12R-117

MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 12R-117 by accepting Attachment “A” attached hereto to replace Attachment “A” previously provided with Bill No. 12R-117.

Introduced by:

_____

Approved as to Form and Legality:

_____
City Attorney

Requested by: Law Department

Reason for Request: The Attachment “A” previously provided was not complete as only a portion of the amended sections were included. This was a clerical error on the part of the Law Department.

SECTION 5. VARIANCE.

(A) Any person who owns or is in control of any plant, building, structure, process, or equipment may apply to the Director for a variance from rules or regulations. The Director may grant such variance if he or she finds that the emissions or discharges occurring or proposed to occur do not endanger or tend to endanger human health or safety or that compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. In making such findings the Director shall give due consideration to all the facts and circumstances bearing upon the reasonableness of the emissions or discharge involved including, but not limited to:

(1) The character and degree of injury to or interference with the health and physical property of the people;
(2) The social and economic value of the source of the pollution;
(3) The question of priority of location in the area involved; and
(4) The technical practicability and economic reasonableness of reducing or eliminating the emissions or discharges resulting from such source

(B) No variance shall be granted until the Director has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(C) Any variance or renewal thereof shall be granted within the requirements of subsection (A) of this section, for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the air, water, or land pollution involved, it shall be only until the necessary means for prevention, abatement, or control become known and available and subject to the taking of any substitute or alternate measures that the Director may prescribe;
(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Director, is requisite for the taking of the necessary measures. A variance granted on the ground specified in this section shall contain a timetable for the taking of action in a expeditious manner and shall be conditioned on adherence to such timetable;
(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in sub-division (1) or (2) of this subsection, it shall be for not more than one year.

(D) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Director on account of the variance, no renewal thereof shall be granted unless the Director finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least thirty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal the Director shall give public notice of such application.

(E) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Director. The granting or denial of a variance or a renewal shall be by final order of the Director.

(F) Nothing in this section and no variance or renewal granted pursuant to this section shall be construed to prevent or limit the application of the emergency provisions and procedures of Article 2, Section 38 of these Regulations and Standards to any person or his or her property.

(G) No variance shall be granted which will sanction any violation of state or federal statutes or regulations.

(H) The fee associated with issuance of a variance shall be charged in accordance with Article 1, Section 6 of these Regulations and Standards.

v. June 2012

SECTION 6. FEES.

(A) Annual Emission Fees

(1) Applicability -- The provisions of this Regulations and Standards section shall apply to any person who owns or operates a source as defined in Article 2, Section 1 of these Regulations and Standards and is required to obtain any one of the following: 1) A Class I or a Class II operating permit in accordance with Article 2, Section 5 of the Regulations and Standards; 2) A construction permit in accordance with Article 2, Section 17 of the Regulations and Standards; or 3) Any source subject to an applicable requirement (other than permitting) of the Regulations and Standards the nature of which necessitates that the source submit an annual emissions report and/or be the subject of an annual or biannual inspection.

(2) Calculation of Fee -- Beginning July 1, 1999, owners or operators of sources, identified in paragraph (A)(1) above, shall pay an annual fee for emissions of regulated air pollutants for fee purposes. The fee shall be based on the actual emission tonnage as established in the emission inventory for the previous calendar year as required by Article 2, Section 6 of these Regulations and Standards, beginning with calendar year 1998. For purposes of this section, a pollutant which may be regulated under more than one provision of these Regulations and Standards, need only be counted once. Any temporary source issued an operating permit under Article 2, Section 10 of the Regulations and Standards shall pay an annual fee based on emissions which occurred during the time period the source was located and operated in Lincoln or Lancaster County. The annual emission fees shall be assessed in accordance with the following:

(a) Fee Schedule:

(1) Major sources shall pay an annual emission fee as required by paragraph (A)(2)(b) and (A)(2)(c) of this section with the minimum annual emission fee to be no less than $2,500.00.

(2) Synthetic Minor sources shall pay an annual emission fee as required by paragraph (A)(2)(b) of this section with the minimum annual emission fee to be no less than $1,250.00.

(3) Minor sources shall pay an annual emission fee as required paragraph (A)(2)(b) of this section with the minimum annual emission fee to be no less than $250.00.

(4) Sources that have obtained a construction permit for a non-emergency generator(s) in accordance with the provisions set forth in Article 2, Section 17, paragraph (P) of these Regulations and Standards shall pay annual emission fees as follows:

(a) If the generator was operated only for emergency use and testing purposes during the previous calendar year, the source will not be required to pay any emission fees.

(b) If the generator was operated for non-emergency purposes during the previous calendar year, the source shall pay an annual emission fee as required by paragraph (A)(2)(b) of this section with the minimum annual emission fee to be no less than $250.00.

(b) The fee for emissions occurring in the 2011 calendar year is $56.50 per ton, and is due and payable on July 1, 2012.

(c) The emission fee is due and payable on actual emissions up to and including 4,000 tons per year for each pollutant.

(3) For purposes of this section, the following definitions shall apply:

(a) Major source shall mean any source that meets the criteria set forth in Article 2, Section 2 of the Regulations and Standards.

(b) Synthetic Minor source shall mean any source that meets the definition of a Synthetic Minor source set forth in Article 2, Section 2 of the Regulations and Standards.

(c) Minor source shall mean any source that does not meet the definition of a major source as defined in Article 2, Section 2 of the Regulations and Standards, but has the potential to emit at levels that meet or exceed the Class II minor source permitting thresholds set forth in Article 2, Section 5, paragraph (A)(2), or the construction permitting thresholds set forth in Article 2, Section 17, paragraph (A)(1) of the Regulations and Standards.

(4) Any person subject to the requirement of paragraph (A) of this section who fails to submit and annual emission inventory report when required by Article 2, Section 6 of these Regulations and Standards shall pay an annual emission fee based on the source's potential to emit as defined in Article 2, Section 1 of these Regulations and Standards.

(5) Payment of Fees -- Any person required to submit fees pursuant to paragraph (A) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1st of each year, beginning with the calendar year 1999. All fees paid in accordance with the section shall be non-refundable.

(6) Failure to submit the fees required by paragraph (A) of this section by July 1st, in addition to other relief allowed by law, shall be cause for:

(a) Revocation of the source's operating and/or construction permit; and

(b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (A)(4) above.

(7) If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this section, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If any annual emission inventory report form which is modified pursuant to this section results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with paragraph (A)(4) above.

(B) Area Sources of Hazardous Air Pollutants Annual Fees.

(1) Applicability -- The following provisions of this section shall apply to any person who owns or operates any source subject to requirements of Title 40, Part 63 of the Code of Federal Regulations (40 CFR Part 63), the nature of which necessitates that the source be the subject to inspection.

(2) Determination of Fee -- Owners or operators of sources identified in paragraphs (B)(2)(a) through (B)(2)(f) shall pay an annual fee in accordance with the following fee schedule:

(a) Area Source Bulk Gasoline Plants subject to 40 CFR Part 63 Subpart BBBBBB that are stand-alone plants or that are located at facilities that are not required to have a Class II operating permit - $250.00.

(b) Area Source Gasoline Dispensing Facilities subject to 40 CFR Part 63 Subpart CCCCCC subject to the requirements of §63.11118 (average monthly gasoline throughputs equal to or greater than 100,000 gallons) - $300.00

(c) Area Source Paint Stripping and Miscellaneous Surface Coating Facilities subject to 40 CFR Part 63 Subpart HHHHHH

(1) Facilities using one ton or less of methylene chloride annually for paint stripping activities and that are not required to have a Class II operating permit - $125.00

(2) Facilities using more than one ton of methylene chloride annually that are not required to have a Class II operating permit - $250.00

(3) Miscellaneous surface coating operations (auto body shops and mobile equipment painting[1] and non auto body shops and non mobile equipment painting[2]) that are not required to have a Class II operating permit.

(a) Operations with one painter - $125.00

(b) Operations with two painters - $250.00

(c) Operations with 3 or more painters - $500.00

[1] The fee shall not apply to a facility that has been granted an exemption by the USEPA, the Nebraska Department of Environmental Quality, or the LLCHD because none of its coatings contain any of the 5 metal hazardous air pollutants (HAPS).

[2] The fee shall not apply to a facility that has certified to the LLCHD that none of its coatings contain any of the five metal HAPS addressed by this rule.

(4) Facilities that have petitioned for and have been issued an exemption (auto body shops and mobile equipment painting operations) from the Subpart HHHHHH rule or facilities that have certified to the LLCHD (non auto body shops and non mobile equipment painting operations) that they are exempt from the rule because none of their coatings contain any of the five metal HAPS addressed by this rule shall pay a one time exemption fee of $250.00[1].

[1] Payment of the one time fee assumes that a facility will continue to qualify for exempt status throughout the life of that facility. The exemption or certification fees shall not apply to facilities where all coatings are spray applied with a hand-held device whose paint cup capacity is 3 fluid ounces or less, where coatings are applied by using hand-held non refillable aerosol containers such as spray cans, where coatings are applied using powder coating equipment, where coatings are applied using non spray application methods such as brushing or rolling, or where non atomizing coating application technology (such as flow coating, dip coating and electrodeposition) is utilized.

(d) Area Source Plating and Polishing Operations subject to 40 CFR Part 63 Subpart WWWWWW that are not required to have a Class II operating permit - $500.00

(e) Area Source Metal Fabrication and Finishing Facilities subject to 40 CFR Part 63 Subpart XXXXXX that are not required to have a Class II operating permit - $500.00

(f) Area Source Perchloroethylene Dry Cleaning Facilities subject to 40 CFR Part 63 Subpart M that are not required to have a Class II operating permit - $250.00

(3) Payment of Fees -- Any person required to submit fees pursuant to paragraph (B) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable on July 1st of each year, beginning with the calendar year 2011. All fees paid in accordance with the section shall be non-refundable.

(4) Failure to submit the fees required by paragraph (B) of this section by July 1st, in addition to other relief allowed by law, shall be cause for assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (B)(3) above.

(C) National Emission Standards for Asbestos - Project Notification Fees.

(1) Applicability -- Any person or source who engages in activities subject the requirements of Title 40, Part 61 of the Code of Federal Regulations (40 CFR Part 61) Subpart M: National Emission Standard for Asbestos (NESHAP asbestos projects) shall pay a notification fee of $285.00 per project.

(2) Payment of Fees -- Any person required to submit fees pursuant to paragraph (C) of this section, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days of billing by the Department. All fees paid in accordance with the section shall be non-refundable.

(3) Failure to submit the fees required by paragraph (C)(1) of this section within thirty (30) days after billing by the Department, in addition to other relief allowed by law, shall be cause for assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (C)(2) above.

(D) Construction Permit Fees.

(1) Applicability -- Any person or source required to obtain a construction permit under Article 2, Section 17 of these Regulations and Standards shall pay a construction permit fee for activities included under Article 2, Section 30, paragraph (A) of these Regulations and Standards. The construction permit fee shall be charged at the rate of $100.00 per hour but shall not exceed a maximum of $10,000.00.

(2) Payment of Fees - - Any person required to submit fees pursuant to paragraph (D) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after issuance of the permit.

(3) Failure to submit the fees required by paragraph (D)(1) of this section within thirty (30) days after the issuance of a construction permit, in addition to other relief allowed by law, shall be cause for:
   (a) Revocation of the source's operating and/or construction permit; and
   (b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (D)(2) above.

(E) Emergency Electrical Generator Construction Permit Exemption Fees.
   (1) Applicability -- Any person or source requesting to obtain an emergency electrical generator construction permit exemption in accordance with Article 2, Section 17, paragraph (O) of these Regulations and Standards shall pay an exemption fee for review of the construction permit exemption request and issuance of the construction permit exemption. The construction permit exemption fee is $50.00 per generator.
   (2) Payment of Fees -- Any person required to submit fees pursuant to (E) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable at the time of submittal of the construction permit exemption request. All fees paid in accordance with this section shall be non-refundable.
   (3) Failure to submit the fees required by paragraph (E)(1) of this section at the time of submittal of the construction permit exemption request, in addition to other relief allowed by law, shall be cause for the Department to not issue the exemption.

(F) Variance Fees
   (1) Applicability -- Any person or source issued a variance in accordance with the requirements set forth in Article 1, Section 5 of these Regulations and Standards shall pay a fee for all activities associated with application for and issuance of the variance. The variance fee shall be charged at the rate of $100.00 per hour but shall not exceed a maximum of $10.000.00.
   (2) Payment of Fees -- Any person required to submit fees pursuant to paragraph (F) of this section, shall submit the fees to the Director of the Department by check or other authorized transfer payable to the Lincoln-Lancaster County Health Department. The fees shall be due and payable within thirty (30) days after issuance of the variance. All fees paid in accordance with the section shall be non-refundable.
   (3) Failure to submit the fees required by paragraph (F)(1) of this section within 30 days after the issuance of a variance, in addition to other relief allowed by law, shall be cause for:
      (a) Revocation of the source's operating and/or construction permit and/or the variance; and
      (b) Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (F)(2) above.

(G) Fees will be reviewed annually by the Director, and a report submitted to the Board of Health. The Board of Health may recommend any modifications to the Lincoln City Council and the Lancaster County Board of Commissioners. The new rate structure may be adopted by Resolution of the two governing bodies, individually, as a result of a recommendation by the Board of Health, or at the initiation of either of the two governing bodies.

(H) All money collected from the fees, provided for herein, shall be payable to the Lincoln-Lancaster County Health Department and shall be credited to the Air Pollution Control Fund.

v. March 2012

ARTICLE 2. REGULATIONS AND STANDARDS

SECTION 1. DEFINITIONS.

Unless otherwise defined, or a different meaning is clearly required by context, the following words and phrases, as used in these Regulations and Standards and the related appendices shall have the following meanings:

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

"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:

(1) 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 material processed, stored, or combusted during the selected time period.
(2) The Director may presume that the source-specific Allowable emissions for the unit are equivalent to the Actual emissions of the unit.
(3) 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.

"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 paragraphs (1) through (3) below 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 Article 2, Section 19, paragraph (K). Instead, "baseline actual emissions" and "projected actual emissions" shall apply for those purposes.

(1) 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.
(2) The Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
(3) 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.

"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.

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

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

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

"Affected States" means all States that:

(1) 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 Title V permit, modification, or renewal; or
(2) Are a contiguous State within 50 miles of the permitted source.

"Affected unit" means a unit that is subject to emission reduction requirements or limitations under Article 2, Section 26 of these Regulations and Standards.

"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.

"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.

"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.

"Air pollution control agency" means a local government health authority charged with responsibility for enforcing ordinances or law relating to the prevention and control of air pollution.

"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.

"Allowable emissions" means

(1) 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:
    (a) The applicable standards set forth in 40 CFR Part 60 (Standards of Performance for New Stationary Sources) or 40 CFR Parts 61 or 63 (National Emission Standards for Hazardous Air Pollutants);
    (b) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or
    (c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(2) For a Plant-wide Applicability Limitation (PAL), the definition is the same as in (1) above except as this definition is modified according to (2)(b) below:
    (a) 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.
    (b) An emissions unit's potential to emit shall be determined using the definition in this section except that the words "or enforceable as a practical matter" should be added after "federally enforceable".

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

"AP-42" refers to the *Compilation of Air Pollutant Emission Factors*, published by the EPA Office of Air Quality Planning and Standards.

"Applicable requirement" means except as provided in (12), 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 City of Lincoln and/or the Lancaster County Board of Commissioners through rulemaking at the time of issuance but have future effective compliance dates:

(1) Any standard or other requirement provided for in the applicable implementation plan that implements the relevant requirements of the Act, including any revisions to the plan promulgated in 40 CFR Part 52;
(2) Any term or condition of any pre-construction permit;
(3) Any standard or other requirement under Article 2, Section 18 of these Regulations and Standards relating to standards of performance for new stationary sources;
(4) Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted in Article 2, Sections 23, 27 and 28 of these Regulations and Standards relating to hazardous air pollutants listed in Appendix II,
(5) Any standard or other requirement of the acid rain program under Section 26 of these Regulations and Standards;
(6) Any requirements established pursuant to Article 2, Section 26 of these Regulation and Standards;
(7) Any standard or other requirement governing solid waste incineration, under Article 2, Section 18 of these Regulations and Standards or pursuant to Article 2, Section 129 (e) of the Act;

(8) Any standard or other requirement for consumer and commercial products, under Article 2, Section 183(e) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;
(9) Any standard or other requirement for tank vessels under Section 183(f) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;
(10) Any standard or other requirement to protect stratospheric ozone as promulgated pursuant to Title VI of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners; and
(11) Any national ambient air quality standard or increment or visibility requirement under Article 2, Section 18 of these Regulations and Standards but only as it would apply to temporary sources permitted pursuant to Article 2, Section 10 of these Regulations and Standards.
(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 City of Lincoln or the Lancaster County Board of Commissions.

"Area source" means:
(1) For the purposes of Class I permits under Article 2, Section 5, paragraph (A)(1)(b) of these Regulations and Standards, 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 Lancaster County Board of Commissioners.
(2) 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.
(3) Area source shall not include motor vehicles or non-road vehicles.

"Baseline actual emissions" has the definition given to it in Article 2, Section 19, paragraph (E).

"Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under Section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal to or greater than one (1.0) microgram per cubic meter (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 micrograms per cubic meter (annual average) for $PM_{2.5}$.

"Baseline concentration" means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date.
(1) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:
    (a) The actual emissions, as defined in this section, representative of sources in existence on the applicable minor source baseline date, except as provided in paragraph (2) below; and
    (b) 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.
(2) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):
    (a) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
    (b) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"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 pipe work, 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.

"Best Available Control Technology (BACT)", for purposes of the Prevention of Significant Deterioration (PSD) program means an emission 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 cost.

"Board of Health" means the Lincoln-Lancaster County board of Health.

"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.

"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.

"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 these Regulations and Standards and meets the definition of Title V permit for purposes of the Clean Air Act.

"Class I source" means any source subject to the Class I permitting requirements of Article 2, Section 5 of these Regulations and Standards.

"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 these Regulations and Standards.

"Class II source" means any source subject to the Class II permitting requirements of Article 2, Section 5 of these Regulations and Standards.

"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.

"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).

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

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time;
(2) Entered into binding agreements or contractual obligations, which cannot be canceled 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.

"Complaint" means any charge, a however informal, to or by the Department that any person or agency, private or public, is polluting the air or is violating the provisions of these Regulations and Standards.

"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 addition information.

"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.

"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.

"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.

"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).

"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.

"Control and controlling" means prohibition of contaminants as related to air pollution.

"Control equipment" means any equipment that functions to prevent the formation of or the emission to the atmosphere of air contaminants from any fuel burning equipment, incinerator, or process equipment.

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

"Crematory" means a furnace used to cremate human and animal remains that is owned and/or operated by a person(s) engaged in the business of conducting cremations.

"Department" means the Lincoln-Lancaster County Health Department.

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

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

"Director" means the Health Director of the Lincoln-Lancaster County Health Department, or any representatives, agents, or employees of the Director.

"Dioxin/furans" means total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

"Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air

by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of the pollutant, or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(1) The re-heating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;
(2) The use of smoke management in agricultural or silvicultural prescribed burning;
(3) The merging of exhaust gas streams where:
    (a) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;
    (b) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the Allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or
    (c) Before July 8, 1995, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the allowable emissions for the source.
(4) Episodic restrictions on residential wood burning and open burning;
(5) Techniques such as manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams, which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"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.

"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.

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

"Emergency generator" means a generator whose sole function is to provide backup power when electric power from the local utility is interrupted.

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

"Emission limitation" and "Emission standard" mean a requirement established by a State, local government, 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.

"Emission allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement or applicable requirement under the Act that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid any of the same to which the source would otherwise be subject.

"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 utility steam generating units. This term is not meant to alter or affect the definition of the "unit" for purposes of Title IV of the Act. For purposes of the Prevention of Significant Deterioration (PSD) program, there are two types of emissions units:

(1) 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
(2) An existing emissions unit is any emissions unit that does not meet the requirements in (1) above.

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

"Excessive concentrations" for the purpose of determining "good engineering practice stack height" defined elsewhere in this section, means:

(1) For sources seeking credit for stack height exceeding that established in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (40 CFR §51.166 and §52.21), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is not feasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator.
(2) For source seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", either a maximum ground-level concentration due in whole or part of downwash, wakes or eddy effects as provided in paragraph (A) above, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or the actual presence of a local nuisance caused by the existing stack, as determined by the Director.
(3) For sources seeking credit after January 12, 1979 for a stack height determined in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", where the Director requires the use of a field study of fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

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

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

"Federally enforceable" means all limitations, conditions, and requirements within any applicable State Implementation Plan, and permit requirements established in any permit issued pursuant to these Regulations and Standards, and any requirements in Article 2, Section 18, Section 23, Section 27 and Section 28 of these Regulations and Standards which are enforceable by the Administrator.

"Final permit" means the version of a permit issued by the Department that has completed all review procedures required by Article 2, Section 14 of these Regulations and Standard, and for Class I permit, Article 2, Section 13 of these Regulations and Standards.

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

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

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

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

"Garbage" means all animal, fruit, or vegetable waste residue which is produced by preparation, dressing, use, cooking, dealing in, or storage of meats, fish, fowl, fruits, vegetables, cereals, grains for human consumption, and coffee or tea grounds.

"General permit" means Class I or Class II operating permit that meets the requirements of Article 2, Section 9 of these Regulations and Standards.

"Global Warming Potential" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas, i.e., CO_2. The pollutant greenhouse gases (GHGs) is adjusted to calculate CO_2 equivalence using "Table A-1 - Global Warming Potentials" at 40 CFR Part 98, Subpart A, as published in the Federal Register on October 30, 2009 (Volume 74, Number 209, Pages 56395-96).

"Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six gases: carbon dioxide (CO_2), nitrous oxide (N_2O), methane (CH_4), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF_6).

"Good Engineering Practice (GEP) Stack Height" means the greater of:

(1) Sixty-five (65) meters;
(2) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required, Hg = 2.5H, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limit, where:
    Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and,
    H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.
(3) For all other stacks, Hg = H + 1.5L, where:
    Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and,
    H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack; and,
    L = lesser dimension (height of projected width) of nearby structure(s).
    Provided that the Director may require the use of a field study of fluid model to verify GEP stack height for the source; or
(4) The height demonstrated by fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

"Hazardous air pollutant" means any air pollutant:

(1) Listed in Appendix II, or
(2) 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.

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

"Hospital waste" means discards generated at a hospital, except unused item returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment, or cremation.

"Incinerator" means any article, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. Coatings bake off ovens (burn-off furnaces, part, rack, and drum reclamation units) that use pyrolysis to remove coating material from parts hangers and/or other devices with similar function shall be considered incinerators, and may be subject to regulation under the New Source Performance Standards (40 CFR Part 60) Subpart CCCC or DDDD requirements for Commercial-Industrial Solid Waste Incineration (CISWI) units. Furnaces owned and operated by law enforcement agencies solely to dispose of ammunition, fireworks or similar flammable or explosive materials shall not be considered incinerators.

"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.

"Insignificant activities" refers to activities and emissions that may be excluded from reporting for operating permit applications and/or emissions inventories.

"Installation" means an identifiable piece of process equipment.

"LLCAPCPRS" means the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards. This may also be referred to as the Regulations and Standards.

"LLCHD" mean the Lincoln-Lancaster County Health Department.

"Low terrain" means any area other than high terrain.

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

(1) The most stringent emission limitation contained in the implementation plan of any state for such class or category of sources (as adopted by the Lancaster County Board of Commissioners) unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or
(2) The most stringent emission limitation which is achieved in practice by such class or category or 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.

"Major emissions unit" means:

(1) 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
(2) 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.

"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 net emissions increase of any pollutant subject to regulation under the Act.

(1) Any net emissions increase that is considered significant for volatile organic compounds or NOx shall be considered significant for ozone.
(2) A physical change or change in the method of operation shall not include:
    (a) Routine maintenance, repair and replacement;
    (b) Use of an alternative fuel or raw material by reason of an 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 Energy Regulatory Act;
    (c) Use of an alternative fuel by reason of an order or rule under Section 125 of the Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
(e) Use of an alternative fuel or raw material by a stationary source which:
(1) 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 40 CFR §52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR §51.166; or
(2) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR §51.165.
(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR §52.21 or regulations approved pursuant to 40 CFR Part 51, Subpart I; or
(g) Any change in ownership at a stationary source.
(h) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
(1) The State implementation plan for the State in which the project is located; and
(2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
(i) 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.
(j) The reactivation of a very clean coal-fired electric utility team generating unit.

(3) This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under Article 2, Section 19 for a PAL for that pollutant. Instead, the definition of "PAL major modification" shall apply.

"Major source baseline date" means, in the case of PM_{10} and sulfur dioxide (SO_2), January 6, 1975, in the case of nitrogen dioxide (NO_2), February 8, 1988, and in the case of $PM_{2.5}$, October 20, 2010.

"Major stationary source or major source" means any source identified in Article 2, Section 2 of these Regulations and Standards.

"Maximum achievable control technology (MACT)" means:

(1) 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.
(2) 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.

"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.

"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.

"Minor source" means any source which is not defined as a major source in Article 2, Section 2 of these Regulations and Standards.

"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 (PSD) Program, as defined in this section, submits a complete permit application. The trigger date is, in the case of PM_{10} and sulfur dioxide (SO_2), August 7, 1977, and, in the case of nitrogen dioxide (NO_2), 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)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 or to Article 2, Section 19 of these Regulations and Standards; 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.

"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.

"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;

(1) Routine maintenance, repair, and replacement (except as defined as reconstruction) shall not be considered physical changes; and
(2) 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.

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

"Nearby" means, as pertains to Good Engineering Practice Stack Height;

(1) That distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile), and
(2) For conducting demonstrations under paragraph (4) of the definition for "Good Engineering Practice (GEP) Stack Height", that distance not greater than 0.8 km (½ mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (HT) of the feature, not to exceed 2 miles if such feature achieves a height (HT) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in paragraph (3) of the definition for "Good Engineering Practice (GEP) Stack Height" or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Necessary pre-construction 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.

"Net emissions increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to Article 2, Section 19, paragraph (H); and
(2) 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 Article 2, Section 19, paragraph (E) except that paragraph (E)(5) and (E)(6) shall not apply.
(3) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.
(4) An increase or decrease in actual emissions is creditable only if:
    (a) It occurs within a reasonable period, not to exceed one year, to be specified by the Director; and
    (b) 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

(5) 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.
(6) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
(7) A decrease in actual emissions is creditable only to the extent that:
    (a) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
    (b) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;
    (c) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and
(8) 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.
(9) "Actual emissions" for purposes other than the Prevention of Significant Deteriorated program, paragraph (1) shall not apply for determining creditable increases and decreases.

"Netting" means, for purposes of Article 2, Section 17, paragraph (A)(3), the method used to calculate the difference between the potential emissions (potential to emit) associated with a replacement emission unit and the actual emissions (the average of these emissions over the most recent 24 month period) associated with the emission unit being replaced and, if applicable, any concurrent actual emissions increases and decreases associated with other equipment at the source.

"New source" means any stationary source, the construction, modification, or reconstruction of which is commenced after the publication of regulations by the Lincoln-Lancaster County Health Department or the United States Environmental Protection Agency prescribing a standard of performance which will be applicable to such source.

"NSR" means New Source Review, as it relates to the following:
(1) Prevention of Significant Deterioration (PSD) permits as required by Part C of Title I of the Act;
(2) Nonattainment New Source Review (NSR) permits as required by Part D of Title I of the Act;
(3) Minor New Source Review (NSR) as required by Section 110(a)(2)(c) of Part A of Title I of the Act.

"Non-emergency generator" means, for purposes of Article 2, Section 17, paragraph (P), a generator that may be used to produce electricity during periods when electric power from the local utility is available.

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

"Odor" means that property of an air contaminant detectable by the Department, beyond the boundary line of the property on which the source is located.

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

"Open burning" 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.

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

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

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

"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 Plant-wide Applicability Limitation (PAL) source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

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

"PAL pollutant" means the pollutant for which a Plant-wide Applicability Limitation (PAL) is established at a major stationary source.

"Particulate matter (PM)" means any airborne finely divided solid or liquid material, except uncombined water, with an aerodynamic diameter smaller than 100 micrometers. PM is further classified as follows:

(1) "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.
(2) "$PM_{2.5}$" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on Appendix L at 40 CFR Part 50 or equivalent methods.

"Particulate matter (PM) emissions" means particulate matter emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by the U.S. Environmental Protection Agency, or by a test method specified in these Regulations and Standards. PM emissions are further classified as follows:

(1) "PM_{10} emissions" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air.
(2) "$PM_{2.5}$ emissions" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air.

"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.

"Permit revision" means a revision to an operating permit that meets the requirements set forth in Article 2, Section 15 of these Regulations and Standards, or a revision to a construction permit as provided for under Article 2, Section 17, paragraph (N) of these Regulations and Standards.

"Permitting authority" means the Lincoln-Lancaster County Health Department.

"Person" means any individual, partnership, limited liability company, firm, association, public or private corporation, trustee, receiver, assignee, estate, public, or private institution, group, public or private agency, municipality or other governmental subdivision, political subdivision of this state, any other state or political subdivision or agency thereof of any legal successor, representative, agent or agency of the foregoing.

"Plan or Implementation plan" means an implementation plan adopted by the Nebraska Department of Environmental Quality pursuant to Section 110 of the Act, to attain and maintain a national standard.

"Plant-wide 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 Article 2, Section 19, paragraph (K).

"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.

"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 Article 2, Section 26 of these Regulations and Standards.

"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.

"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.

"Primary standard" means a national primary ambient air quality standard identified in Article 2, Section 4 of these Regulation and Standards.

"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.

"Process equipment" means any equipment, device, or contrivance for changing any materials whatsoever or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants.

"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.

"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.

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

"Projected actual emissions (PAE)" is as defined in Article 2, Section 19, paragraph (F) of these Regulations and Standards.

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

"Pyrolysis" means the endothermic (absorption of heat) gasification of waste material using external energy.

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

"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.

"Refuse" means and includes garbage, rubbish, ashes, street refuse, dead animals, vehicles and parts thereof, industrial wastes, construction wastes, sewage treatment residue, leaves, and grass, and any other waste matter or material which accumulates in the conduct of a household, business establishment, shop, or factory of any kind of nature, and any other combustible waste material containing carbon in a free or combined state.

"Region" means:
(1) An air quality control region designated by Administrator; or
(2) Any area designated by the State as an air quality control region.

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

"Regulated air pollutant" means the following:
(1) Nitrogen oxides or any volatile organic compounds as defined in this section;
(2) Any pollutant for which a national ambient air quality standard has been promulgated;
(3) Any pollutant that is subject to any standard in Article 2, Section 18 of these Regulations and Standards; and
(4) Any pollutant subject to a standard or other requirements established in Article 2, Section 23 of these Regulations and Standards relating to hazardous air pollutants, including the following:
(a) Any pollutant subject to requirements under Section 112(j) of the Act; and
(b) Any pollutant for which the requirements relating to construction, reconstruction, and modification in Section 112(g) of the Act have been met, but only with respect to the individual source subject to these requirements.
(5) Greenhouse gases (GHGs), as follows:
(a) Beginning July 1, 2011, the pollutant GHGs is a regulated air pollutant at any stationary source emitting or having the potential to emit 100,000 CO_2e or more.

"Regulated air pollutant for fee purposes" means any regulated air pollutant identified in the previous section, except for the following:
(1) Particulate matter, excluding PM_{10};
(2) 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
(3) 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.
(4) Greenhouse gases (GHGs).

"Regulated NSR pollutant" means the following:
(1) Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator. Precursors for the purpose of NSR are as follows:
(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and nonclassifiable areas.
(b) Sulfur dioxide and nitrogen oxides are precursors to $PM_{2.5}$ in all attainment and unclassifiable areas.
(2) Any pollutant that is subject to any standard promulgated under Section 111 of the Act:
(3) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
(4) 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.
(5) Greenhouse gases (GHG)s is a regulated NSR pollutant at a stationary source under the following circumstances:
(a) Beginning January 2, 2011,
(1) 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
(2) 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
(b) Beginning July 1, 2011, in addition to the provisions in section (5)(a), above,
(1) The stationary source is a new stationary source that will emit or have the potential to emit 100,000 tons per year CO_2e or more; or
(2) 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.

(c) The term emissions increase as used in (5)(a) and (5)(b) above shall mean that both a significant emissions increase (as calculated in Article2, Section 19, paragraph (H) of these Regulations and Standards), and a significant net emissions increase (as defined Article 2, Section 1, and Article 2, Section 19, paragraph (J) of these Regulations and Standards) 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" shall be defined as 75,000 tons per year CO_2e instead of applying the values in Article 2, Section 19, paragraph (J)(17) of these Regulations and Standards.

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

"Replacement unit" means an emission 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.

(1) The emissions unit is a reconstructed unit within the meaning of "reconstruction" as defined in this Section, or the emissions unit completely takes the place of an existing emissions unit.
(2) The emissions unit is identical to or functionally equivalent to the replace emissions unit.
(3) The replacement does not change the basic design parameter(s) of the process unit.
(4) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by an enforceable permit. If the replaced unit is brought back into operation, it shall constitute a new emissions unit.

"Responsible official" means one of the following:

(1) 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:
    (a) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or
    (b) The delegation of authority to such representatives is approved in advance by the permitting authority;
(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
(3) 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
(4) For affected sources:
    (a) The designated representative in so far as actions, standards, requirements, or prohibitions under Section 2 of these Regulations and Standards are concerned; and
    (b) The designated representative for any other purposes under Title V of the Act.

"Rule, regulation or standard" means any rule or regulation of the City of Lincoln or the Lancaster County Board of Commissioners.

"Salvage operation" means any operations conducted in whole or in part for the salvaging or reclaiming of any product or material.

"Secondary emissions" means emissions which would 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 may include, but are not limited to:

(1) Emissions from ships or trains coming to or from the new or modified stationary source; and
(2) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

"Secondary standard" means a national secondary ambient air quality standard identified in Article 2, Section 4 of these Regulations and Standards.

"Section 502(b)(10) changes" are changes provided for in section 502(b)(10) of the Act. Such changes do not include changes that would violate applicable requirements or applicable requirements under the Act, or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting or compliance certification requirements. 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 time frame due to an emergency.

"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:

Pollutant	**Emission Rate (in tons per year, or tpy)**
Carbon Monoxide (CO)	100 tpy
Nitrogen Oxides (NOx)	40 tpy
Sulfur Dioxide (SO_2)	40 tpy
Particulate Matter (PM)	25 tpy
PM_{10}	15 tpy
$PM_{2.5}$	10 tpy
Ozone	40 tpy of Volatile Organic Compounds (VOC) or NOx
Lead	0.6 tpy
Fluorides	3.0 tpy
Sulfuric Acid (H_2S) Mist	7.0 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 dibenzo furans)	3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy)
Municipal Waste Combustor Metals (measured as particulate matter)	15 tpy
Municipal Waste Combustor Acid Gases (measured as SO_2 and Hydrogen Chloride (HCl))	40 tpy
Municipal Solid Waste Landfill Emissions (measured as nonmethane organic compounds (NMOC))	50 tpy

"Significant emissions increase" is as defined in Article 2, Section 19, paragraph (H) of these Regulations and Standards.

"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 this section 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 this section.

"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 this section or in the Act, whichever is lower.

"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.

"Source" means any factory, grain elevator, machine, industrial plant, real or personal property, or person contributing to air pollution.

"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.

"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.

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

"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 canceled 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.

"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.

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

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

"Statement of basis" means a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The statement of basis should include, but not be limited to, a discussion of the monitoring and operational requirements, applicability determinations, emissions limitations, and any other factual information relevant to the development of the draft permit.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation by this Ordinance or these Regulations and Standards.

"Synthetic Minor source" means any source that has the potential to emit any regulated pollutant at levels that meet or exceed the major source thresholds defined in Article 2, Section 2 of the Regulations and Standards, but has accepted federally enforceable limits to keep potential emissions below the major source thresholds, while maintaining the potential to emit at levels above the minor source thresholds defined in Article 2, Section 5, paragraph (A)(2) of the Regulations and Standards.

"Title V Program" means a program approved by the Administrator for purposes of Title V of the Act.

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

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

"Type 4 waste" (pathological) means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding, if applicable.

"Type 5 waste" (hospital/medical/infectious) means hospital waste as defined in this section and any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that are listed as follows:

(1) Cultures and stocks of infectious agents and associated biologicals;
(2) Human pathological waste;
(3) Human blood and blood products;
(4) Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories;

(5) Animal waste;
(6) Isolation wastes; and
(7) Unused sharps.

Examples of the 7 waste types previously listed are included in the definition of medical/infectious waste at 40 CFR Part 60 Subpart E Section 60.51c.

Type 5 waste does not include hazardous waste identified or listed under the regulation in Part 261 of Title 40 Chapter I of the CFR; household waste as defined in Section 261.4(b)(1) of Chapter I; ash from incineration of Type 5 waste once the incineration process has been complete, human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage material identified in Section 261.4(a)(1) of Chapter I.

"UTM coordinates" refer to the Universal Transverse Mercator coordinate (UTM) system, which provides coordinates on a worldwide 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.

"Volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, dimethyl carbonate, propylene carbonate, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other that 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)
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114)
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-trifluoroethane (HCFC-123a)
1,1-difluoroethane (HFC-152a)
Difluoromethane (HFC-32)
2-(difluoromethoxymethyl)-1,1,1,2,3,3,3,-heptafluoropropane [$(CF_3)_2CFCF_2OCH_3$]
Ethane
2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane [$(CF_3)_2CFCF_2OC_2H_3$]
1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutant($C_4F_9OC_2H_5$)
3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trefluoromethyl) hexane (HFE-7500,HFE-s702,T-7145, and L-15381)
Ethylfluoride (HFC-161)
1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-$C_3F_7OCH_3$) (HFE-7000)
1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea)
1,1,1,2,3,3-hexafluoropropane (HFC-236ea)
1,1,1,3,3,3-hexafluoropropane (HFC-236fa)
Methane
Methyl acetate
Methyl formate ($HCOOCH_3$)
Methylene chloride (dichloromethane)
1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane ($C_4F_9OCH_3$)
Parachlorobenzotrifluoride (PCBTF)
1,1,1,3,3-pentafluorobutane (HFC 365mfc)

Pentafluoroethane (HCFC-125)
1,1,1,2,3,-pentafluoropropane (HFC-245eb)
1,1,2,2,3-pentafluoropropane (HFC-245ca)
1,1,2,3,3-pentafluoropropane (HFC-245e)
1,1,1,3,3-pentafluoropropane (HFC-245fa)
Propylene carbonate
t-Butyl acetate (known as 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-11)
1,1,1-trifluoro 2,2-dichloroethane (HCFC-123)
1,1,1-trifluoroethane (HFC-143a);
Trifluoromethane (FC-23);
Volatile methyl siloxanes (VMS) and
Perfluorocarbon compounds which fall into the following classes:

(a) Cyclic, branched, or linear, completely fluorinated alkanes;
(b) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
(c) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
(d) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

“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.

“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.

v. March 2012

SECTION 2. MAJOR SOURCES -- DEFINED.

(A) Hazardous Air Pollutants--A major source of hazardous air pollutants is defined as:

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

(2) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) Except as otherwise expressly provided herein, for all other regulated air pollutants, a major stationary source of air pollutants is defined as follows:

(1) Any stationary source that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant (as defined in Article 2, Section 1), including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator.

(2) Beginning July 1, 2011, any stationary source that meets the criteria in paragraph (B)(1) for GHGs on a mass basis and emits or has the potential to emit 100,000 tons per year CO_2e or more.

(3) The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of paragraph (B), unless the source belongs to one of the following categories of stationary source:

(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum ore reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Lime plants;
(l) Phosphate rock processing plants;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) 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 3123150);
(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal units per hour heat input;
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(w) Taconite ore processing plants;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Fossil-fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;
(aa) All other stationary source categories regulated by a standard promulgated under Article 2, Sections 18, 23, 27, or 28, regardless of the date of promulgation of the standard;

(bb) Concrete batch plants;
(cc) Grain handling facilities that are not regulated by a standard under Article 2, Section 18; or
(dd) Roofing granule production plants.

(4) Unless expressly prohibited by other applicable requirements of the LLCAPCPRS or the Act, fugitive emissions associated with a major or minor source, including those associated with mobile sources (excluding evaporative emissions), may be considered in making permit applicability determinations.

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

(D) Any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source, shall be considered a major stationary source, if the change by itself would constitute a major stationary source.

(E) A major stationary source that is major for volatile organic compounds or nitrogen oxides (NOx) shall be considered major for ozone.

(F) A major stationary source for purposes of Article 2, Section 17, paragraph (M) includes:

(1) For ozone non-attainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate,” 50 tpy or more in areas classified as “serious,” 25 tpy or more in areas classified as “severe,” and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements under Section 182(f) of the Act do not apply;

(2) For ozone transport regions established pursuant to Section 184 (control of ozone or interstate ozone pollution) of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(3) For carbon monoxide non-attainment areas:

(a) That are classified as “serious,” and

(b) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(4) For particulate matter (PM_{10}) non-attainment areas classified as “serious,” sources with the potential to emit 70 tpy or more of PM_{10}.

(G) Major source, for purposes of Class I operating permits, means any stationary source (or group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons) under common control) belonging to a single major industrial grouping and that are described in paragraphs (A), (B), (C), (D), (E), or (F) of this section. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

(H) Major stationary source for the purposes of the Prevention of Significant Deterioration of Air Quality Program (PSD), includes the sources described in paragraphs (H)(1) through (H)(4). Sources in the categories listed in paragraphs (B)(3)(a) through (B)(3)(dd) of this section must include fugitive emissions in determining major source status.

(1) Any of the following stationary sources which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant: fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon blank plants (furnace process, primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemicals process plants, fossil fuel boilers (or combinations thereof) totaling more

250 million British Thermal Units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(2) Notwithstanding the stationary source size specified in paragraph (H)(1), any stationary source which emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant,

(3) Sources fitting the descriptions in paragraphs (D) and (E) of this section, or

(4) If GHGs is a regulated NSR pollutant as defined in Article 2, Section 1, then beginning July 1, 2011, any stationary source that meets the criteria in paragraphs (H)(1) or (H)(2) of this section for GHGs on a mass basis and emits or has the potential to emit 100,00 tons per year CO_2e or more.

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

Ref: Title 129, Chapter 2, Nebraska Department of Environmental Quality

v. March 2012

SECTION 4. AMBIENT AIR QUALITY STANDARDS.

The ambient air quality standards for Lancaster County, Nebraska are:

(A) Particulate Matter (PM).

(1) PM_{10}.

(a) Primary and Secondary Standards: 150 micrograms per cubic meter, 24 hour average with not more than one exceedance per year.

(b) Attainment of these standards is determined in accordance with Appendix K of 40 CFR Part 50 which is adopted and incorporated herein.

(2) $PM_{2.5}$.

(a) Primary and Secondary Standards:

(1) 15.0 micrograms per cubic meter, annual arithmetic mean

(2) 35.0 micrograms per cubic meter, 24 hour average

(3) Attainment of these standards is determined in accordance with Appendix N of 40 CFR Part 50 which is adopted and incorporated herein.

(B) Sulfur Dioxide (SO_2).

(1) Primary Standards:

(a) 80 micrograms per cubic meter (0.03 ppm) annual arithmetic mean.

(b) 365 micrograms per cubic meter (0.14 ppm) maximum 24 hour concentration not to be exceeded more than once a year.

(2) Secondary Standard:

(a) 1300 micrograms per cubic meter (0.5 ppm) as a 3-hour concentration not to be exceeded more than once a year.

(C) Nitrogen Dioxide (NO_2).

(1) Primary and Secondary Standards:

(a) 100 micrograms per cubic meter (0.05 ppm) annual arithmetic mean.

(D) Carbon Monoxide (CO).

(1) Primary and Secondary Standards:

(a) 10 milligrams per cubic meter (9 ppm) as a maximum 8-hour concentration not to be exceeded more than once a year.

(b) 40 milligrams per cubic meter (35 ppm) as a maximum 1-hour concentration not to be exceeded more than once a year.

(E) Ozone.

(1) Primary and Secondary Standards:

(a) 235 micrograms per cubic meter (.12 ppm) as a maximum 1-hour concentration not to be exceeded more than one day a year. (Attainment of this standard is determined; in accordance with Appendix H of 40 CFR Part 50; which is adopted and incorporated herein).

(b) 0.08 parts per million (0.08 ppm) as a daily maximum 8-hour average concentration. (Attainment of this standard is determined in accordance with Appendix I of 40 CFR Part 50; which is adopted and incorporated herein).

(F) Lead.

(1) Primary and Secondary Standards:

(a) 1.5 micrograms per cubic meter calendar quarter arithmetic mean. (1978 standard)

(b) 0.15 micrograms per cubic meter, rolling three (3) month average. (2008 standard)

Note: 1978 standard remains in effect until December 31, 2012, concurrent with the 2008 standard.

v. March 2012

SECTION 17. CONSTRUCTION PERMITS -- WHEN REQUIRED.

(A) Except as provided under paragraph (S) of this section, or under Article 2, Section 19 of these Regulations and Standards, 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 these Regulations and Standards:

(1) Any air contaminant source or emission unit, such that there is a net increase in potential emissions equal to or exceeding the following levels (except as provided in paragraph (A)(3) of this section):

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

(b) Ten (10) tons/year of $PM_{2.5}$ emissions.

(c) Forty (40) tons/year of SO_2, or SO_3, or any combination of the two.

(d) Forty (40) tons/year of oxides of nitrogen (calculated as NO_2)

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

(f) Fifty (50) tons/year of carbon monoxide (CO).

(g) Six tenths (0.6) tons/year of lead.

(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 Article 2, Section 27, paragraph (B)).

(i) When determining the net change in potential emissions under paragraph (A)(1) above, fugitive emissions shall be addressed in accordance with the requirements of Article 2, Section 2, paragraph (A)(1) and paragraph (B) without regard to classification of the source as major or minor.

(2) Any incinerator used for refuse disposal or for processing of salvageable materials, any human/animal crematory, and any Type 4 (pathological) waste burning incinerator, except refuse incinerators located on residential premises containing five or less dwelling units used only for the disposal of residential waste generated on the residential premises where the incinerator is located.

(3) When a source replaces an existing emission unit with a new unit, that performs the same function as that of the unit being replaced, netting shall not be used to determine the need for a permit under this section, except as follows:

(a) The procedure for determining a net increase in projected actual emissions will be allowed for sources where the equipment replacement would be subject to the requirements of Article 2, Section 19 of these Regulations and Standards; and

(b) In cases where the source can demonstrate to the Department that netting will result in a net reduction in emissions of individual criteria and toxic air pollutants and total toxic air pollutants, where applicable. In this case, the source may also use actual emissions decreases from emission units that are dissimilar in function to the unit(s) being replaced in order to make this demonstration, provided the actual emissions decreases are concurrent with the planned replacement. However, any emissions increases that occur at this time with respect to these emission units must also be included in this demonstration. The result of the netting calculation must be a difference of less than zero tons per year of emission. This demonstration is not applicable to emission units that are subject to the requirements of Article 2, Section 27 paragraph (C).

(c) If the exceptions of (a) or (b), above are not applicable, the potential emissions of regulated air pollutants associated with the new (replacement) unit alone shall be used to determine the need for a permit, i.e., no reduction in emissions from the new unit shall be allowed because of the elimination of actual emissions from the existing emission unit which is being replaced and those associated with other emission units at the facility. A new unit shall not mean an existing emission unit which is being relocated from another site.

(B) 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.

(1) The permittee must comply with all conditions of the construction permit. Any permit noncompliance shall constitute a violation of these Regulations and Standards and the Act and is grounds for enforcement action or permit revocation.

(C) The owner or operator of any source required to obtain a construction permit under these Regulations and Standards shall submit an application on forms provided by the Department.

(D) 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.

(E) 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.

(F) 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 correct information.

(G) The Department shall require in the application information 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.

(H) 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.

(I) Disapproval of Application for Permits.

(1) If it is determined by the Director that emissions resulting from the operation of a source to be constructed or modified will violate the "Standards of Performance for New Stationary Sources", violate any portion of these rules and regulations, 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.

(2) A construction permit will not be issued for any major source or major modification when such source or modification would cause or contribute to 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:

Pollutants	Averaging Time Annual	Averaging Time 24 hrs	Averaging Time 8 hrs	Averaging Time 3 hrs	Averaging Time 1 hr
SO_2	1.0 ug/m^3	5.0 ug/m^3	----------		----------
PM_{10}	1.0 ug/m^3	5.0 ug/m^3	----------	----------	----------
$PM_{2.5}$	0.3 ug/m^3	1.2 ug/m^3	----------	----------	----------
NO_2	1.0 ug/m^3	----------	----------	----------	----------
CO	----------	----------	0.5 mg/m^3	----------	2.0 mg/m^3

(J) Issuance of permits. The Director shall publish notice of intent to approve or disapprove the application in accordance with procedures in Article 2, Section 14 of these Regulations and Standards.

(K) Approval, by issuance of a permit for any construction, reconstruction, or modification, does not relieve the owner or operator from his or her responsibility to comply with the applicable portions of the Implementation Plan control strategy.

(L) If construction, reconstruction, or modification of the source is not commenced within 18 months, the construction permit shall lapse except upon showing by the permittee that the complexity of the construction, reconstruction, or modification requires additional time.

(M) Additional Requirements for Construction or Modification of Sources in non-attainment Areas.

(1) No permit to construct or modify will be issued for a proposed major source of a major modification if the source is located or is to be located in an area that is non-attainment for a pollutant for which the source or modification is major unless it determined that;

(a) By the time the facility is to commence operation, total Allowable emissions from the same source or existing sources in the same non-attainment 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 emission reductions required as a precondition of the issuance of a permit shall be federally enforceable before such permit is issued.

(b) The proposed source is required to comply with the lowest achievable emission rate (LAER); and

(c) 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, with all applicable emission limitations and standards.

(d) The proposed source is in compliance with requirements established under the Implementation plan and the Director shall not issue a permit if the Administrator has determined that the applicable Implementation plan is not adequately implemented for the non-attainment area in which the proposed source is to be constructed or modified.

(e) The source has completed an analysis of alternative sites, sizes, production processes, and environmental and social costs imposed as a result of its location, construction, or modification.

(2) The requirements of paragraph (M)(1)(a), above, 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.

(3) The following shall apply to emission offsets:

(a) If the emissions limit under these Regulations and Standards allow a greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;

(b) 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 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.

(c) 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 had 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.

(1) However, where an applicant can establish that it shutdown 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 may be applied to offset emissions for the new source;

(d) 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);

(e) 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.

(f) 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 51 Subpart I or in demonstrating attainment or reasonable further progress.

(g) Emissions reductions otherwise required by the Act or these Regulations and Standards shall not be creditable as emission reductions for purposes of any offset.

(4) The provisions of paragraph (M), above, do not apply to a source or modification that would be a 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:

(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum ore reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Line plants;
(l) Phosphate rock processing plant;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) Chemical process plants;
(u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hours heat input;
(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(w) Taconite ore processing plants;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;
(aa) Any other stationary source category which is being regulated by a standard promulgated under Sections 111 or 112 of the Act as of August 7, 1980.

(5) 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.

(N) Modification of the Construction Permit. The purpose of this section is to provide a means to address unforeseen situations which may develop in the process of constructing or modifying an emission source subject to this Section.

(1) Subject to the approval of the Director, the terms of a construction permit may be modified without public review through the substitution of alternative provisions, provided the following conditions are met:

(a) No emission limit in the original construction permit is exceeded;
(b) No applicable requirement included in an operating permit to which the source is subject is violated;
(c) No emissions limit, equipment or operational standard applicable to the source will be exceeded;
(d) No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and
(e) The nature of the constructed facility will be consistent with that described in the original public notice materials.

(2) Modifications meeting the conditions of paragraph (N)(1), above, shall be processed as follows:

(a) The owner or operator shall submit an application for modification of a construction permit as provided in paragraph (C), above, and provide such additional information as may be required to determine if the conditions of paragraph (N)(1), above, have been met;
(b) The Department shall review the application and determine whether or not a modification of the construction permit is required. The applicant shall not proceed with the project until a

determination is made by the Director.

(3) Proposed modifications to a construction permit which do not meet the conditions of paragraph (N)(1), above, must be processed through the full construction permit process as provided in paragraphs (C) through (M), above.

(O) Construction Permit Exemption for Commercial, Industrial, and Institutional Emergency Generators. This subsection shall apply to the following emergency generators where the total emergency generator capacity at a commercial, industrial, or institutional facility is or will be equal to or greater than 200 KW (kilowatts) for fuel oil, LPG or natural gas-fired units, or equal to or greater than 19 KW where one or more of these generators is fueled with gasoline: (a) Stationary units that are installed on or after 11-15-09 provided that the owner/operator submits the request for exemption no later than 60 days after installation; and (b) Portable units that are installed on or after 11-15-09 provided that the owner/operator submits the request for exemption no later than 2 days after installation except as provided for in paragraph (O)(3), below, for disasters. Owners/operators of emergency electrical generators that do not submit the request for exemption within the time period provided for in (a) or (b) shall be required to obtain a construction permit in accordance with the requirements of Article 2, Section 17 (A)(1) of the Regulations and Standards. Within 18 months of issuance of a construction permit, the Department may require an owner/operator to submit an application for an operating permit in accordance with Article 2, Section 5 or 10 (portable units) of the Regulations & Standards.

(1) To qualify for the exemption, owners/operators of these units shall comply with the following requirements:

(a) Stipulate that annual operating hours for a unit will not exceed 500 (including maintenance and readiness testing) and that records of annual operating hours will be maintained. Also, for stationary units manufactured after April 1, 2006, stipulate that maintenance and readiness testing of such units shall be limited to no more than 100 hours per year. If the owner/operator of a unit manufactured after April 1, 2006 can provide the Director with information that indicates a Federal, State, or local standard, the manufacturer, the vendor, or an insurance company associated with the unit recommends maintenance and readiness testing of the emergency electrical generator beyond 100 hours per year, the 100 hour per year limit shall not be imposed. However, the overall operating limit of 500 hours per year shall not be exceeded. Stationary emergency generators (engines) may be operated up to 50 hours per year in non-emergency situations and up to 15 hours per year as part of a demand response program provided that this is allowed by the requirements of the rule that are applicable to emergency stationary reciprocating internal combustion engines (RICE). Depending on the age (new, modified, reconstructed, existing), type of engine (spark ignition, compression ignition), size of engine (bhp rating), and in the case of hazardous air pollutants (HAPS) whether the engine is located at a major or minor source of HAPS, the applicability of one or more of the following rules should be assessed: (1) In the case of HAP requirements for new, reconstructed, or existing stationary emergency RICE, 40 CFR Part 63 Subpart ZZZZ, Section 63.6640, paragraph (f); (2) For new, modified, or reconstructed compression ignition engines, 40 CFR 60 Subpart IIII, Section 60.4211, paragraph (f); and (3) For new, modified or reconstructed spark ignition engines, 40 CFR Part 60 Subpart JJJJ, Section 60.4243, paragraph (d).

(b) Record operating hours for both test and emergency conditions, and for any non-emergency and demand response hours, if applicable.

(c) The sulfur content of any fuel oil combusted in these units shall not exceed 0.05% (500 ppm) by weight. Beginning June 1, 2010, the per gallon sulfur content of non-road diesel fuel shall not exceed 15 ppm by weight and the cetane index or aromatic content shall either be a minimum cetane index of 40 or a maximum aromatic content of 35 volume percent.

(2) To obtain the exemption, owners/operators of stationary emergency generators, shall submit their requests to the Department and provide the following information for each unit:

(a) The make and model number.

(b) The horsepower rating and KW rating, the date ordered, the date engine was manufactured (year), engine displacement (liters/cylinder), the type of engine - compression ignition or spark ignition, an if it is spark ignition, whether it is 2-stoke, 4-stoke, rich burn, or lean burn.

(c) The type of fuel (natural gas, LPG, gasoline, fuel oil) combusted.

(d) If fuel oil is combusted, indicate the grade, such as No. 2, and the sulfur content (% by weight). Provide a statement of certification from the fuel supplier confirming the grade and sulfur content of the fuel oil delivered and a letter from the owner/operator certifying that this

is the only type of fuel oil being combusted. If gasoline is combusted, the owner/operator shall obtain from the fuel supplier a fuel certification to document that the sulfur content of the gasoline meets the requirements of 40 CFR Part 80, Section80.195.

(e) An estimate of the anticipated annual hours of unit operation at the commercial, industrial, or institutional facility. The estimate shall included both test and emergency operating conditions.

(f) The estimated quantity of fuel that will be combusted annually.

(g) A site plan showing the proposed location of the unit and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of the unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Approval of the unit's location by the Department is required before an exemption will be grants. Owner/operators who are planning to install stationary emergency generators should be aware that several rules promulgated by the U.S.E.P.A. may be applicable to the internal combustion engines (ICE) associated with these units. In order to assess rule applicability and to evaluate possible requirements, owner/operators are advised to contact the Department and to request the document, "Summary of Requirements for Stationary Internal Combustion Engines: 40 CFR Part 60 Subpart IIII - Standards of Performance for Stationary Compression Ignition ICE; Part 60 Subpart JJJJ - Standards of Performance for Stationary Spark Ignition ICE; and Part 63 Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Reciprocating Internal Combustion Engines (RICE)."

(3) To obtain the exemption, owners/operators of portable gasoline-powered emergency generators, shall submit their requests to the Department and provide the following information:

(a) The information required in Article 2, Section 17, paragraphs (O)(2)(a) and (b); for horsepower and KW rating only; and

(b) The information required in Article 2, Section 17 (O)(2)(e) and (g).

NOTE: An exemption for a portable unit shall not be required in cases where the unit is relocated to Lancaster County for the express purpose of addressing an immediate emergency condition, such as the result of a natural or man-made disaster, and the unit will not remain operational for a period greater than seven days (168 hours). If a portable unit will be operated more than seven days, the owner/operator shall be required to apply for the exemption within 24 hours after conclusion of the seventh day of operation in order to avoid the construction permit requirement. After these periods, the owner/operator will be required to submit a construction permit application and to obtain a permit, if an exemption was not obtained.

(4) In the event the owner/operator of an emergency generator who holds an exemption no longer qualifies for the exemption according to the requirements of Article 2, Section 17, paragraphs (O)(1)(a) through (c), or the owner/operator chooses to operate the generator for other than emergency purposes, the owner/operator shall submit a construction permit application to the Department within 60 days of the finding or declaration and shall obtain a permit. Within 18 months of issuance of a construction permit, the Department may require the owner/operator to submit an application for an operating permit in accordance with the requirements of Article 2, Sections 5 or 10 of these Regulations and Standards.

(5) Owners/operators of emergency generators who operate these units in non-compliance with the requirements of Article 2, Section 17, paragraphs (O)(2), (3), or (4) shall be deemed in violation of these requirements and shall be subject to the provisions of Article 1, Sections 3 and 4 of these Regulations and Standards. The owner/operator of an emergency generator whose hours of operation exceed 500 hours and/or 100 hours per year (for units manufactured after April 1, 2006) for maintenance and readiness testing during the year shall report these events to the Department no later than 30 days after the month in which the 500 and/or 100 hours per year limits were exceeded.

(6) A processing fee for review of the construction permit exemption request shall be assessed in accordance with Article 1, Section 6 of these Regulations and Standards.

(7) The Department will provide a letter of exemption to the owner/operator of an emergency generator who has requested the exemption, has provided the information required in Article 2, Section 17, paragraph (O)(2), and/or paragraph (O)(3), the Department has determined the unit qualifies for the exemption according to Article 2, Section 17, paragraphs (O)(1)(a) through (c), and has submitted the applicable exemption request fee. The exemption shall remain in effect for each unit that continues to qualify. In the event the Department determines that an exemption cannot be granted, a letter explaining the reason(s) for refusal will be sent to the owner/operator. The owner/operator who is

denied an exemption may provide additional information to support their request. If the Department, after review of this additional information, continues to deny the exemption, the owner/operator may appeal the decision to the Director according to the procedures established in Article 1, Section 4 of these Regulations and Standards.

(P) Construction Permit Requirements for Commercial, Industrial, and Institutional Non-Emergency Generators. This subsection shall apply to any stationary electric power producing generators operated at commercial, industrial or institutional facilities where the owner/operator participates in a program established by the local utility in which the utility may request that the owner/operator use these generators to produce a limited number of hours of electric power during periods when power from the local utility is available. An owner/operator who participates in this program must obtain a construction permit from the Department that applies to all generators at the facility that may be used for this non-emergency purpose. The owner/operator may utilize these generators for emergency purposes but they will be designated as non-emergency generators for purposes of this subsection.

(1) To qualify for and to obtain this permit, an owner/operator shall comply with the following requirements and provide the following information:

(a) Each generator that may be used for non-emergency purposes must be specifically identified. A distinction must be maintained between those generators that may be used to generate power for non-emergency purposes and those units that will be used solely as emergency generators.

(b) The number of hours the unit may be operated for nonemergency purposes shall be limited to no more than 200 hours per calendar year, and for emergency purposes, including testing, the unit's operation shall be limited to no more than 300 hours per calendar year. For units manufactured after April 1, 2006, maintenance and readiness testing is limited to no more than 100 hours per year unless the owner/operator provides the Director with information that indicates a Federal, State, or local standard, the manufacturer, the vendor, or an insurance company associated with the unit recommends maintenance and readiness testing of these units beyond 100 hours per year. Regardless of the 200 hour limit allowed each unit for non-emergency operation, the emission limit established in paragraph (P)(1)(g) of this Section shall not be exceeded.

(c) A record of unit operating hours for emergency and testing purposes and for non-emergency purposes shall be maintained on a monthly basis. These records shall be made available to authorized representatives of the Department upon request. The owner/operator shall report to the Department any exceedances of the 200 hour per year and/or 300 hour per year and/or the 100 hour per year limits limit that are applicable to a generator operating under the requirements of this subsection. The report of exceedances shall be submitted no later than 30 days after the month in which the 200 hour per year the 300 hour per year and/or the 100 hour per year limits are exceeded.

(d) A record of the quantity of fuel (natural gas, LPG, gasoline, fuel oil) combusted annually for emergency and testing purposes and for non-emergency purposes shall be maintained.

(e) An annual emissions inventory shall be submitted to the Department on forms provided by the Department by March 31st of each year, and shall contain information for the previous calendar year. The inventory must include a separate accounting of the emissions resulting from nonemergency operation and those resulting from emergency, including testing, operation of each generator subject to the requirements of this subsection. This submittal shall also include the records required in subparagraph (c) (operating hours) and (d) (quantities of fuel) above.

(f) The sulfur content of fuel oil combusted shall not exceed 0.05% by weight. However, beginning June 1, 2010 the per gallon sulfur content of the non-road diesel fuel oil shall not exceed 15 ppm by weight and the cetane index or the aromatic content shall either be a minimum cetane index of 40 or a maximum aromatic content of 35 volume percent. The owner/operator shall provide a statement of certification from the fuel supplier confirming that the fuel oil delivered does not exceed this limit, and the owner/operator shall also certify that oil with this sulfur limit is the only type of fuel oil being combusted. If gasoline is combusted the owner/operator shall obtain from the fuel supplier a fuel certification to document that the sulfur content of the gasoline meets the requirements of 40 CFR Part 80, Section 80.195.

(g) Total criteria and non-criteria emissions from all of these units at a facility during non-

emergency operation shall be less than ten (10) tons during a calendar year. The emission factors used to calculate these emissions shall be those provided in AP-42, by the generator manufacturer, or by other sources of information acceptable to the Department.

(h) Within 30 days of the date the Department issues the construction permit, the owner/operator shall submit a construction permit fee in the amount required by Article 2, Section 30 of the Regulations and Standards.

(i) Annually, the permittee shall pay emission fees to the Department in accordance with Article 1, Section 6, paragraph (B)(1)(d).

(j) The owner/operator shall provide the following information for each non-emergency generator in the construction permit application submitted to the Department:

(1) The make and model number of the generator;

(2) The KW and horsepower ratings, the date ordered, the date engine was manufactured (year), engine displacement (liters/cylinder), the type of engine-compression ignition or spark ignition, and, if spark ignition, whether it is 2-stoke, 4-stoke, rich burn, or lean burn:

(3) The type of fuel(s) (natural gas, LPG, gasoline, fuel oil) combusted;

(4) If fuel oil is combusted, indicate the grade, such as No. 2, the sulfur content (% by weight); the cetane index, and the aromatic content. If gasoline is combusted, indicate the sulfur content: and

(5) A site plan showing the location of the stationary non-emergency generator(s) and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of each unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Depending on the level of concern raised by evaluation of the site plan, the Department may request that an ambient air quality impact analysis be performed. Owner/operators who are planning to install stationary emergency generators or currently have existing stationary emergency generators that will be used for the kind of non-emergency purpose described here in Subsection (P) should be aware that several rules promulgated by the U.S.E.P.A. may be applicable to the internal combustion engines associated with these generators. In order to assess the applicability of these rules and to evaluate possible requirements, owner/operators are advised to contact the Department and to request the document. "Summary of Requirements for Stationary Internal Combustion Engines (ICE): 40 CFR Part 60 Subpart IIII - Standards of Performance for Stationary Compression Ignition ICE; Part 60 Subpart JJJJ - Standards of Performance for Stationary Spark Ignition ICE; and Part 63 Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Stationary Reciprocating Internal Combustion Engines (RICE)."

(2) The owner/operator who has been issued a construction permit for a stationary non-emergency generator(s) that will be operated in accordance with the requirements of this subsection is not required to obtain an operating permit for the unit provided that emissions from the unit in combination with those of other emissions units at the facility do not make the facility subject to the requirements of Article 2, Section 5 of these Regulations and Standards. The emissions from emergency generators operated in conjunction with non-emergency generators at a facility must also be included in determining the need for an operating permit. A non-emergency generator shall not be considered an insignificant activity and it must be included as an emission unit in the operating permit for facilities required to have this permit.

(3) Construction permits issued under this subsection shall not be subject to the affected states review or the public participation provisions of Article 2, Sections 13 or 14 of these Regulations and Standards, respectively.

(Q) Construction Permit Requirements for Commercial, Industrial, and Institutional Electrical Generators Used for Purposes Other Than Those Pertaining to paragraphs (O) and (P) of this Section. These generators, powered by fuel oil, natural gas, LPG or gasoline, shall be required to obtain a construction permit if the provisions of paragraph (A) of this Section apply. Additionally, these units may be subject to any or all of the operating permit requirements of Article 2, Sections 5, 9, and 10 of these Regulations and Standards.

(1) Owners/operators who are planning to install stationary electrical generators for purposes other than those described in paragraphs (O) and (P) of this section should be aware that the internal combustion engines associated with these generators, in particular those intended for non-emergency purposes, will

likely be subject to the rules promulgated by the U.S.E.P.A. that are applicable to stationary internal combustion engines. In order to assess the applicability of these rules and to evaluate possible requirements, owner/operators should contact the Department and request the document. "Summary of Requirements for Stationary Internal Combustion Engines (ICE): 40 CFR Part 60 Subpart IIII - Standards of Performance for Stationary Compression Ignition ICE; Part 60 Subpart JJJJ - Standards of Performance for Stationary Spark Ignition ICE; and Part 63 Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Stationary Reciprocating Internal Combustion Engines (RICE)."

(R) Any person or source issued a construction permit under this section shall pay annual emission fees as required under Article 1, Section 6 of these Regulations and Standards.

(S) Any source not required to obtain a construction permit pursuant to paragraph (A) of this section may request a construction permit to be issued in the manner prescribed by paragraphs (B) through (M) for the following purposes:

(1) Establishing enforceable limits to avoid otherwise applicable requirements under the provisions of these Regulations and Standards.

(2) Revising existing construction permits to incorporate significant permit revisions as defined in Article 2, Section 15 of these Regulations and Standards.

(3) Establishing a PAL pursuant to the provisions of Article 2, Section 19 of these Regulations and Standards. The construction permit used to establish a PAL must include the information and conditions listed in Article 2, Section 19, paragraph (K)(6).

(4) 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 Title 129, Chapter 43, Nebraska Department of Environmental Quality.

Ref: Title 129, Chapter 17, Nebraska Department of Environmental Quality

v. March 2012

SECTION 19. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY.

(A) The following paragraphs are those adopted from Nebraska Administrative Code, Title 129 Nebraska Air Quality Regulations, Chapter 19, effective February 5, 2008 and those of 40 CFR Part 52 §52.21 published on July 1, 2009 which are incorporated by reference into Article 2, Section 19 of the LLCAPCPRS: §52.21 (b)(2)(iii)(i) through (b)(2)(iii)(k) related to clean coal technology demonstration projects; §52.21 (b)(34) through (b)(38) definitions related to clean coal technology demonstration projects; (e) Restrictions on area classifications; and (g) Redesignation. 40 CFR Part 52 §52.21(p), "Sources impacting Federal Class I area", as published at 75 Federal Register 64906 is incorporated by reference into Article 2, Section 19 of these Regulations and Standards.

(B) The requirements of this section apply to the construction of any new major stationary source or the major modification of any existing major stationary source, as defined in Article 2, Section 2, paragraph (H). The provisions of this section apply only to sources located in areas designated as attainment or unclassifiable.

(C) 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 section.

(D) 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:
- (1) The status of each relevant emissions unit, either new or existing, as defined in Article 2, Section 1.
- (2) The baseline actual emissions (BAE) for each unit, as defined in paragraph (E) of this section.
- (3) The projected actual emissions (PAE) or potential to emit (PTE) for each unit, as defined in paragraphs (F) and (G) of this section.
- (4) Whether the emissions increase (PAE (or PTE) minus BAE) as calculated according to paragraph (H) of this section is significant, as defined in paragraph (J) of this section.
- (5) If the emissions increase is significant as calculated according to paragraph (H) of this section, whether the net emissions increase, as calculated according to paragraph (I) of this section, is significant as defined in paragraph (J) of this section.

(E) Baseline actual emissions (BAE) for a new unit is defined in paragraph (E)(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:
- (1) 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.
- (2) 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 paragraph, whichever is earlier.
- (3) In no case may the consecutive 24-month period begin before January 1, 1996.
- (4) The average rate per unit shall include emissions associated with startups, shutdowns, and malfunctions.
- (5) Fugitive emissions.
  - (a) The average rate per unit shall include fugitive emissions, to the extent quantifiable, for sources belonging to one of the categories listed in Article 2, Section 2, paragraph (B)(3). 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.
  - (b) The average rate per unit shall not include fugitive emissions for sources not belonging to one of the categories specified in Article 2, Section 2, paragraph (B)(3).
- (6) 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.
- (7) 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.

(8) 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.

(9) 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.

(10) BAE shall be calculated using the following methodologies in this order of preference where possible:

(a) Continuous Emissions Monitors (CEMS) complying with requirements in Article 2, Section 34.

(b) Predictive Emissions Monitors (PEMS) complying with requirements in Article 2, Section 34.

(c) Source-specific stack test data, if such stack test occurred during the baseline period.

(d) Emission factors as defined in Article 2, Section 6, paragraphs (C)(3) and (C)(4).

(e) Mass Balance.

(11) Other methodologies or a different order of preference of methodologies than those listed in (E)(10) may be used to calculate the BAE with prior concurrence of the Department.

(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.

(13) For a PAL for a stationary source, the BAE shall be calculated in accordance with the procedures contained in paragraphs (E)(1) through (E)(12).

(F) 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:

(1) 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

(2) Shall include emissions associated with startup, shutdown, and malfunctions.

(3) Shall consider fugitive emissions as follows:

(a) The average rate per unit shall include fugitive emissions, to the extent quantifiable, for sources belonging to one of the categories listed in Article 2, Section 2, paragraph (B)(3). 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.

(b) The average rate per unit shall not include fugitive emissions for sources not belonging to one of the categories specified in Article 2, Section 2, paragraph (B)(3).

(4) 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.

(5) May, in lieu of using the method set out in paragraphs (F)(1), (F)(2), (F)(3) and (F)(4), elect to use the emissions unit's potential to emit (PTE), in tons per year, as defined in paragraph (G) of this section.

(G) 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.

(H) Calculating significant emissions increase of a regulated NSR pollutant.

(1) 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 paragraph (J) of this section.

(2) 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 paragraph (J) of this section.

(3) 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 paragraphs (E)(1) and (E)(2) of this section) equals or exceeds the significant amount for that pollutant, as described in paragraph (J) of this section.

(4) 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 paragraph (K) of this section.

(I) If a project results in a significant emissions increase as calculated in paragraph (H) of this section, 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 paragraph (I)(1)) with the project and are otherwise creditable. BAE for calculating such increases and decreases shall be as defined in paragraph (E) of this section.

(1) An increase or decrease in actual emissions is contemporaneous with the increase from the project for which an emissions increase has been calculated in paragraph (H) of this section only if it occurs between the date five years before the source begins actual construction (as defined in Article 2, Section 1) of the project and the date that the increase from the project occurs.

(2) 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.

(J) 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:

(1) Carbon Monoxide (CO): 100 tons per year;
(2) Nitrogen Oxides (NOx): 40 tons per year;
(3) Sulfur Dioxide (SO_2): 40 tons per year;
(4) Particulate Matter (PM): 25 tons per year;
(5) PM_{10}: 15 tons per year;
(6) $PM_{2.5}$: Any of the following:
  (a) 10 tons per year of direct $PM_{2.5}$ emissions;
  (b) 40 tons per year of NOx;
  (c) 40 tons per year of SO_2.
(7) Ozone: 40 tons per year of volatile organic compounds (VOC) or NOx;
(8) Lead: 0.6 tons per year;
(9) Fluorides: 3 tons per year;
(10) Sulfuric Acid (H_2SO_4) Mist: 7 tons per year;
(11) Hydrogen Sulfide (H_2S): 10 tons per year;
(12) Total Reduced Sulfur Compounds (including H_2S): 10 tons per year;
(13) Reduced Sulfur Compounds (including H_2S): 10 tons per year;
(14) Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tons per year).
(15) Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year);
(16) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year);
(17) Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year).

(18) For the pollutant greenhouse gases (GHGs),
  (a) Greater than zero tons per year on a mass basis; and
  (b) 75,000 tons per year CO_2e

(19) For any regulated NSR pollutant not listed in paragraphs (J)(1) through (J)(18): any increase is significant.

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

(1) A PAL may only be approved for an existing major stationary source

(2) 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.

(3) 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 paragraph (M) and complies with the provisions of the construction permit establishing the PAL:
  (a) Is not considered a major modification for the PAL pollutant; and
  (b) Is not subject to the provisions in paragraph (X)(2) of this section.

(4) Except as provided under paragraph (K)(3)(b), 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.

(5) 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:
  (a) A list of all emissions units at the source and each unit's designation as small, significant or major based on its PTE.
  (b) 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.
  (c) Calculations of the BAE with supporting documentation.
  (d) 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 paragraph (K)(12).

(6) The PAL shall be established in a construction permit in accordance with Article 2, Section 17. The construction permit establishing the PAL shall include the following information and conditions:
  (a) 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.
  (b) Each PAL shall regulate emissions of only one pollutant.
  (c) Each PAL shall have an effective period of 10 years.
  (d) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in paragraphs (K)(12), (K)(13), and (K)(14) for each emissions unit under the PAL throughout the PAL effective period.
  (e) The PAL pollutant and the applicable source-wide emissions limitation in tons per year.
  (f) The PAL effective date and expiration date.
  (g) Specification that if the owner or operator of the source with a PAL applies to renew a PAL in accordance with paragraph (K)(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.
  (h) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.
  (i) A requirement that, once a PAL expires, the major stationary source is subject to the requirements under paragraph (K)(18).
  (j) 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 paragraph (K)(12).

(k) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provision under paragraph (K)(12).

(l) A requirement to retain the records required under paragraph (K)(13) onsite. Such records may be retained in an electronic format.

(m) A requirement to submit the reports required under paragraph (K)(14) by the required deadlines.

(n) 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 Article 2, Section 17, paragraph (M)(3), 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.

(o) Any other requirements that the Department deems necessary to implement and enforce the PAL.

(7) 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 paragraph (J) of this section, 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.

(8) During the PAL effective period, the Department is required to reopen the construction permit to:

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

(b) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under Article 2, Section 17, paragraph (M)(3).

(c) Revise the PAL to reflect an increase in the PAL as provided in paragraph (K)(11).

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

(a) Reduce the PAL to reflect newly applicable Federal requirements with compliance dates after the PAL effective date.

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

(c) 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.

(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 Article 2, Section 14.

(11) Increasing a PAL emission limitation during the PAL effective period.

(a) 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:

(1) 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.

(2) 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.

(3) The owner or operator must obtain a major PSD permit for all emissions unit(s) identified in paragraph (K)(11)(a)(1), 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.

(4) 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.

(b) 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.

(c) The construction permit reflecting the increased PAL level shall be issued pursuant to compliance with requirements for public participation in Article 2, Section 14.

(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 paragraph (K)(12) renders the PAL invalid. The PAL monitoring system must employ one of the monitoring approaches listed in paragraphs (K)(12)(a) through (K)(12)(d) or an alternative approach approved by the Department:

(a) CEMS which meet the following requirements:

(1) CEMS must comply with applicable Performance Specifications found in 40 CFR part 60, appendix B; and

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

(b) PEMS which meet the following requirements:

(1) Any PEMS must be approved for use by the Department in accordance with Article 2, Section 34, paragraph (I).

(2) Any PEMS approved for use in accordance with Article 2, Section 34, paragraph (I) 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.

(c) Emissions factors which meet the following requirements:

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

(2) The emissions unit shall operate within the designated range of use for the emissions factor if applicable; and

(3) 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 Article 2, Section 34, paragraph (G), unless the Department determines that such testing is not required.

(d) Mass balance calculations for activities using coatings or solvents which meet the following requirements:

(1) 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;

(2) 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

(3) 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.

(e) 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.

(f) Notwithstanding the requirements in paragraphs (K)(12)(a) through (K)(12)(d), 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:

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

(2) 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.

(g) 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.

(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 paragraph (K) 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:

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

(b) Each annual certification of compliance pursuant to Article 2, Section 8, paragraph (L)(5) and the data relied on in certifying the compliance.

(14) Reporting and notification requirements. The owner or operator shall submit the following reports to the Department in accordance with Article 2, Section 8, paragraphs (D)(3) and (D)(4):

(a) 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:

(1) The identification of the owner or operator and the permit number.

(2) Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to paragraph (K)(13).

(3) 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.

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

(5) 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.

(6) 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 paragraph (K)(12)(e).

(7) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(b) 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 Article 2, Section 8, paragraph (D)(3)(b) including time limits, shall satisfy this reporting requirement. The reports shall contain the following information:

(1) The identification of the owner or operator and the permit number;

(2) The PAL requirement that experienced the deviation or that was exceeded;

(3) Emissions resulting from the deviation or the exceedance; and

(4) A signed statement by the responsible official certifying the truth, accuracy, and completeness of the information provided in the report.

(c) 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.

(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:

(a) All of the information required for an initial application as listed in paragraph (K)(5).

(b) A proposed PAL level.

(c) The sum of the PTE of all emissions units under the PAL, with supporting documentation.

(d) Any other information the owner or operator wants the Department to consider in determining the appropriate level for renewing the PAL.

(16) The Department shall follow the procedures specified in Article 2, Section 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.

(17) Adjusting the PAL at the time of renewal

(a) If the emissions level calculated in accordance with paragraph (K)(7) 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 paragraph (K)(17)(b).

(b) 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.

(c) Notwithstanding the discretion allowed in paragraphs (K)(17)(a) and (K)(17)(b),

(1) 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.

(2) The Department shall not approve a renewed PAL level higher than the current PAL, unless the source has complied with the provisions of paragraph (K)(11).

(d) If the compliance date for a State or Federal requirement that applied to the PAL source occurs during the PAL effective period, and if the Department has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL renewal or operating permit renewal whichever occurs first.

(18) Termination or expiration of a PAL. The owner or operator of any source with a PAL that wishes to terminate such PAL prior to the end of the PAL effective period shall comply with the requirements in paragraph (K)(18). Any PAL that is not renewed in accordance with the procedures in paragraph (K)(15) shall expire at the end of the PAL effective period and the requirements in paragraph (K)(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 paragraph (K)(18) shall apply:

(a) 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:

(1) Within the time frame specified for PAL renewals in paragraph (K)(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 paragraph (K)(17)(d), such distribution shall be made as if the PAL had been adjusted.

(2) 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.

(b) 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.

(c) Until the Department issues the new construction permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under paragraph (K)(18)(a), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emissions limitation.

(d) 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 Article 2, Section 1.

(e) 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 paragraph (X)(2) of this section, but were eliminated by the PAL in accordance with paragraph (K)(11).

(L) 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:

(1) $PM_{2.5}$, annual arithmetic mean: 4 micrograms per cubic meter
(2) $PM_{2.5}$, 24 hour maximum: 9 micrograms per cubic meter
(3) PM_{10}, annual arithmetic mean: 17 micrograms per cubic meter
(4) PM_{10}, 24 hour maximum: 30 micrograms per cubic meter
(5) Sulfur dioxide, annual arithmetic mean: 20 micrograms per cubic meter
(6) Sulfur dioxide, 24 hour maximum: 91 micrograms per cubic meter
(7) Sulfur dioxide, 3 hour maximum: 512 micrograms per cubic meter
(8) Nitrogen dioxide, annual arithmetic mean: 25 micrograms per cubic meter

(M) Ambient air ceilings. No concentration of a pollutant shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard, or
(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

(N) Exclusions from increment consumption. The concentrations listed in paragraphs (N)(1) through (N)(4) shall be excluded in determining compliance with a maximum allowable increase. No exclusions of concentrations referred to in paragraphs (N)(1) and (N)(2) shall apply more than five years after the effective date of the applicable order or plan.

(1) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order, provided, that;
(2) 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;
(3) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and
(4) 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.

(O) Stack heights. Requirements for control of pollutants under this section shall be in accordance with Article 2, Section 16.

(P) Exemptions for particular major stationary source or major modification. The requirements of paragraphs (Q) through (X) of this section shall not apply to a particular major stationary source or major modification if:

(1) 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;

(2) 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 Article 2, Section 2, paragraph (B)(3).

(3) The source or major modification is a portable stationary source which has previously received a permit under requirements equivalent to those in paragraphs (Q) through (X) of this section, if

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

(b) The emissions for the source would not exceed its allowable emissions; and

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

(d) Notice of relocation is given to the Department in accordance with Article 2, Section 10.

(4) Requirements equivalent to those in paragraphs (Q) through (X) of this section 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.

(5) Requirements equivalent to those contained in paragraphs (R), (T), and (V) of this section 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.

(6) Requirements equivalent to those contained in paragraphs (R), (T), and (V) of this section 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.

(7) The Department may exempt a proposed major stationary source or major modification from the requirements of paragraph (T) of this section, with respect to monitoring for a particular pollutant, if:

(a) 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:

(1) Carbon monoxide (CO) – 575 micrograms per cubic meter, 8-hour average;

(2) Nitrogen dioxide (NO_2) – 14 micrograms per cubic meter, annual average;

(3) $PM_{2.5}$ – 4 micrograms per cubic meter, 24-hour average;

(4) PM_{10} – 10 micrograms per cubic meter, 24-hour average;

(5) Sulfur dioxide (SO_2) – 13 micrograms per cubic meter, 24-hour average;

(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 or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(7) Lead - 0.1 micrograms per cubic meter, 3-month average;

(8) Fluorides – 0.25 micrograms per cubic meter, 24-hour average;

(9) Total reduced sulfur – 10 micrograms per cubic meter, 1-hour average;

(10) Hydrogen sulfide – 0.2 micrograms per cubic meter, 1-hour average;

(11) Reduced sulfur compounds – 10 micrograms per cubic meter, 1-hour average; or

(b) The concentrations of the pollutant in the area that the source or major modification would affect are less than the concentrations listed in paragraph (P)(7)(a); or

(c) The pollutant is not listed in paragraph (P)(7)(a)

(8) Permitting requirements equivalent to those contained in paragraph (R)(1)(b) of this section 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.

(9) Permitting requirements equivalent to those contained in paragraph (R)(1)(b) of this section 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 (R)(1)(b) of this section shall apply with respect to the maximum allowable increases for TSP as in effect on the date the application was submitted

(Q) Control technology review.
- (1) 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 Article 2, Sections 18 and 23.
- (2) 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.
- (3) 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.
- (4) 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.

(R) Source impact analysis.
- (1) 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:
  - (a) Any national ambient air quality standard in any air quality control region; or
  - (b) Any applicable maximum allowable increase over the baseline concentration in any area.
- (2) Significant Impact Levels. For purposes of $PM_{2.5}$, the required demonstration set forth in paragraph (R)(1) of this section 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:
  - (a) $PM_{2.5}$ – 0.3 micrograms per cubic meter, annual average;
  - (b) $PM_{2.5}$ – 1.2 micrograms per cubic meter, 24-hour average.

(S) Air quality models.
- (1) All applications of air quality modeling referred to in Article 2, Section 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).
- (2) 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 may be subject to notice and opportunity for public comment under procedures set forth in Article, Section 14.

(T) Air quality analysis.
- (1) Pre-application analysis.
  - (a) 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:
    - (1) For the source, each pollutant that it would have the potential to emit in a significant amount;
    - (2) For the major modification, each pollutant for which it would result in a significant net emissions increase.
  - (b) 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.

(c) 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.

(d) 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.

(e) The owner or operator of a proposed major stationary source or major modification of volatile organic compounds (VOCs) who satisfies all conditions of Article 2, Section 17, paragraph (M), may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under paragraph (T)(1).

(2) 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.

(3) 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 paragraph (T).

(U) Source information.

(1) 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 Article 2, Section 19. Such information shall include:

(a) 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;

(b) A detailed schedule for construction of the source or major modification;

(c) 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.

(2) Upon request by the Department, the owner or operator shall also provide information on:

(a) The air quality impact of the source or major modification, including meteorological and topographical data necessary to estimate such impact; and

(b) 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.

(V) Additional impact analyses.

(1) 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.

(2) 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.

(W) Notification to permit applicants and public

(1) The Department shall determine if a permit application is complete within 60 days after receipt of the application and so notify the applicant. If the Department determines that the application is not complete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.

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

(3) 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.

(4) 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 Article 2, Section 14, paragraph (J).

(X) Source obligation.

(1) 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.

(2) 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 paragraphs (P) through (X) of this section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(3) 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 paragraphs (F)(1) through (F)(4) of this section for calculating projected actual emissions.

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

(1) A description of the project;

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

(3) 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 paragraph (F)(4), and an explanation for why such amount was excluded.

(b) 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 paragraph (X)(3)(a) 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.

(c) 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 paragraph (X)(3)(a)(2) 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.

(d) 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 paragraph (X)(3)(c), setting out the unit's annual emissions during the calendar year that preceded submission of the report.

(e) 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 paragraph (X)(3)(a) exceed the BAE (as documented and maintained pursuant to paragraph (X)(3)(a)(3)) by 80 percent of the significant amount for that regulated NSR pollutant, as listed in paragraph (J) of this section. Such report shall be submitted to the Department within 60 days after the end of such calendar year. The report shall contain the following:

(1) The name, address and telephone number of the major stationary source;
(2) The annual emissions as calculated pursuant to paragraph (X)(3)(e).
(3) An explanation as to whether the emissions differ from the preconstruction projections, and, if so, why.

(f) A PSD construction permit is required for each unit with annual net emissions of a regulated NSR pollutant exceeding the significant level listed in paragraph (J) of this section notwithstanding PAE below the significant level.

(4) The owner or operator shall make the information required to be documented and maintained pursuant to paragraph (X)(3) available for review upon request for inspection by the Department or the general public pursuant to the requirements contained in Article 2, Section 14.

(Y) 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.

Ref: Title 129, Chapter 19, Nebraska Department of Environmental Quality

v. March 2012

SECTION 20. PARTICULATE EMISSIONS – LIMITATIONS AND STANDARDS.

(For exceptions due to breakdowns or scheduled maintenance: See Section 35 of these Regulations and Standards)

(A) No person shall cause, suffer, allow or permit particulate matter (PM) emissions from any processing machine, equipment, device or other articles, or combination thereof, except indirect heating equipment, incinerators and coatings bake off ovens (burn-off furnaces), in excess of the amounts allowed in Table 20-1 during any one hour.

(1) Coatings bake off ovens (burn-off furnaces) shall comply with the following requirements:

(a) Particulate matter discharged into the outdoor atmosphere shall not exceed 0.1 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to 12% carbon dioxide.

(b) The oven's secondary combustion chamber shall be equipped with an auxiliary burner(s) capable of heating and maintaining the combustion in this chamber at a minimum temperature of 1,200°F. The burner(s) shall be interlocked with operation of the primary combustion chamber so that the oven can not be operated unless the secondary combustion chamber burner(s) is functioning.

(B) No person shall cause or allow PM emissions caused by the combustion of fuel to be emitted from any stack or chimney into the outdoor atmosphere in excess of the hourly rate set forth in the following table:

Total Heat Input in Million British Thermal Units Per Hour (MMBtu/hr)	Maximum Allowable Emissions in Pounds per Million British Thermal Units (lbs/MMBtu)
10 or less	0.60
10,000 or more	0.12

(C) The allowable emission rate for equipment having immediate heat input between 10 (10^6) BTU and 10,000 (10^6) BTU may be determined by the formula:

$$A = \frac{1.026}{I^{.233}}$$

Where:
A = The allowable emission rate in Lb/10^6 BTU
I = The total heat input in 10^6 BTU/Hr

(D) For the purpose of these Regulations and Standards, the total heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack, or the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable PM emissions.

(E) No person shall cause or allow emissions from any existing source, which are of an opacity equal to or greater than twenty percent (20%), as evaluated by an EPA approved method, or recorded by a continuous opacity monitoring system operated and maintained pursuant to 40 CFR Part 60 Appendix B except as provided for in paragraph (F) of this section.

Table 20-1

Process Weight Rate (lbs/hr)	Process Weight Rate (tons/hr)	Allowable Rate of Emissions (lbs/hr)	Process Weight Rate (lbs/hr)	Process Weight Rate (tons/hr)	Allowable Rate of Emissions (lbs/hr)
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.00	19.2
600	0.30	1.83	30,000	15.00	25.2
800	0.40	2.22	40,000	20.00	30.5
1,000	0.50	2.58	50,000	25.00	35.4
1,500	0.75	3.38	60,000	30.00	40.0
2,000	1.00	4.10	70,000	35.00	41.3
2,500	1.25	4.76	80,000	40.00	42.5
3,000	1.50	5.38	90,000	45.00	43.6
3,500	1.75	5.96	100,000	50.00	44.6
4,000	2.00	6.52	120,000	60.00	46.3
5,000	2.50	7.58	140,000	70.00	47.8
6,000	3.00	8.56	160,000	80.00	49.0
7,000	3.50	9.49	180,000	90.00	50.2
8,000	4.00	10.40	200,000	100.00	51.2
9,000	4.50	11.20	1,000,000	500.00	69.0
10,000	5.00	12.00	2,000,000	1,000.00	77.6
12,000	6.00	13.60	6,000,000	3,000.00	92.7

Interpolation of the data in this table for process weight rates up to 60,000 Lb/Hr shall be accomplished by use of the equation $E = 4.10p^{.67}$ and interpolation and extrapolation of the data for process weight rates in excess of 60,000 Lb/Hr shall be accomplished by use of the equation $E = 55.0p^{.11}-40$, where E = rate of emission in Lb/Hr and p = process weight rate in Tons/Hr. If two or more units discharge into a single stack, the allowable emission rate will be determined by the sum of all process weights discharge into the single stack.

(F) Exceptions:

(1) Emission sources subject to monitoring requirements of Section 34, paragraph (E) of these Regulations and Standards are allowed to have one six minute period per hour of not more than 27 percent opacity.

(G) All sources shall comply with paragraph (E) of this section unless a more stringent opacity standard applies as specified elsewhere in these Regulations and Standards.

Ref: Title 129, Chapter 20, Nebraska Department of Environmental Quality

v. March 2012

SECTION 22. INCINERATORS: EMISSION STANDARDS.

(A) The following categories of waste burning combustion units shall be regulated by this section:

(1) Small municipal waste combustion units for which construction is commenced after August 30, 1999 or for which modification or reconstruction is commenced after June 6, 2001 shall comply with the requirements of 40 CFR Part 60 Subpart AAAA. This standard applies to municipal waste combustion units that meet two criteria:

(a) The unit is new as defined at Section 60.1015; of Subpart AAAA.

(b) The unit has the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel. There are units that are exempt from the requirements of this subpart. Section 60.1020 paragraphs (a) through (k) should be consulted to determine whether a specific type of unit is exempt.

(2) Small municipal waste combustion units constructed on or before August 30, 1999 shall comply with the requirements of 40 CFR Part 60 Subpart BBBB,

(3) Large municipal waste combustors that are constructed on or before September 20, 1994 shall comply with the requirements of 40 CFR Part 60 Subpart Cb.

(4) Hospital/medical/infectious waste incinerators constructed on or before June 20, 1996 shall comply with the requirements of 40 CFR Part 60 Subpart Ce. A hospital/medical/infectious waste incinerator or HMIWI unit means any device that combusts any amount of Type 5 waste. A combustor is not subject to Subpart Ce if it qualifies for one of the exemptions listed in Section 60.32e paragraphs (b) through (h) of Subpart Ce.

(5) Hospital/medical/infectious waste incinerators constructed after June 20, 1996, or modified after March 16, 1998, shall comply with the requirements of 40 CFR Part 60 Subpart Ec. A hospital/medical/infectious waste incinerator or HMIWI unit means any device that combusts any amount of Type 5 waste. A combustor is not subject to Subpart Ec if it qualifies for one of the exemptions listed in Section 60.50c paragraphs (b) through (h) of Subpart Ec.

(6) Commercial and industrial solid waste incineration units for which construction commenced after November 30, 1999 or for which modification or reconstruction is commenced on or after June 1, 2001 shall comply with the requirements of 40 CFR Part 60 Subpart CCCC. A commercial and industrial solid waste incinerator is a combustion device as defined in Section 60.2265 of Subpart CCCC. A combustor is not subject to Subpart CCCC if it qualifies for one of the exemptions listed in Section 60.2020 paragraphs (a) through (o) of Subpart CCCC.

(7) Commercial and industrial solid waste incineration units for which construction commenced on or before November 30, 1999 shall comply with the requirements of 40 CFR Part 60 Subpart DDDD. A commercial and industrial solid waste incinerator is a combustion device as defined in Section 60.2875 of Subpart DDDD. A combustor is not subject to Subpart DDDD if it qualifies for one of the exemptions listed in Section 60.2555 paragraphs (a) through (o) of Subpart DDDD.

(8) Incinerators, as defined at 40 CFR Part 60, Subpart E, Section 60.51, that are capable of charging more than 50 tons per day and that were constructed or modified after August 17, 1971 shall comply with the requirements of 40 CFR Part 60 Subpart E. A combustor is not subject to Subpart E if it meets any of the criteria set forth in Section 60.50 paragraphs (c) through (e) of Subpart E.

(9) Municipal waste combustors capable of charging greater than 250 tons of municipal solid waste per day, and that were constructed/reconstructed/modified during the dates set forth in paragraphs (A)(8)(a) and (A)(8)(b), below, shall comply with the requirements of 40 CFR Part 60 Subpart Ea. A combustor is not subject to Subpart Ea if it qualifies for one of the exemptions listed in Section 60.50a paragraphs (c) through (k) of Subpart Ea.

(a) Municipal waste combustion units with capacities greater than 250 tons per day of municipal solid waste that were constructed after December 20, 1989 and on or before September 20, 1994 are subject to 40 CFR Part 60 Subpart Ea, except as provided for under Section 60.50a paragraphs (c) through (k).

(b) Municipal waste combustion units with capacities greater than 250 tons per day of municipal solid waste that were modified or reconstructed after December 20, 1989 and on or before June 19, 1996 are subject to 40 CFR part 60 Subpart Ea, except as provided for under Section 60.50a paragraphs (c) through (k).

(10) Large municipal waste combustors capable of charging greater than 250 tons per day of municipal solid waste, and that are constructed after September 20, 1994 or modified or reconstructed after June 19, 1996, shall comply with the requirements of 40 CFR Part 60, Subpart Eb. A combustor is not

subject to Subpart Eb if it qualifies for one of the exemptions listed in Section 60.60b paragraphs (b), (d), (e), (f), (g), (h), (i), (j), (m), and (p) of Subpart Eb.

(11) Other solid waste incinerators (OWSI) that commenced construction on or before December 9, 2004 shall comply with the requirements of 40 CFR Part 60 Subpart FFFF. This subpart applies to very small municipal waste combustion units, of which the charging capacity of municipal solid waste and refuse derived fuel is less than 35 tons per day, as well as institutional waste incineration units as defined in Section 60.3078 of Subpart FFFF. Unit types listed in Section 60.2993 as being excluded from Subpart FFFF are not OSWI units subject to this subpart.

(12) Other solid water incinerators (OSWI) for which construction is commenced after December 9, 2004, or for which modification/reconstruction is commenced on or after June 16, 2006, shall comply with the requirements of 40 CFR Part 60 Subpart EEEE. This subpart applies to very small municipal waste combustion units, of which the charging capacity of municipal solid waste and refuse derived fuel is less than 35 tons per day, as well as institutional waste incineration units as defined in Section 60.2977 of Subpart EEEE. Unit types listed in Section 60.2887 as being excluded from Subpart EEEE are not OSWI units subject to this subpart.

(13) Hazardous waste combustors. A hazardous waste combustor means a hazardous waste incinerator, hazardous waste burning cement kiln, or hazardous waste burning lightweight aggregate kiln. Hazardous waste is defined in 40 CFR Part 261 Subpart A, Section 261.3. A source planning to construct a hazardous waste incinerator in Lincoln-Lancaster County shall contact both the Department and the Nebraska Department of Environmental Quality to determine all of the requirements that are applicable to a facility of this nature and to be advised as to which agency is responsible for specific requirements. A significant number of requirements that are applicable to hazardous waste incinerators are not part of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards administered by the Lincoln-Lancaster County Health Department.

(14) Other incineration units. Incineration units that are not subject to the requirements in paragraphs (A)(1) through (13) of this section shall comply with the requirements of paragraphs (A)(14)(a) through (f) below. These incineration units commonly include, but are not limited to, pathological (Type 4) waste incinerators, human crematories, and animal crematories.

(a) No person shall cause or permit particulate matter emissions from any incinerator to be discharged into the outdoor atmosphere to exceed 0.10 grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to 12% carbon dioxide. The exhaust gases contributed by the burning of a liquid or gaseous fuel shall be excluded.

(b) The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Director in accordance with good engineering practice.

(c) Waste burned during performance testing required by Article 2, Section 34 shall be representative of the waste normally burned by the affected facility and shall be charged at a rate equal to the burning capacity of the incinerator. Copies of additional operational data recorded during the test shall be submitted to the Department together with the completed test report forms.

(d) Instructions for proper operation of each incinerator shall be posted on site and written certification that each operator has read these instructions, understands them and intends to comply, shall be kept on record by the owner.

(e) Each incinerator shall meet the design criteria as set forth in the definition of incinerator at Article 2, Section 1 and shall meet the additional requirement that the products of combustion be vented through an adequate stack, duct, or chimney.

(1) An alternate design for a new unit may be permitted provided it can be shown that the alternative design is at least as effective in controlling pollutant emissions as the design criteria of this section.

(2) An operating permit can be issued to an existing unit not meeting the design criteria set forth in (A)(14)(e) above, provided compliance with both paragraph (A)(14)(a) of this chapter and the visible emission standard in paragraph (E) of Article 2, Section 20 can be demonstrated.

(f) Chemotherapeutic and low level radioactive wastes (as defined at 40 CFR Part 60 Subpart Ec, Section 60.51c) shall not be incinerated.

(B) The provisions of this section apply to all new and existing incinerators except for those listed in paragraphs (B)(1) through (3) below. Incinerators not included in the exemptions listed in paragraphs (B)(1) through (3) must comply with the construction permit requirements set forth in Article 2, Section 17, paragraph (A)(2). Units that are exempt from the provisions of this section are as follows:

(1) Incinerators used to burn hazardous waste and subject to regulation under Nebraska Administrative Code Title 128, Chapter 7, Section 008;

(2) Furnaces used for law enforcement purposes specified in the definition of "incinerator" set forth in Article 2, Section 1; and

(3) Air curtain incinerators subject to regulation under 40 CFR Part 60, Subparts AAAA, CCCC, and DDDD, or which operate in compliance with paragraph (C) of this section, and which combust only those materials described in paragraphs (B)(1)(a) through (d) below, and as defined in Article 2, Section 1. Air curtain incinerators must comply with the requirements set forth in paragraph (C) of this section.

(a) 100 percent wood waste;

(b) 100 percent clean lumber;

(c) 100 percent yard waste; and/or

(d) A 100 percent mixture of only wood waste, clean lumber, and/or yard waste.

(C) Air curtain incinerators, as defined in Article 2, Section 1, shall comply with the following requirements:

(1) Air curtain incinerators shall be used only for the combustion of the following materials:

(a) 100 percent wood waste, as defined in Article 2, Section 1;

(b) 100 percent clean lumber, as defined in Article 2, Section 1; and/or

(c) 100 percent mixture of only wood waste, clean lumber, and/or yard waste, as defined in Article 2, Section 1.

(2) Within 60 days after the air curtain incinerator reaches the charge rate at which it will operate, but no later than 180 days after its initial startup, the air curtain incinerator shall be operated in compliance with the following requirements:

(a) The opacity limitation is 10 percent (6-minute average), except as described in paragraph (C)(2)(b), below;

(b) The opacity limitation is 35 percent (6-minute average) during the startup period that is within the first 30 minutes of operation.

(3) Except during malfunctions, the requirements of paragraph (C)(2) apply at all times, and each malfunction must not exceed 3 hours.

(4) The owner/operator of an air curtain incinerator shall monitor opacity in accordance with the following requirements:

(a) The owner/operator shall use EPA Test Method 9, set forth in Appendix A of the New Source Performance Standards (40 CFR Part 60), to determine compliance with the opacity limitations set forth in paragraph (C)(2) above;

(b) The owner/operator shall conduct an initial performance test for opacity as specified in 40 CFR Part 60, Section 60.8; and

(c) After the initial performance test for opacity, the owner/operator shall conduct annual performance tests no more than 12 calendar months following the date of previous test.

(5) Prior to commencing construction on the air curtain incinerator, the owner/operator shall submit the following to the Department:

(a) Notification of intent to construct the air curtain incinerator;

(b) Notification of planned initial start-up date; and

(c) A description of the types of materials to be burned in the air curtain incinerator.

(6) The owner/operator of an air curtain incinerator shall comply with the following recordkeeping requirements:

(a) Keep records of the results of all initial and annual opacity tests onsite (or readily available) in either paper copy or electronic format, unless the Director approves another format, for at least five years.

(b) Make all records available for submittal to the Director or for an inspector's onsite review.

(c) The results (each 6-minute average) of the initial opacity tests must be submitted no later than 60 days following the initial test. Submit annual opacity test results within 12 months following the previous report.

(d) Submit initial and annual opacity test reports as electronic or paper copy on or before the applicable submittal date.

(e) Keep a copy of the initial and annual reports onsite (or readily available) for a period of five years.

Ref: Title 129, Chapter 22, Nebraska Department of Environmental Quality

v. March 2012