PAL throughout the PAL effective period.

011.06E The PAL pollutant and the applicable source-wide emissions limitation in tons per year.

011.06F The PAL effective date and expiration date.

011.06G Specification that if the owner or operator of the source with a PAL applies to renew a PAL in accordance with section 011.15 before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised permit renewing the PAL is issued or denied by the Department.

011.06H A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

011.06I A requirement that, once a PAL expires, the major stationary source is subject to the requirements under section 011.18.

011.06J The calculation procedures that the owner or operator of the source shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by section 011.12.

011.06K A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provision under section 011.12.

011.06L A requirement to retain the records required under section 011.13 onsite. Such records may be retained in an electronic format.

011.06M A requirement to submit the reports required under section 011.14 by the required deadlines.

011.06N At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under Chapter 17, section 013.03, unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL

011.06O Any other requirements that the Department deems necessary to implement and enforce the PAL.

011.07 Setting the PAL emissions level. The PAL level for a major stationary source shall be established as the sum of the BAE of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant under section 010 or under the Act, whichever is lower. Emissions associated with units that were permanently shut down after the 24-month period used for the BAE must be subtracted from the PAL level. Emissions from units on which actual construction began after the 24-month period must be added to the PAL level in an amount equal to the PTE of the units. The Department shall specify a reduced PAL level in tons per year in the construction permit establishing the PAL to become effective on the future compliance date(s) of any applicable Federal or State regulatory requirement(s) that the Department is aware of prior to issuance of the construction permit establishing the PAL.

011.08 During the PAL effective period, the Department is required to reopen the construction permit to:

011.08A Correct typographical or calculation errors made in setting the PAL or to reflect a more accurate determination of emissions used to establish the PAL.

011.08B Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Chapter 17, section 013.03.

011.08C Revise the PAL to reflect an increase in the PAL as provided in section 011.11.

011.09 During the PAL effective period the Department may, at its discretion, reopen the construction permit to:

011.09A Reduce the PAL to reflect newly applicable Federal requirements with compliance dates after the PAL effective date.

011.09B Reduce the PAL consistent with any other requirement, such as statute, rule, or court decision that is enforceable as a practical matter.

011.09C Reduce the PAL if the Department determines that a reduction is necessary to avoid causing or contributing to a NAAQS or PSD increment violation, or to an adverse impact on an Air Quality Related Values (AQRV) that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

011.10 Except for the permit reopening to correct typographical errors or calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with public participation procedures in Chapter 14.

011.11 Increasing a PAL emission limitation during the PAL effective period.

011.11A A PAL emission limitation may be increased during the PAL effective period only if the owner or operator of the major stationary source complies with the following:

011.11A1 The owner or operator shall submit a complete construction permit application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

011.11A2 As part of this application, the owner or operator shall demonstrate that the sum of the BAE of the small emissions units, plus the sum of the BAE of the significant and major emissions units (assuming application of BACT equivalent controls), plus the sum of the allowable emissions of the new or modified emissions unit(s), exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT with which that emissions unit must currently comply.

011.11A3 The owner or operator must obtain a major PSD permit for all emissions unit(s) identified in section 011.11A1, without regard to whether the increase in emissions for the unit will be significant. These emissions unit(s) shall comply with any emissions requirements resulting from the major PSD process, even though they have also become subject to the PAL or continue to be subject to the PAL.

011.11A4 The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

011.11B The Department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the BAE of the significant and major emissions units (assuming application of BACT equivalent controls), plus the sum of the BAE of the small emissions units.

011.11C The construction permit reflecting the increased PAL level shall be issued pursuant to compliance with requirements for public participation in Chapter 14.

011.12 Monitoring requirements for PALS. Each operating permit that includes a PAL must contain enforceable requirements for the monitoring system that accurately determines plant-wide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for a PAL must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the permit that includes the PAL. Failure to use a monitoring system that meets the requirements of section 011.12 renders the PAL invalid. The PAL monitoring system must employ one of the monitoring approaches listed in sections 011.12A through 011.12D or an alternative approach approved by the Department:

011.12A CEMS which meet the following requirements:

011.12A1 CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and

011.12A2 CEMS must sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

011.12B PEMS which meet the following requirements:

011.12B1 Any PEMS must be approved for use by the Department in accordance with Chapter 34, section 009.

011.12B2 Any PEMS approved for use in accordance with Chapter 34, section 009 must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Department, while the emissions unit is operating.

011.12C Emissions factors which meet the following requirements:

011.12C1 All emissions factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

011.12C2 The emissions unit shall operate within the designated range of use for the emissions factor if applicable; and

011.12C3 If technically practicable, the owner or operator of a significant emissions unit that relies on an emissions factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emissions factor in accordance with Chapter 34, section 007, unless the Department determines that such testing is not required.

011.12D Mass balance calculations for activities using coatings or solvents which meet the following requirements:

011.12D1 Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

011.12D2 Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

011.12D3 Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

011.12E An owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the permit.

011.12F Notwithstanding the requirements in sections 011.12A through 011.12D, where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Department shall, at the time of permit issuance:

011.12F1 Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s); or

011.12F2 Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.

011.12G Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Department. Such testing must occur at least once every five years after issuance of the PAL.

011.13 Recordkeeping requirements. The construction permit which contains the PAL shall require the owner or operator to retain a copy of all records necessary to determine compliance with any requirement of section 011 and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record. Such permit shall also require the owner or operator to retain a copy of the following records, for the duration of the PAL effective period plus five years:

011.13A A copy of the permit application requesting a PAL and applications for revisions to the PAL; and

011.13B Each annual certification of compliance pursuant to Chapter 8, section 012.05 and the data relied on in certifying the compliance.

011.14 Reporting and notification requirements. The owner or operator shall submit the following reports to the Department in accordance with Chapter 8, sections 004.03 and 004.04:

011.14A Semiannual report. The semiannual report shall be submitted to the Department within 30 days of the end of each reporting period. This report shall contain the following information:

011.14A1 The identification of the owner or operator and the permit number.

011.14A2 Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to section 011.13.

011.14A3 All data relied upon, including but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

011.14A4 A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

011.14A5 The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

011.14A6 A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by section 011.12E.

011.14A7 A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

011.14B Deviation report. The owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where no monitoring is available. A report submitted pursuant to Chapter 8, section 004.03B including

time limits, shall satisfy this reporting requirement. The reports shall contain the following information:

011.14B1 The identification of the owner or operator and the permit number;

011.14B2 The PAL requirement that experienced the deviation or that was exceeded;

011.14B3 Emissions resulting from the deviation or the exceedance; and

011.14B4 A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

011.14C Re-validation results. The owner or operator shall submit to the Department the results of any re-validation test or method within 45 days after completion of such test or method.

011.15 PAL Renewal. The owner or operator of a source with a PAL may apply for PAL renewal no sooner 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 Expiration of a PAL.Any PAL that is not renewed in accordance with the procedures in section 011.15 shall expire at the end of the PAL effective period and the requirements in section 011.18 shall apply. If an application for PAL renewal is denied, the PAL shall expire on the date the application is denied and the requirements in section 011.18 shall apply:

011.18A Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emissions limitation under a new construction permit established as a major modification, as specified below:

011.18A1 Within the time frame specified for PAL renewals in section 011.15, the source shall submit a proposed allowable emissions limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate as decided by the Department) by distributing the PAL allowable emissions for the source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under section 011.17D, such distribution shall be made as if the PAL had been adjusted.

011.18A2 The Department shall decide whether and how the PAL allowable emissions will be distributed and issue a construction permit incorporating allowable limits for each

emissions unit, or each group of emissions units, as the Department determines is appropriate.

011.18B Each emissions unit(s) shall comply with the allowable emissions limitation on a 12-month rolling basis. The Department may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS or PEMS to demonstrate compliance with the allowable emissions limitation.

011.18C Until the Department issues the new construction permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under section 011.18A, the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emissions limitation.

011.18D Any physical change or change in the method of operation at the major stationary source will be subject to major PSD requirements if such change meets the definition of major modification in Chapter 1, section 076.

011.18E The major stationary source owner or operator shall continue to comply with any State or Federal applicable requirements that may have applied either during the PAL effective period or prior to the PAL effective period except for those emissions limitations that had been established pursuant to section 024.02, but were eliminated by the PAL in accordance with section 011.11.

012 Ambient air increments. For any period other than an annual period listed below, the applicable maximum allowable increase may be exceeded during one such period per year at any one location. In any area of the state, increases in pollutant concentration over the baseline concentration shall be limited to the following:

012.01 $PM_{2.5}$ annual arithmetic mean: 4 micrograms per cubic meter

012.02 $PM_{2.5}$ 24 hour maximum: 9 micrograms per cubic meter

012.0~~1~~3 PM_{10}, annual arithmetic mean: 17 micrograms per cubic meter

012.0~~2~~4 PM_{10}, 24 hour maximum: 30 micrograms per cubic meter

012.0~~3~~5 Sulfur dioxide, annual arithmetic mean: 20 micrograms per cubic meter

012.0~~4~~6 Sulfur dioxide, 24 hour maximum: 91 micrograms per cubic meter

012.0~~6~~7 Sulfur dioxide, 3 hour maximum: 512 micrograms per cubic meter

012.0~~7~~8 Nitrogen dioxide, annual arithmetic mean: 25 micrograms per cubic meter

013 Ambient air ceilings. No concentration of a pollutant shall exceed:

013.01 The concentration permitted under the national secondary ambient air quality standard, or

013.02 The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

014 Exclusions from increment consumption. The concentrations listed in sections 014.01 through 014.04 shall be excluded in determining compliance with a maximum allowable increase. No exclusions of concentrations referred to in sections 014.01 and 014.02 shall apply more than five years after the effective date of the applicable order or plan.

014.01 Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order.

014.02 Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

014.03 Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and

014.04 The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

015 Stack heights. Requirements for control of pollutants under this chapter shall be in accordance with Chapter 16.

016 Exemptions for particular major stationary source or major modification. The requirements of sections 017 through 024 shall not apply to a particular major stationary source or major modification if:

016.01 The source or major modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution and the Governor of the State of Nebraska requests that it be exempt from those requirements;

016.02 The source or major modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the PTE of the stationary source or modification and the source does not belong to any of the categories listed in Chapter 2, sections 002.01 through 002.27.

016.03 The source or major modification is a portable stationary source which has previously received a permit under requirements equivalent to those in sections 017 through 024, if

016.03A The owner or operator proposes to temporarily relocate the source so that emissions at the new location would be temporary; and

016.03B The emissions for the source would not exceed its allowable emissions; and

016.03C The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

016.03D Notice of relocation is given to the Department in accordance with Chapter 10.

016.04 Requirements equivalent to those in sections 017 through 024 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or major modification is located in an area designated as nonattainment under section 107 of the Act.

016.05 Requirements equivalent to those contained in sections 018, 020, and 022 do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a major modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

016.06 Requirements equivalent to those contained in sections 018, 020, and 022 as they relate to any maximum allowable increase for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tons per year.

Title 129

Chapter 19

016.07 The Department may exempt a proposed major stationary source or major modification from the requirements of section 020, with respect to monitoring for a particular pollutant, if:

016.07A The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a major modification would cause, in any area, air quality impacts less than the following amounts:

016.07A1 Carbon monoxide – 575 micrograms per cubic meter, 8-hour average;

016.07A2 Nitrogen dioxide – 14 micrograms per cubic meter, annual average;

016.07A3 PM2.5 – 4 micrograms per cubic meter, 24-hour average;

016.07A~~3~~4 ~~Particulate matter~~ PM_{10} – 10 micrograms per cubic meter ~~of PM_{10}~~, 24-hour average;

016.07A~~4~~5 Sulfur dioxide – 13 micrograms per cubic meter, 24-hour average;

016.07A~~5~~6 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.

016.07A~~6~~7 Lead - 0.1 micrograms per cubic meter, 3-month average;

016.07A~~7~~8 Fluorides – 0.25 micrograms per cubic meter, 24-hour average;

016.07A~~8~~9 Total reduced sulfur – 10 micrograms per cubic meter, 1-hour average;

016.07A~~9~~10 Hydrogen sulfide – 0.2 micrograms per cubic meter, 1-hour average;

016.07A1~~0~~1 Reduced sulfur compounds – 10 micrograms per cubic meter, 1-hour average; or

016.07B The concentrations of the pollutant in the area that the source or major modification would affect are less than the concentrations listed in section 016.07A; or

016.07C The pollutant is not listed in section 016.07A.

016.08 Permitting requirements equivalent to those contained in section 018.01B do not apply to a stationary source or modification with respect to any maximum allowable increase for nitrogen oxides if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved or promulgated under the Act before the provisions embodying the maximum allowable increase took effect as part of the plan and the Department subsequently determined that the application as submitted before that date was complete.

016.09 Permitting requirements equivalent to those contained in section 018.01B shall not apply to a stationary source or modification with respect to any maximum allowable increase for PM_{10} if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM_{10} took effect as part of the plan, and the Department subsequently determined that the application as submitted before that date was complete. Instead, the applicable requirements equivalent to ~~paragraph~~ section 018.0~~2~~1B shall apply with

respect to the maximum allowable increases for TSP as in effect on the date the application was submitted.

017 Control technology review.

017.01 A major stationary source or major modification shall meet each applicable emissions limitation under the SIP and each applicable emission standard and standard of performance under Chapters 18 and 23.

017.02 A new major stationary source shall apply best available control technology (BACT) for each regulated NSR pollutant that it would have the potential to emit in significant amounts.

017.03 A major modification shall apply BACT for each regulated NSR pollutant for which it would be a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

017.04 For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the earliest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

018 Source impact analysis.

018.01 Required Demonstration. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, (including secondary emissions) would not cause or contribute to air pollution in violation of

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

018.01B Any applicable maximum allowable increase over the baseline concentration in any area.

018.02 Significant impact levels. For purposes of $PM_{2.5}$, the demonstration required in section 018.01 of this chapter is deemed to have been made if the emissions increases of the new stationary source alone or from the modification alone would cause, in all areas, air quality impacts less than the following amounts:

018.02A $PM_{2.5}$ – 0.3 micrograms per cubic meter, annual average;

018.02B $PM_{2.5}$ - 1.2 micrograms per cubic meter, 24-hour average

019 Air quality models.

019.01 All applications of air quality modeling referred to in Chapter 19 shall be based on the applicable models, data bases, and other requirements specified in 40 CFR 51, appendix W (Guideline on Air Quality Models).

019.02 Where an air quality model specified in 40 CFR 51, appendix W (Guideline on Air Quality Models) is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis adopted by the Department. Written approval of the Administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures set forth in Chapter 14.

020 Air quality analysis.

020.01 Pre-application analysis.

020.01A Any application for a major PSD permit shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

020.01A1 For the source, each pollutant that it would have the potential to emit in a significant amount;

020.01A2 For the major modification, each pollutant for which it would result in a significant net emissions increase.

020.01B With respect to any pollutant for which no NAAQS exists, the analysis shall contain such air quality monitoring data as the Department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

020.01C With respect to any pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

020.01D The continuous air monitoring data that is required shall have been gathered over a period of one year and shall represent the year preceding receipt of the application, except that, if the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not less than four months), the data that is required shall have been gathered over at least that shorter period.

020.01E The owner or operator of a proposed major stationary source or major modification of volatile organic compounds (VOCs) who satisfies all conditions of Chapter 17, section 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~~ incomplete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that

an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.

023.02 If the Department does not determine that the application is ~~not~~ incomplete, the application is automatically deemed to be complete 60 days after it was received by the Department. Nothing in this section shall prohibit the Department from requesting additional information that is necessary to evaluate or take final action on the application or release the applicant from providing such information.

023.03 Within one year after receipt of a complete application, the Department shall make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

023.04 The Department shall provide opportunity to the public to submit comments or request a public hearing on every PSD permit application approved or approved with conditions, in accordance with section 010 of Chapter 14.

024 Source obligation.

024.01 Approval to construct and issuance of a major PSD construction permit shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state or Federal law.

024.02 At any time that a source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of sections 016 through 024 shall apply to the source or modification as though construction had not yet commenced on the source or modification.

024.03 The following provisions apply to projects at existing emissions units at a major stationary source where the project is not a part of a major modification and where the owner or operator elects to use the method specified in sections 006.01 through 006.04 for calculating projected actual emissions.

024.03A Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

024.03A1 A description of the project;

024.03A2 Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

024.03A3 The applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the BAE, the PAE, and any netting calculations if applicable. The owner or operator must also include the amount of emissions excluded due to demand growth, as defined in section 006.04, and an explanation for why such amount was excluded.

024.03B Before beginning actual construction, the owner or operator shall meet face-to-face with a Department representative to discuss the PAE determination, and shall provide a copy of the information set out in section 024.03A to the Department. The owner or operator of such a unit is not required to obtain any determination from the Department before beginning actual construction.

024.03C The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in section 024.03A2 and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of

five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

024.03D If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Department within 60 days after the end of each calendar year during which records must be generated under section 024.03C, setting out the unit's annual emissions during the calendar year that preceded submission of the report.

024.03E If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the Department if the annual emissions, in tons per year, from the project identified in section 024.03A exceed the BAE (as documented and maintained pursuant to section 024.03A3) by 80 percent of the significant amount for that regulated NSR pollutant, as listed in section 010. Such report shall be submitted to the Department within 60 days after the end of such calendar year. The report shall contain the following:

024.03E1 The name, address and telephone number of the major stationary source;

024.03E2 The annual emissions as calculated pursuant to section 024.03E.

024.03E3 An explanation as to whether the emissions differ from the preconstruction projections, and, if so, why.

024.03F A PSD construction permit is required for each unit with annual net emissions of a regulated NSR pollutant exceeding the

significant level listed in section 010 notwithstanding PAE below the significant level.

024.04 The owner or operator shall make the information required to be documented and maintained pursuant to section 024.03 available for review upon request for inspection by the Department or the general public pursuant to the requirements contained in Chapter 14.

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

Enabling Legislation: Neb.Rev.Stat. §§81-1504(1)(2); 81-1505(12)
Legal Citation: Title 129, Ch.19, Nebraska Department of Environmental Quality

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~~G~~H 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~~G~~H 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

Changes for December 2011 EQC are on page 27-1.