NEBRASKA ADMINISTRATIVE CODE

Title 129 – Department of Environmental Quality

Chapter 42 – PERMITS-BY-RULE

001 General Provisions. An owner or operator of a source may apply for coverage under a permit-by-rule if the following criteria are met:

001.01 The source, including any proposed emission units, is not subject to review under the prevention of significant deterioration program in Chapter 19 of this Title, nor will it be operated as a major source pursuant to the Class I operating permit program under Chapter 5 of this Title.

001.02 The permit-by-rule provisions shall not supersede any applicable federal regulations such as New Source Performance Standards.

001.03 The Director has established a permit-by-rule for the industry category in this chapter.

001.04 The responsible official for the source certifies that it will comply with the applicable permit-by-rule.

001.05 The source defines its plant boundaries (consistent with worst case modeling) and prohibits access, to the Department's satisfaction, by the general public to plant operations and to non-ambient air which is potentially harmful to human health.

001.06 Unless specifically authorized by the permit-by-rule, the source will not be located or relocated in a non-attainment area or within five miles of Weeping Water, Nebraska.

001.07 Records shall be collected and maintained as described for each applicable permit-by-rule and retained for a period of not less than five years and shall be made available to the Department for review upon request.

002 Construction Permits. Any source approved for coverage under a permit-by-rule shall be considered to have fulfilled the duty to obtain a construction permit under Chapter 17 of this Title, unless required to do so elsewhere under this Title or the Act. For approved sources, compliance with the permit-by-rule shall take precedence over requirements of previously issued construction permits applicable solely to the

approved source, except for provisions in sections 002.01 and 002.02.

002.01 The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued construction permits, unless a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

002.02 The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued construction permits, unless the owner/operator can demonstrate that there was no regulatory requirement to limit the source's potential to emit in the previously issued construction permits.

003 Operating Permits. Any source approved for coverage under a permit-by-rule shall be considered to have fulfilled the duty to obtain an operating permit under Chapter 5 of this Title, unless required to do so elsewhere under this Title or the Act, except for provisions in sections 003.01 and 003.02.

003.01 The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued operating permits, unless a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

003.02 The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued operating permits, unless the owner/operator can demonstrate that there was no regulatory requirement to limit the source's potential to emit in the previously issued operating permits.

004 Approval Procedures

004.01 Notice of Intent

004.01A New Sources. The owner or operator of a new source intending to be covered under a permit-by-rule shall submit a complete Notice of Intent Form provided by the Department to the Department at least 45 calendar days prior to the planned date of beginning actual construction, reconstruction or modification of a source that would otherwise be subject to permit requirements under Chapter 17 of this Title; or

004.01B Existing Sources with an Operating Permit. The owner or operator of a source in existence on the effective date of the permit-by-rule intending to be covered under provisions of this chapter in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete

Notice of Intent Form to the Department no sooner than 18 and no later than 6 months prior to the expiration date of the existing operating permit issued pursuant to Chapter 5; or

004.01C Existing Sources without an Operating Permit. The owner or operator of a source in existence on the effective date of the permit-by-rule intending to be covered under provisions of this chapter in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete Notice of Intent Form to the Department within 12 months of the date on which the source first becomes operational or otherwise subject to the requirement to obtain an operating permit; or

004.01D Existing Temporary Sources. The owner or operator of a temporary source in existence on the effective date of the permit-by- rule intending to be covered under a permit-by-rule in lieu of obtaining an operating permit under the provisions of Chapter 5 shall submit a complete Notice of Intent Form to the Department at least 45 calendar days prior to relocation of the source. The Notice of Intent Form shall be accompanied by the information required in Chapter 10 sections 002.02A through 002.02G.

004.02 Department Review

004.02A If the Department fails to provide the source written notice of its decision to approve or disapprove the Notice of Intent Form or request additional information within 30 calendar days, the responsible official for the source may submit a written request to the Director to make a decision on the Notice of Intent request.

004.02B Written Request for Decision by Director. Upon receiving a written request for a decision on the Notice of Intent form, the Director shall, in a timely manner, determine whether to approve or disapprove the request. The Director will provide written notice of the decision to the responsible official for the source.

004.03 Department approval. Department approval of the Notice of Intent Form request shall be in writing. Upon approval, the source may begin construction and/or operation under the provisions of the applicable permit by rule.

004.04 Department disapproval. In the event the Department disapproves the Notice of Intent request, the owner or operator must either resolve the issues for disapproval or apply for a permit under the provisions of Chapters 5, 10 and/or 17.

004.05 At the Director's discretion, the source may be required to conduct an air quality impact analysis as a part of a permit-by-rule application. Such determination shall be consistent with the Nebraska Atmospheric Dispersion Modeling Guidance for Permits. Meteorological and operating conditions that may

occur that will produce the greatest concentrations of the pollutants emitted shall be used in evaluating the effect of the source(s) on air quality.

004.06 The Department reserves the right to disapprove a request for coverage under the permit-by-rule if the Director believes the emissions from the source may adversely affect human health or the environment, the source is not in compliance with air quality rules or regulations, or the source does not meet the criteria in 001.

005 Temporary Sources. Temporary sources approved to construct and operate under a permit-by-rule shall:

005.01 Notify the Director at least 20 calendar days in advance of each change in location by providing the information required by Chapter 10 sections 002.02A through 002.02G.

005.01A If the proposed location is in Lancaster County, the source shall also notify the Air Quality Program of the Lincoln-Lancaster County Health Department at least 20 days in advance of the proposed change. An additional permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

005.01B If the proposed location is in Douglas County, the source shall also notify the Omaha Air Quality Control Agency at least 20 days in advance of the proposed change. An additional permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

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

006 Duty to Comply. Each source approved for coverage under a permit-by-rule must comply with all the sections of this chapter applicable to the source. Any non-compliance with the permit-by-rule shall constitute a violation of the State Act and the Act, and is grounds for enforcement action; for requiring permits under Chapters 17 and/or 5; or for disapproving of the Notice of Intent to construct and/or operate under the permit-by-rule.

007 Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under Title 129 or the Act not specifically addressed in this chapter.

008 Duty to Provide Requested Information. Additional information, such as an

annual emissions inventory as required in Chapter 6, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 4, must be provided upon Department request.

009 Annual Certifications of Compliance. Sources approved for coverage under a permit-by-rule shall complete and submit to the Department an annual certification of compliance on forms acceptable to the Department by March 31.

010 Certifications. Each Notice of Intent Form, copy of records, annual emissions inventory, annual certification of compliance statements or other information submitted to the Department pursuant to this chapter shall contain a certification signed by a "responsible official", as described in Chapter 1~~ section 098~~, stating that, based on information and belief formed after reasonable inquiry, the information provided is true, accurate, and complete.

011 Permit-by-Rule for Hot Mix Asphalt Plants. For purposes of this regulation, a hot mix asphalt plant is a facility that is comprised of any combination of the following: generators; heaters; dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing aggregate materials; systems for mixing hot mix asphalt; and associated emission control systems. Hot mix asphalt plants may be approved to be constructed and/or operated pursuant to the provisions of this chapter if they certify they will comply with sections 001 through 010 above and each of the following:

011.01 The owner or operator shall use an air emissions computation program provided by the Department to establish hourly production limits and hourly generator combustion limits as described in sections 011.03C and 011.05. The owner or operator shall submit input and output files computed by the program as part of the certified Notice of Intent. Upon receipt of these files, the Department will use the submitted data to run a dispersion model to establish hourly limits that comply with the NAAQS. The source shall comply with these limits. The NDEQ modeler will provide a memo to the source and the source's NDEQ file documenting the calculated limits.

011.02 Upon relocation of a temporary source, the owner or operator shall use the parameters of the new site as input for an air emissions computation computer program provided by the Department. The source shall certify the output files generated by the air emissions computation computer program and submit them to the Department for establishment of hourly limits as described in section 011.01.

011.03 Production Limits

011.03A For batch mix asphalt plants, the production of asphalt shall not exceed a maximum rate of 250,000 tons per calendar month and 400,000 tons per consecutive twelve (12) calendar months.

011.03B For drum mix asphalt plants, the production of asphalt shall not exceed a maximum rate of 500,000 tons per calendar month and 850,000 tons per consecutive twelve (12) calendar months.

011.03C The owner or operator shall use an air emissions computation computer program provided by the Department to establish the plant capacity on a ton-per-hour basis. The Department will use the data provided by the owner or operator in a dispersion model to establish production limits that are in compliance with the NAAQS.

011.04 The generators shall not combust more than 75,000 gallons of diesel fuel per calendar month and 250,000 gallons of diesel fuel per consecutive twelve (12) calendar months; or if it is more practical for the source to keep track of hours of generator operation, and the generator is equipped with an hour meter, the following equation may be used to determine the maximum hours of generator operation per calendar month and consecutive twelve (12) calendar months:

$$\frac{75{,}000 \text{ gallons}}{\text{month}} \times \frac{1}{\text{(Generator Capacity) gallons/hour}} = \text{Operating Hours/month}$$

$$\frac{250{,}000 \text{ gallons}}{12 \text{ months}} \times \frac{1}{\text{(Generator Capacity) gallons/hour}} = \text{Operating Hours/12mos}$$

011.05 The owner or operator shall use an air emissions computation computer program provided by the Department to establish the plant capacity pound-per-hour limitations. The Department will use the data provided by the owner or operator in a dispersion model to establish generator operating limits that are in compliance with the NAAQS.

011.06 Moisture and Fuel Content Requirements

011.06A Storage pile and haul road moisture content must be maintained at a level that assures compliance with sections 001 and 002 of Chapter 32.

011.06B The sulfur content of diesel fuel must not exceed 0.5% and the

sulfur content of non-diesel fuel must not exceed 1.0%.

011.07 The source shall not exceed a particulate emissions rate of 0.04 grains per dry standard cubic foot of exhaust gas.

011.08 Control Technology. Appropriate emission control technology shall be properly installed, maintained and operated whenever associated equipment is in operation. Manufacturer's instructions shall be kept on site and readily available to Department representatives.

011.08A Fabric Dust Collectors (Baghouses)

011.08A1 Each fabric dust collector shall be equipped with an operational pressure differential indicator.

011.08A2 Fabric dust collector filter bags are to be inspected and/or replaced according to the manufacturer's recommendations or more frequently as indicated by pressure differential readings. To determine whether each fabric dust collector is functioning properly, routine observations (at least once each day of dust collector operation) shall be conducted to determine whether there are visible emissions from the stack, leaks or noise, atypical pressure differential readings, or other indications that may necessitate corrective action. Corrective action shall be taken immediately if necessary.

011.09 The opacity of visible emissions shall not equal or exceed 20 percent as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and Title 129, Chapter 20, Section 004.

011.10 The source shall not allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

011.10A Routine observations (at least once each day of operation) shall be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, necessitating corrective action. Corrective action shall be taken immediately if necessary.

011.11 Facilities constructed, reconstructed or modified after June 11, 1973 shall comply with the provisions of section 001.21 of Chapter 18 of this Title for Hot Mix Asphalt Facilities (asphalt concrete plants) - Subpart I.

011.12 Record keeping. The owner or operator of the facility shall maintain on-site records as follows:

011.12A Records demonstrating that the production restriction set forth in sections 011.03A and 011.03B has not been exceeded and that the source has complied with the hourly limits in section 011.03C. Records shall be updated at least monthly no later than 15 days after the end of the month.

011.12B Records demonstrating that storage pile moisture content and haul road moisture content requirements have been maintained at a level that assures compliance with sections 001 and 002 of Chapter 32.

011.12C Records indicating the quantity of diesel fuel combusted in the generators or the hours of generator operation to demonstrate compliance with section 011.04.

011.12D Records demonstrating that the source has complied with the hourly limits established in section 011.05.

011.12E Records indicating the sulfur content of fuel used in the generator and main burner to demonstrate compliance with 011.06B. Records shall be updated at least monthly no later than 15 days after the end of the month.

011.12F Inspection and maintenance records to ensure control equipment is operated and well maintained. Such records shall, at a minimum, include the following:

011.12F1 Records documenting when routine visual inspections of control equipment were performed with a description including pressure differential readings and any atypical observations;

011.12F2 Records documenting when routine maintenance, including bag replacement, and preventive actions were performed with a description of the maintenance and/or preventive action performed;

011.12F3 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and when corrections were made.

011.12F4 Records and notifications required under Chapter 18, section 001.21 – General Provisions Subpart A.

011.12G Records documenting routine observations conducted and any corrective action taken to assure compliance with 011.10A.

011.13 Upon request, the owner or operator shall provide Department personnel access to, or copies of, the records required under this chapter.

011.14 The owner or operator of a source approved to construct, reconstruct or

modify and operate a hot mix asphalt plant under the provisions of this chapter shall notify the Department of the actual date of startup within 15 calendar days after such date.

011.15 Performance Testing. The owner or operator of a source shall conduct performance testing to demonstrate compliance with section 011.07 and 011.09 and as required under 011.11.

012 Permit-by-Rule for Small Animal Incinerators. For purposes of this regulation, a small animal incinerator is a facility that is used to burn deceased animal remains and is comprised of a dual-chamber design, consisting of a primary charging chamber and a secondary chamber (or afterburner) with burners located in each chamber. The maximum design burning capacity of the incinerator may not exceed 200 lbs/hour. The minimum stack height is seven feet above ground. Small animal incinerators may be approved to be constructed and/or operated pursuant to the provisions of this chapter if the owner/operator certifies that the source will comply with sections 001 through 010 above, Chapter 22, sections 001 through 006, and each of the following:

012.01 Production Limits. Limits on incineration may not exceed the incineration rate, in pounds per hour, specified by the manufacturer, by using the following measures:

012.01A Where the weight of the load is estimated, the incineration period shall last for the maximum duration in hours specified by the manufacturer for a full load.

012.01B Where the weight of the load is known, the incineration period shall be at least an amount of time equivalent to the weight of the load, in pounds, divided by the manufacturer's design incineration rate in pounds per hour.

012.02 Heat shall be provided by the combustion of natural gas, liquefied petroleum gas, or distillate oil. The sulfur content of distillate oil may not exceed 0.05% by weight.

012.03 The materials incinerated in the source shall be limited to deceased animals and medical/infectious waste. Medical/infectious waste may not exceed 10% by weight of all waste incinerated in any single load. Medical/infectious wastes that may be incinerated include sharps that have been used in animal care or treatment, unused sharps, and carcasses, parts, or bedding of animals known to have been exposed to infectious agents.

012.04 The opacity of visible emissions from the stack shall not equal or exceed 20% as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a) (2) and Title 129, Chapter 20, Section 005.

012.05 The temperature of the secondary chamber , as indicated by a temperature measuring device, shall not be less than 1400° Fahrenheit with a minimum residence time of 0.5 seconds in which waste gases are released from the charged primary chamber.

012.06 Particulate matter caused by the combustion of fuel shall not be emitted in excess of the hourly rate of 0.60 pounds of particulate matter per million British thermal units total heat input, in accordance with Title 129, Chapter 20, section 002.

012.07 Particulate matter shall not be allowed to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, in accordance with Title 129, Chapter 32, section 001.

012.07A Routine observations (at least once each day of operation) shall be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in ambient air beyond the premises where it originates necessitating corrective action. Corrective action shall be taken immediately if necessary.

012.08 The incinerator shall be properly maintained at all times, in accordance with manufacturer's instructions.

012.09 Record keeping. The owner or operator of the facility shall maintain on-site records as follows, for a minimum of five years:

012.09A Inspection and maintenance records to ensure equipment is properly operated and well maintained. Such records shall, at a minimum, include the following:

012.09A1 Records documenting the type of materials incinerated during each charge, the weight of medical/infectious waste included in each charge, the total weight of each charge (estimated or actual), and the duration of each main burner operating cycle. The duration of an operating cycle is defined as the period of time starting at the initial charge after the preheat period and ending after all material in the final charge of the operating cycle is combusted; and, when the incineration period is less than the maximum period specified by the manufacturer, calculation of the incineration rate for each charge. The incineration rate is calculated by dividing the weight of each charge by the duration of each main burner operating cycle.

012.09A2 Records documenting the sulfur content of distillate fuel, if used.

012.09A3 Records documenting when routine maintenance and preventive actions were performed with a description of the maintenance and/or preventive action performed;

012.09A4 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and when corrections were made.

012.09B Records documenting routine observations conducted and any corrective action taken to determine compliance with 012.07A.

012.10 Upon request, the owner or operator shall provide Department personnel access to, or copies of, the records required under this chapter.

012.11 The owner or operator of a source approved to construct, reconstruct or modify and operate a small animal incinerator under the provisions of this chapter shall notify the Department of the actual date of startup within 15 calendar days after such date.

012.12 Performance Testing

012.12A The owner or operator of a source shall conduct performance testing to demonstrate compliance with sections 012.04, 012.06 and with Title 129, Chapter 22, section 002.

012.12B The Director may determine performance testing is not required provided that the owner or operator submits adequate documentation and emission test results of an animal incinerator identical or similar to the one proposed.

Enabling Legislation: Neb. Rev. Stat. 81-1504(1)(2)(11) and 81-1505(12)(16)

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