MEMORANDUM

TO: Lincoln City Council

FROM: Scott E. Holmes, MS, REHS, Manager, Environmental Public Health Division
Chris Schroeder, MCRP, Supervisor, Air Quality Progra

DATE: November 12, 2014

RE: Comprehensive overview of proposed changes to Lincoln-Lancaster County Air Pollution Control Program Regulation and Standards (LLCAPCPRS)

Short Description:

The Air Quality Program is proposing to modify several sections of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards (LLCAPCPRS) to address the following:

- Minor typographic revisions and formatting changes; expand on abbreviated terms; correct references; and spell out some numeric quantities.
- Incorporate updated ambient air quality standards to maintain consistency with Nebraska Department of Environmental Quality (NDEQ) air regulations set forth in Title 129 of the Nebraska Administrative Code.
- Update the effective date of Federal Regulations adopted into the LLCAPCPRS to July 1, 2014, which is the most recent date of publication of Title 40 of the Code of Federal Regulations.
- Revise some particulate emission standard requirements to harmonize the LLCAPCPRS with the NDEQ's Title 129 regulations.
- Revise construction permitting requirements for electrical generators to harmonize requirements with federal requirements.

No changes to fees are proposed at this time.

More detailed descriptions of the proposed changes can be found in the attachment to this memorandum.

ATTACHMENT

Detailed description of proposed modifications to the LLCAPCPRS:

- **Article 1, Section 6 – Fees (No changes to actual fees are proposed.)**
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A)(1) has been reformatted to put previously listed items 1), 2), and 3) into a list form consistent with that used throughout the LLCAPCPRS.
  - Paragraphs (A)(2)(b)-(c) are revised to spell out the numbers used therein.
  - Paragraphs (B)(2)(a)-(f) are reformatted to make fees easier for Department staff, as well as the public, to locate.
  - Paragraph (D) is revised to add the list of activities that are subject to permit fees. This list was previously located in Article 2, Section 30. Paragraph (D) is also revised to specify that the construction permit fee does not apply to emergency generator construction permits.
  - Paragraph (E) is revised to replace language regarding 'construction permit exemptions' with language related to a construction permits specific to emergency electrical generators. For more information on this change, refer to the explanation provided for changes to Article 2, Section 17, paragraph (O).

- **Article 2, Section 1 – Definitions**
  - Minor typographic errors have been corrected throughout the section. References to current Federal requirements have been updated.
  - "Applicable requirement" paragraph (11) has been revised to make it consistent with the NDEQ's Title 129 regulations.
  - "Installation" has been revised to make it consistent with the NDEQ's Title 129 regulations.
  - A definition for "Premises" has been added to provide greater clarity to the meaning of the term, as its definition is particularly relevant to the requirements of Article 2, Section 32 of the LLCAPCPRS (Dust – Duty to Prevent the Escape of.).
  - "Volatile organic compound (VOC)" has been modified to make it more consistent with the NDEQ's Title 129 regulations, and to update the effective date of 40 CFR Part 51 to incorporate revisions made prior to July 1, 2014.

- **Article 2, Section 2 – Major Sources: Defined**
  - Minor typographic errors have been corrected throughout the section.

- **Article 2, Section 4 – Ambient Air Quality Standards**
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A)(2)(a) has been modified to specify that the standard listed therein is the 'primary standard' for $PM_{2.5}$, and newly-designated paragraph (A)(2)(b) has been added to incorporate the 'secondary standard' for $PM_{2.5}$, both changes that are consistent with the NDEQ's Title 129 regulations. Previously-designated paragraphs (A)(2)(b)-(c) have been re-numbered.
  - Federal regulation dates have been updated to incorporate changes made prior to July 1, 2014.

- **Article 2, Section 5 – Operating Permits – When Required**
  - Minor typographic errors have been corrected.
  - Paragraph (G) has been added to implement the permit fees in Article 1, Section 6, paragraph (D).

- **Article 2, Section 15 – Operating Permit Modifications: Reopening for Cause**
  - The title of this regulation has been modified to remove the term 'Operating', as this section now contains permit modification language that applies to both operating and construction permits, which is consistent with the NDEQ's Title 129 regulations.
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A)(1)(d) has been revised to replace 'permitting authority' with 'Department' to maintain consistency throughout the LLCAPCPRS.
  - Paragraphs (C)(1)(d)-(e), as well as previously-designated (C)(2)-(6) (which have now been re-numbered) have been modified to make their language consistent with the NDEQ's Title 129 regulations. In addition, the newly-designated paragraph (C)(2) incorporates minor modification provisions as applicable to construction permits, also consistent with the NDEQ's Title 129 regulations.
  - Several provisions set forth under paragraphs (D), (E), and (F) have been revised to make the language consistent with the NDEQ's Title 129 regulations.
  - Paragraph (E) has been modified to implement the permit fees in Article 1, Section 6, paragraph (D).
  - Paragraph (G) has been modified to incorporate some formatting changes, as well as to make the language consistent with the NDEQ's Title 129 regulations.

- **Article 2, Section 17 – Construction Permits: When Required**
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A) has been modified to correct a reference. The previously-designated paragraph (Q) of Section 17 was redundant, as it simply referenced already-applicable requirements.
  - Under Table 17-2, the standards for sulfur dioxide (SO_2) have been moved further down the table. There are no changes to the requirements.
  - Paragraph (M)(1)(d) has been modified to remove redundant language.
  - Paragraph (M)(4)(c) has been removed, as it was a blank line. All subsequent paragraphs under (M)(4) have been re-numbered.
  - Paragraph (N)(1) has been revised to accommodate the addition of the construction permit minor modification provisions to Article 2, Section 15. Paragraphs (N)(1)(a)-(e) have been moved from this section. Provisions set forth under paragraphs (N)(2)-(3) have been revised to correct references resulting from moving the construction permit minor modification provisions.
  - Paragraph (O) has been revised throughout to remove references to a 'construction permit exemption'. This change was prompted by discussions with the EPA in which they expressed doubt in regard to the legality of granting an 'exemption' from construction permit requirements, which are established under 'minor NSR' federal regulations. The provisions set forth under paragraph (O) have been revised extensively to remove obsolete federal standards and redundant language, to incorporate updated federal requirements, and to clarify the requirements with which owners/operators of such units must comply, as deemed appropriate by the Department.
  - Paragraph (P) has been revised to remove obsolete federal standards and redundant language, to incorporate updated federal requirements, and to clarify the requirements with which owners/operators of such units must comply, as deemed appropriate by the Department.
  - As previously stated, paragraph (Q) has been removed, as it contains redundant language. Previously-designated paragraphs (R) and (S) have been re-numbered as (Q) and (R), respectively.
  - Paragraph (Q) has been revised to specify which sources must pay annual emission fees.
  - Paragraph (S) has been updated to correct the reference to the NDEQ's Title 129 regulations.

- **Article 2, Section 18 – New Source Performance Standards**
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A) has been revised to update the effective date of 40 CFR Part 60 to incorporate revisions made prior to July 1, 2014.
  - Some clarifying references have been made under paragraph (D).
- **Article 2, Section 19 – Prevention of Significant Deterioration of Air Quality**
  - Minor typographic errors have been corrected throughout the section.
  - Paragraph (A) has been updated to correct the reference to the NDEQ's Title 129 regulations, and to incorporate revisions made to 40 CFR Part 52 prior to July 1, 2014.
  - Paragraph (E)(13) has been revised to clarify the language used therein.
- **Article 2, Section 20 – Particulate Emissions: Limitations and Standards**
  - Minor typographic errors have been corrected throughout the section.
  - Under paragraph (A), the particulate emission standards for incinerators in paragraph (A)(1)(a) have been removed, as they are already established in Article 2, Section 22 "Incinerator Emission Standards". A reference has been added to clarify this fact. In addition, the minimum temperature requirements established under paragraph (A)(1)(b) have been moved to Article 2, Section 22, which places all incinerator-specific standards under the section of the LLCAPCPRS that pertains specifically to incinerators.
  - The requirements established under the previously-designated paragraph (C) have been moved into paragraph (B).
  - The newly-designated paragraph (C) has been added to incorporate language that is consistent with the NDEQ's Title 129 regulations.
  - Table 20-1 has been re-numbered as 20-2, and the table established under paragraph (B) has been designated as Table 20-1, which is consistent with the NDEQ's Title 129 regulations.
- **Article 2, Section 21 – Compliance Assurance Monitoring**
  - This section has been revised to update the effective date of 40 CFR Part 64 to incorporate revisions made prior to July 1, 2014.
- **Article 2, Section 22 – Incinerator Emission Standards**
  - Minor typographic errors have been corrected throughout the section.
  - The particulate emission standards and minimum temperature requirements from Article 2, Section 20 have been established under paragraph (A)(14)(a)-(b). The type of incinerators subject to the standards set forth under paragraph (A)(14) has been expanded to make it consistent with the previously-existing provisions established under Article 2, Section 20. The addition of the temperature requirements in paragraph (A)(14)(b) has resulted in the re-numbering of subsequent paragraphs.
- **Article 2, Section 23 – Hazardous Air Pollutants: Emission Standards**
  - Paragraph (A) has been revised to update the effective date of 40 CFR Part 61 to incorporate revisions made prior to July 1, 2014.
- **Article 2, Section 26 – Acid Rain**
  - This section has been revised to update the effective date of 40 CFR Parts 72, 75, and 76 to incorporate revisions made prior to July 1, 2014.

- **Article 2, Section 27 – Hazardous Air Pollutants: Maximum Achievable Control Technology (MACT)**
  - Minor typographic errors have been corrected throughout the section.
  - This section has been revised to update the effective date of 40 CFR Part 63 to incorporate revisions made prior to July 1, 2014.
- **Article 2, Section 28 – Hazardous Air Pollutants: MACT Emission Standards**
  - Paragraph (A) has been revised to update the effective date of 40 CFR Part 63 to incorporate revisions made prior to July 1, 2014.
- **Article 2, Section 30 – Construction Permit Fee**
  - The title of the section has been revised to "Reserved", and the language therein has been moved to Article 1, Section 6, paragraph (D).
- **Article 2, Section 34 – Emission Sources: Testing: Monitoring**
  - Minor typographic errors have been corrected throughout the section.
  - The header to this section has been reformatted to improve the appearance.
  - This section has been revised to update the effective date of 40 CFR Parts 51, 60, 61, 63, and 266 to incorporate revisions made prior to July 1, 2014.
  - Paragraphs (B)(6)-(7), (C), (M)(4)-(6), (O), and (O)(2) have been modified to incorporate language that is consistent with the NDEQ's Title 129 regulations.

SECTION 6. FEES.

(A) Annual Emission Fees

(1) Applicability – The provisions of this section shall apply to any person who owns or operates a source as defined in Article 2, Section 1 and is required to obtain any one of the following: ~~1)~~

(a) A Class I or a Class II operating permit in accordance with Article 2, Section 5; ~~2)~~

(b) A construction permit in accordance with Article 2, Section 17; or ~~3)~~

(c) Any source subject to an applicable requirement (other than permitting) of these regulations, 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~~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~~, 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,~~ the LLCAPCPRS need only be counted once. Any temporary source issued an operating permit under Article 2, Section 10 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) 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 previous calendar year is due and payable on July 1 of the current calendar year. Emission fees shall be assessed as follows:

(1) For annual emissions of less than or equal to five hundred (500) tons, the emission fee shall be $60.00 per ton;

(2) For annual emissions in excess of five hundred (500) tons, but less than or equal to one thousand (1,000) tons, the emission fee shall be $72.00 per ton;

(3) For annual emissions in excess of one thousand (1,000) tons, the emission fee shall be $86.00 per ton.

(c) The emission fee is due and payable on actual emissions up to and including four thousand (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.

(b) Synthetic Minor source shall mean any source that meets the definition of a Synthetic Minor source set forth in Article 2, Section ~~2~~ 5, paragraph (A)(3).

(c) Minor source shall mean any source that does not meet the definition of a major source as defined in Article 2, Section 2, 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).

(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 shall pay an annual emission fee in accordance with the following:

(a) Sources that submit the annual emission inventory report on or after April 10 will be subject to an emission fee based on one-hundred twenty percent (120%) of the actual reported emissions;

(b) Sources that submit the annual emission inventory report on or after May 1 will be subject to an emission fee based on one-hundred thirty percent (130%) of the actual reported emissions;

(c) Sources that submit the annual emission inventory report on or after June 1 will be subject to an emission fee based on the source's potential to emit allowed under any operating and/or construction permit(s) held by the owner/operator.

(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/or

(b) Assessment of a late payment fee of twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (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 thirty (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) below 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—: ..... $280.00.

(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 one-hundred thousand (100,000) gallons)—: $330.00

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

(1) Facilities using one (1) ton or less of methylene chloride annually for paint stripping activities and that are not required to have a Class II operating permit—: $140.00

(2) Facilities using more than one (1) ton of methylene chloride annually that are not required to have a Class II operating permit—: $280.00

(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 (1) painter—: $140.00
(b) Operations with two (2) painters—: $280.00
(c) Operations with three (3) or more painters—: $545.00

[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 five (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 (5) 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 (5) metal HAPS addressed by this rule shall pay a one-time exemption fee of: ..... $280.00[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 three (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—: $545.00

(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— : $545.00

(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—: $280.00

(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 twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (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 40 CFR Part 61, Subpart M: National Emission Standard for Asbestos (NESHAP asbestos projects) shall pay a notification fee of $315.00 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 twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (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 (with the exception of a construction permit obtained in accordance with Article 2, Section 17, paragraph (O)) shall pay a ~~construction~~ permit fee for activities included under ~~Article 2, Section 30, paragraph (A)~~ paragraphs (D)(1)(a) through (D)(1)(f) below. 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.

(a) Review of an application for a permit for the construction/modification/reconstruction of any source or emission unit;

(b) Development of a draft permit to construct/modify/reconstruct;

(c) Review of an application or request to modify an existing permit to construct/modify/reconstruct, whereas the permit modification(s) constitute a "significant permit modification" as set forth under Article 2, Section 15;

(d) Development of a modified draft permit to construct/modify/reconstruct;

(e) Development of a statement of basis to issue an initial or modified permit to construct/modify/reconstruct; and

(f) Development of a document to provide notice for public participation as provided in Article 2, Section 14.

(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/or

(b) Assessment of a late payment fee of twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (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~~ a construction permit for an emergency electrical generator(s) ~~construction permit exemption~~ in accordance with Article 2, Section 17, paragraph (O) shall pay ~~an exemption~~ a fee for review of the construction permit ~~exemption request~~ application and issuance of the emergency generator construction permit ~~exemption~~. The emergency generator construction permit ~~exemption~~ fee is $60.00 per generator.

(2) Payment of Fees – Any person required to submit fees pursuant to paragraph (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 (F)(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.~~:

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

(b) Assessment of a late payment fee of twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (30) day period that the payment is late. Such late payment fee shall be payable to the Department as provided in paragraph (E)(2) above.

(F) Variance Fees.

(1) Applicability – Any person or source issued a variance in accordance with the requirements set forth in Article 1, Section 5 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 thirty (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 twenty percent (20%) of the payment due, which late payment fee shall be increased by an additional ten percent (10%) of the original payment due for each additional thirty (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.

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 the LLCAPCPRS and the related appendices shall have the following meanings:

"40 CFR" means Title 40 of the Code of Federal Regulations.

"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 (PSD) 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 (PSD) program, means the actual rate of emissions of a regulated New Source Review (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 Plant-wide 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 twenty-four (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 Plant-wide 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 (U.S. EPA) 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 any state that:

(1) Is 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) Is a contiguous State within fifty (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.

"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 paragraph (12) below, 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 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 relating to hazardous air pollutants listed in Appendix II and III of the LLCAPCPRS~~;~~;

(5) Any standard or other requirement of the acid rain program under Article 2, Section 26;

(6) Any requirements established pursuant to Article 2, Section 26;

(7) Any standard or other requirement governing solid waste incineration~~,~~ under Article 2, Section 18 or pursuant to Section 129(e) of the Act;

(8) Any standard or other requirement for consumer and commercial products~~,~~ under 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 (NAAQS) or increment or visibility requirement under ~~Article 2, Section 18 but only~~ the Prevention of Significant Deterioration (PSD) program as ~~it would apply~~ applicable to temporary sources permitted pursuant to Article 2, Section 10.

(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), 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 City of Lincoln or 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 microgram per cubic meter (1.0 $\mu g/m^3$) (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than three-tenths of a microgram~~s~~ per cubic meter (0.3 $\mu g/m^3$) (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. The baseline concentration is determined as follows:

(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", or "BACT":

(1) 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.

(2) For purposes other than the Prevention of Significant Deterioration (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 (PSD) 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 (PSD) 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 the LLCAPCPRS 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.

"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 the LLCAPCPRS.

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

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

"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 the LLCAPCPRS.

"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 (12) 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 (NAAQS) 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 the LLCAPCPRS 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 five thousand (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 twenty-five megawatts (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.

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

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

(b) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (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 forty percent (40%) 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 Part 51 §51.166 and 40 CFR Part 52 §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 forty percent (40%) 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 (1) 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 forty percent (40%) 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 the LLCAPCPRS.

"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 the LLCAPCPRS, and any requirements in Article 2, Section 18, Section 23, Section 27 and Section 28 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, and for Class I permit, Article 2, Section 13.

"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.

"Global Warming Potential" means the ratio of the time integrated radiative forcing from the instantaneous release of one kilogram (1.0 kg) of a trace substance relative to that of one kilogram (1.0 kg) of a reference gas, i.e., carbon dioxide (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)~~ November 29, 2013 (Volume 78, Number 230, Pages 71948-71949).

"Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six (6) 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 Appendix III of the LLCAPCPRS, 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 nine hundred (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. (This definition does not apply to the Prevention of Significant Deterioration program. See the definition for "Building, structure, facility, or installation" set forth in this section.)

"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 one hundred (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 (VOC) or nitrogen oxides (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 Part 52 §52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR Part 51 §51.166; or

(2) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR Part 51 §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 Part 52 §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 (NAAQS) 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.

"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 twelve percent (12%) 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 Part 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 Part 60, Appendix A-7.

"Minor source" means any source which is not defined as a major source in Article 2, Section 2.

"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 Total Suspended Particulate (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 ~~shorn~~ 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 S~~s~~ection 107(d)(i)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR Part 52 §52.21 or to regulations approved pursuant to 40 CFR Part 51 §51.166 or to Article 2, Section 19; and, in the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

"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 Ambient Air Quality Standard" or "National standard" or "NAAQS" means either a primary or a secondary air quality 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 eight-tenths of a kilometer (0.8 km) (one-half of a mile), and

(2) For conducting demonstrations under paragraph (4) of the definition for "Good Engineering Practice (GEP) Stack Height", that distance not greater than eight-tenths of a kilometer (0.8 km) (one-half of a mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten (10) times the maximum height (HT) of the feature, not to exceed two (2) miles if such feature achieves a height (HT) of eight-tenths of a kilometer (0.8 km) from the stack that is at least forty percent (40%) of the GEP stack height determined by the formula provided in paragraph (3) of the definition for "Good Engineering Practice (GEP) Stack Height" or twenty~~-~~-six (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:

(1) With respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero (0):
   (a) 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
   (b) 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 paragraphs (E)(5) and (E)(6) of Article 2, Section 19 shall not apply.
   (c) 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.

(2) An increase or decrease in actual emissions is creditable only if:
   (a) It occurs within a reasonable period, not to exceed one (1) 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 Part 51 §51.165, which permit is in effect when the increase in actual emissions from the particular change occurs.

(3) An increase or decrease in actual emissions of sulfur dioxide (SO_2), particulate matter (PM), or nitrogen oxides (NOx) 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.

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

(5) 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) The Director has not relied on it in issuing any permit under regulations in the State Implementation Plan approved pursuant to 40 CFR Part 51, Subpart I or in demonstrating attainment or reasonable further progress; and
   (d) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

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

(7) Paragraph (1) under the definition for '"Actual emissions" for purposes other than the Prevention of Significant Deterioration program' 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 twenty-four (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) Non-attainment 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 (NAAQS).

"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 ten (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 one hundred ~~(100)~~ micrometers (100 µm). PM is further as follows:

(1) "PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten ~~(10)~~ micrometers (10 µm) 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 two and one-half ~~(2.5)~~ micrometers (2.5 µm) 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 the LLCAPCPRS. 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 ten ~~(10)~~ micrometers (10 µm) emitted to the ambient air.
(2) "$PM_{2.5}$ emissions" means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half ~~(2.5)~~ micrometers (2.5 µm) 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, or a revision to a construction permit as provided for under Article 2, Section 17, paragraph (N).

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

"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.

"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, pounds per hour) on a continuous basis.

"Premises" shall mean a tract of land, consisting of one platted lot or irregular tract, or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

"Prevention of Significant Deterioration (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 Part 51 §51.166 or 40 CFR Part 52 §52.21. Any permit issued under such a program is a major New Source Review (NSR) permit.

"Primary standard" means a primary National Ambient Air Quality Standard (NAAQS) identified in Article 2, Section 4.

"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).

"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 fifty percent (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 Part 60, Subpart A §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 Part 60, Subpart A §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 (NOx) or any volatile organic compounds (VOCs) 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; and
(4) Any pollutant subject to a standard or other requirements established in Article 2, Section 23 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), 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 one-hundred thousand (100,000) carbon dioxide equivalents (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 (NAAQS) has been promulgated and any constituents or precursors for such pollutants identified by the Administrator. Precursors for the purpose of New Source Review (NSR) are as follows:
    (a) Volatile organic compounds (VOCs) and nitrogen oxides (NOx) are precursors to ozone in all attainment and unclassifiable areas.
    (b) Sulfur dioxide (SO_2) and NOx are precursors to $PM_{2.5}$ in all attainment an unclassifiable area.
(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 (GHGs) 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 seventy-five thousand (75,000) tons per year carbon dioxide equivalents (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 seventy-five thousand (75,000) tons per year CO_2e or more; and
    (b) Beginning July 1, 2011, in addition to the provisions in paragraph (5)(a), above,
        (1) The stationary source is a new stationary source that will emit or have the potential to emit one-hundred thousand (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 one-hundred thousand (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 seventy-five thousand (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 Article 2, Section 19, paragraph (H)), and a significant net emissions increase (as defined Article 2, Section 1, and Article 2, Section 19, paragraph (J)) 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 seventy-five thousand (75,000) tons per year CO_2e ~~instead of applying the values in Article 2, Section 19, paragraph (J)(17)~~.

"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 two~~-~~ hundred fifty (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 Article 1, Section 2 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.

"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 of the proposed changes at least thirty (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 rates established in Table 1-1, as follows:

Table 1-1

Pollutant	Emission Rate (in tons per year, or tpy)
Carbon Monoxide (CO)	100 tpy
Nitrogen Oxides (NO_x)	40 tpy

Table 1-1

Pollutant	Emission Rate (in tons per year, or 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 40 tpy of NO_x
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)	14 megagrams per year (15 tpy)
Municipal Waste Combustor Acid Gases (measured as SO_2 and Hydrogen Chloride (~~HCl)~~HCl))	36 megagrams per year (40 tpy)
Municipal Solid Waste Landfill Emissions (measured as nonmethane organic compounds (NMOC))	45 megagrams per year (50 tpy)

"Significant emissions increase" is as defined in Article 2, Section 19, paragraph (H).

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a plant-wide applicability limitation (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 quality 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 plant-wide applicability limitation (PAL) pollutant in an amount less than the significant level for the 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 property, real or personal, or person contributing to air pollution.

"Speciation" is the process of classifying the 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 the Act or by the LLCAPCPRS.

"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, 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).

"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", also referred to as 'pathological waste', 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", also referred to as 'hospital/medical/infectious waste', 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 in paragraphs (1) through (7) of this definition, below. Examples of the following seven (7) waste types are included in the definition of medical/infectious waste found in 40 CFR Part 60, Subpart E §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.

(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.

"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 sixty (60) zones, each being six (6) degrees longitude wide and extending from eighty (80) degrees south latitude to eighty-four (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, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than compounds listed in 40 CFR Part 51 §51.100(s)(1) and (s)(5), effective July 1, ~~2013~~ 2014, which have been determined to have negligible photochemical reactivity. A list of non-VOC compounds is provided in Table 1-2 below for reference purposes only. Table 1-2 may not reflect revisions made to 40 CFR Part 51 §51.100(s)(1) and (s)(5) subsequent to the effective date referenced above.

Table 1-2

CAS Number	Compound Name	Other Names or Designations
67-64-1	Acetone	Propanone
74-82-8	Methane	
74-84-0	Ethane	
75-09-2	Methylene Chloride	Dichloromethane
75-10-5	Difluoromethane	HFC-32
75-37-6	1,1-Difluoroethane	HFC-152a, R-152a
75-45-6	Chlorodifluoromethane	HCFC-22, R-22
75-46-7	Trifluoromethane	HFC-23, R-23, Fluoroform
75-68-3	1-Chloro-1,1-Difluoroethane	HCFC-142b, R-142b
75-71-8	Dichlorodifluoromethane	CFC-12, R-12
76-13-1	1,1,2-Trichloro-1,2,2-Trifluoroethane	CFC-113
76-14-2	1,2-Dichlorotetrafluoroethane	CFC-114, R-114
76-15-3	Chloropentafluoroethane	CFC-115, R-115
79-20-9	Methyl Acetate	
98-56-6	1-Chloro-4-(Trifluoromethyl)Benzene	Parachlorobenzotrifluoride (PCBTF)
127-18-4	Tetrachloroethylene	Perchloroethylene
306-83-2	2,2-Dichloro-1,1,1-Trifluoroethane	HCFC-123, R-123
354-23-4	1,2-Dichloro-1,1,2-Trifluoroethane	HCFC-123a
354-33-6	1,1,1,2,2-Pentafluoroethane	HFC-125, R-125
359-35-3	1,1,2,2-Tetrafluoroethane	HFC-134, R-134
375-03-1	1,1,1,2,2,3,3-Heptafluoro-3-methoxy-propane	HFE-7000
406-58-6	1,1,1,3,3-Pentafluorobutane	HFC-365mfc
420-46-2	1,1,1-Trifluoroethane	HFC-143a, R-143a
422-56-0	3,3-Dichloro-1,1,1,2,2-Pentafluoropropane	HCFC-225ca
431-63-0	1,1,1,2,3,3-Hexafluoropropane	HFC-236ea
431-89-0	1,1,1,2,3,3,3-Heptafluoropropane	HFC 227ea
437-17-2	1,1,1,2,3-Pentafluoropropane	HFC-245eb
460-73-1	1,1,1,3,3-Pentafluoropropane	HFC-245fa
507-55-1	1,3-Dichloro-1,1,2,2,3-pentafluoropropane	HCFC-225cb
593-70-4	Chlorofluoromethane	HCFC-31
616-38-6	Dimethyl carbonate	
679-86-7	1,1,2,2,3-Pentafluoropropane	HFC-245ca

Table 1-2

CAS Number	Compound Name	Other Names or Designations
690-39-1	1,1,1,3,3,3-Hexafluoropropane	HFC-236fa
811-97-2	1,1,1,2-Tetrafluoroethane	HFC-134a, R-134a
1615-75-4	1-Chloro-1-Fluoroethane	HCFC-151a
1717-00-6	1,1-Dichloro-1-Fluoroethane	HCFC-141b, R-141b
2837-89-0	2-Chloro-1,1,1,2-Tetrafluoroethane	HCFC-124, R-124
9005-37-2	Propylene Carbonate	
23731-38-6	Methyl Formate	
24270-66-4	1,1,2,3,3-Pentafluoropropane	HFC-245ea
29118-24-9	*trans*-1,3,3,3-Tetrafluoropropene	HFO-1234ze
74552-83-3	1,1,1-Trichloroethane	Methyl Chloroform
78522-47-1	Bis(Difluoromethoxy)(Difluoro)Methane	HFE-236ca12
91315-61-6	Trichlorofluoromethane	CFC-11, R-11
95508-16-0	Ethylfluoride	HFC-161
102687-65-0	*trans*-1-Chloro-3,3,3-Trifluoroprop-1-ene	
132182-92-4	1,1,1,2,2,3,4,5,5,5-Decafluoro-3-Methoxy-4-Trifluoromethyl-Pentane	HFE-7300
161075-02-1	1-(Difluoromethoxy)-2-[(Difluoromethoxy)(Difluoro)Methoxy]-1,1,2,2-Tetrafluoroethane	H-Galden 1040x, or H-Galden ZT 130 (or 150 or 180)
163702-05-4	1-Ethoxy-1,1,2,2,3,3,4,4,4-Nonafluorobutane	HFE-7200
163702-06-5	2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-Heptafluoropropane	
163702-07-6	1,1,1,2,2,3,3,4,4-Nonafluoro-4-Methoxy-Butane	HFE-7100
163702-08-7	2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-Heptafluoropropane	
188690-78-0	1,2-Bis(Difluoromethoxy)-1,1,2,2-Tetrafluoroethane	HFE-338pcc13
193487-54-6	1,1,1,2,3,4,4,5,5,5-Decafluoropentane	HFC 43-10mee
297730-93-9	3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-Dodecafluoro-2-(Trifluoromethyl) Hexane	HFE-7500
N/A	Cyclic, Branched, Or Linear Completely Methylated Siloxanes	
N/A	Perfluorocarbon compounds which fall into the following classes: • Cyclic, branched, or linear, completely fluorinated alkanes; • Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; • Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and • Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.	

(1) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

"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.

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, ten (10) tons per year (tpy) or more of any hazardous air pollutant listed in Appendix II or III of the LLCAPCPRS, twenty-five (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 from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants. All fugitive emissions must be considered in determining whether a stationary source is a major source.

(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, one hundred (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 one-hundred thousand (100,000) tons per year carbon dioxide equivalents (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) Fossil-fuel-fired steam electric plants of more than two-hundred fifty million British Thermal Units per hour (250.0 MMBtu/hr) heat input;
(b) Fossil-fuel boilers (or combination thereof) totaling more than two-hundred fifty million British Thermal units per hour (250.0 MMBtu/hr) heat input;
(c) Coal cleaning plants (with thermal dryers);
(d) Kraft pulp mills;
(e) Portland cement plants;
(f) Sintering plants;
(g) Primary copper smelters;
(h) Primary lead smelters;
(i) Primary zinc smelters;
(j) Iron and steel mills;
(k) Coke oven batteries;
(l) Secondary metal production plants;
(m) Primary aluminum ore reduction plants;
(n) Taconite ore processing plants;
(o) Lime plants;
(p) Phosphate rock processing plants;
(q) Hydrofluoric, sulfuric, or nitric acid plants;
(r) Petroleum refineries;
(s) Petroleum storage and transfer units with a total storage capacity exceeding three-hundred thousand (300,000) barrels;
(t) Fuel conversion plants;
(u) Sulfur recovery plants;
(v) Carbon black plants (furnace process);
(w) Municipal incinerators capable of charging more than two-hundred fifty (250) tons of refuse per day;
(x) Glass fiber processing plants;
(y) Charcoal production plants;
(z) Chemical process plants (the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);
(aa) Concrete batch plants;

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

(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 five (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 (VOC) 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 one hundred (100) tpy or more of VOC or NOx in areas classified as "marginal" or "moderate", fifty (50) tpy or more in areas classified as "serious", twenty-five (25) tpy or more in areas classified as "severe", and ten (10) tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred (100) tpy, fifty (50) tpy, twenty-five (25) tpy, and ten (10) tpy of NOx 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 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 fifty (50) tpy or more of VOC;

(3) For carbon monoxide (CO) non-attainment areas:
(a) That are classified as "serious", and
(b) In which stationary sources contribute significantly to CO levels as determined under rules issued by the Administrator, sources with the potential to emit fifty (50) tpy or more of CO; and

(4) For particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM_{10}) non-attainment areas classified as "serious", sources with the potential to emit seventy (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 (1) 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) of this section. 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, one hundred (100) tons per year (tpy) or more of any regulated NSR pollutant:
(a) Fossil fuel-fired steam electric plants of more than two-hundred fifty million British Thermal units per hour (250.0 MMBtu/hr) heat input;
(b) Fossil fuel-fired boilers (or combinations thereof) totaling more than two-hundred fifty million British Thermal units per hour (250.0 MMBtu/hr) heat input;
(c) Coal cleaning plants (with thermal dryers);
(d) Kraft pulp mills;

(e) Portland cement plants;
(f) Sintering plants;
(g) Primary copper smelters;
(h) Primary lead smelters;
(i) Primary zinc smelters;
(j) Iron and steel mills;
(k) Coke oven batteries;
(l) Secondary metal production plants;
(m) Primary aluminum ore reduction plants;
(n) Taconite ore processing plants;
(o) Lime plants;
(p) Phosphate rock processing plants;
(q) Hydrofluoric, sulfuric, or nitric acid plants;
(r) Petroleum refineries;
(s) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand (300,000) barrels;
(t) Fuel conversion plants;
(u) Sulfur recovery plants;
(v) Carbon black plants (furnace process);
(w) Municipal incinerators capable of charging more than two-hundred fifty (250) tons of refuse per day;
(x) Glass fiber processing plants;
(y) Charcoal production plants; and
(z) Chemicals process plants (shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);

(2) Notwithstanding the stationary source size specified in paragraph (H)(1) above, any stationary source which emits, or has the potential to emit, two-hundred fifty (250) tpy 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 one-hundred thousand (100,000) tpy 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

SECTION 4. AMBIENT AIR QUALITY STANDARDS.

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

(A) Particulate Matter (PM).

(1) PM_{10} – Primary and Secondary Standards:

(a) Level: One~~-~~ hundred fifty (150) micrograms per cubic meter ($\mu g/m^3$);
Averaging Time: Twenty~~-~~-four (24) hours;
Form: Not to be exceeded more than once per year on average over three (3) years.

(b) Attainment of these standards is determined in accordance with Appendix K of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

(2) $PM_{2.5}$ ~~Primary and Secondary Standards~~:

(a) Primary Standard:
Level: Twelve (12.0) $\mu g/m^3$;
Averaging Time: Annual;
Form: Annual mean averaged over three (3) years.

(b) Secondary Standard:
Level: Fifteen (15.0) $\mu g/m^3$;
Averaging Time: Annual;
Form: Annual mean averaged over three (3) years.

~~(b)~~(c) Primary and Secondary Standard:
Level: Thirty~~-~~-five (35.0) $\mu g/m^3$;
Averaging Time: Twenty~~-~~-four (24) hours;
Form: Ninety~~-~~-eighth (98th) percentile averaged over three (3) years.

~~(c)~~(d) Attainment of these standards is determined in accordance with Appendix N of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

(B) Sulfur Dioxide (SO_2).

(1) Primary Standard:

(a) Level: Seventy~~-~~-five (75) parts per billion;
Averaging Time: One (1) hour;
Form: Ninety~~-~~-ninth (99th) percentile of one-hour (1-hr) daily maximum concentrations averaged over three (3) years.

(2) Secondary Standard:

(a) Level: Five-tenths of a part~~s~~ per million (0.5 ppm);
Averaging Time: Three (3) hours;
Form: Not more than ~~-~~one (1) exceedance per year.

(b) Attainment of this standard is determined in accordance with Appendix T of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

(C) Nitrogen Dioxide (NO_2).

(1) Primary Standard:

(a) Level: One hundred (100) parts per billion;
Averaging Time: One (1) hour;
Form: Ninety~~-~~-eighth (98th) percentile averaged over three (3) years.

(2) Primary and Secondary Standards:

(a) Level: Fifty~~-~~-three (53) parts per billion;
Averaging Time: Annual;
Form: Annual mean.

(b) Attainment of this standard is determined in accordance with Appendix S of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

(D) Carbon Monoxide (CO).

(1) Primary Standards:

(a) Level: Nine (9.0) parts per million;
Averaging Time: Eight (8) hours;
Form: Not more than one (1) exceedance per year.

(b) Level: Thirty-five (35.0) parts per million;
Averaging Time: One (1) hour;
Form: Not more than one (1) exceedance per year.

(c) Attainment of this standard is determined in accordance with 40 CFR Part 50 §50.8 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

(E) Ozone.

(1) Primary and Secondary Standards:

(a) Level (1997 Standard): Eight ~~one-~~hundredths (0.08) of a part~~s~~ per million;
Averaging Time: Eight (8) hours;
Form: Daily maximum average concentration.
(Attainment of this standard is determined in accordance with Appendix I of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein).

(b) Level (2008 Standard): Seventy-five thousandths (0.075) of a part~~s~~ per million;
Averaging Time: Eight (8) hours;
Form: Annual fourth-highest daily maximum eight-hour (8-hr) concentration averaged over three (3) years.
(Attainment of this standard is determined in accordance with Appendix P of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein).

(F) Lead.

(1) Primary and Secondary Standard:

(a) Level: Fifteen ~~one-~~hundredths (0.15) of a microgram~~s~~ per cubic meter;
Averaging Time: Rolling three (3) month average;
Form: Not to be exceeded.

(b) Attainment of this standard is determined in accordance with Appendix R of 40 CFR Part 50 (version July 1, ~~2013~~ 2014), which is adopted and incorporated herein.

SECTION 5. OPERATING PERMITS – WHEN REQUIRED.

(A) Applicability and Scope. The following sources are required to obtain operating permits unless exempted under paragraph (B) of this section:

(1) Class I major source permits shall be required to operate any of the following:

(a) Any major source as defined in Article 2, Section 2;

(b) Any source, including an area source, subject to a standard, limitation, or other requirement under Article 2, Section 18, except as provided in paragraph (B)(1) of this section~~.~~;

(c) Any source, including an area source, subject to a standard or other requirement under Article 2, Sections 23, 27, or 28, except as provided in paragraph (B)(1) of this section~~.~~;

(d) Any affected source;

(e) Any source in a source category designated by the Director or required to do so by any other applicable requirement under the LLCAPCPRS or the Act.

(2) Unless a Class I permit is required, Class II minor source permits shall be required to operate any of the following:

(a) Any source or emissions unit having a potential to emit:

(1) Fifteen (15) tons/year or more of particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers (PM_{10}) emissions~~.~~;

(2) Forty (40) tons/year or more of sulfur dioxide (SO_2) or sulfur trioxide (SO_3), or any combination of the two pollutants~~.~~;

(3) Forty (40) tons/year more of Oxides of Nitrogen (calculated as NO_2)~~.~~;

(4) Forty (40) tons/year or more of volatile organic compounds (VOC)~~.~~;

(5) Fifty (50) tons/year or more of carbon monoxide (CO)~~.~~;

(6) Six-tenths (0.6) tons/year or more of lead~~.~~; and/or

(7) Two and one-half (2.5) tons/year or more of any hazardous pollutant or an aggregate of ten (10) tons/year or more of any hazardous air pollutants.

(b) All incinerators used for refuse disposal or for the processing of salvageable materials except:

(1) Refuse incinerators located on residential premises containing five (5) or less dwelling units used only for disposal of residential waste generated on the residential premises where the incinerator is located; and

(2) Human/animal crematories and Type 4 (pathological) waste burning incinerators whose potential to emit is less than the quantities listed in paragraphs (A)(2)(a)(1)-(7) of this section and for which a construction permit was issued after January 1, 1992. A source that was issued a construction permit prior to this date may request a revision of the permit by applying for an amended permit which will include specific requirements that will allow the source to qualify for the Class II operating permit exemption.

(3) Synthetic Minor Permits. Any source or emissions unit required to obtain a Class I permit based on potential emissions may request that potential to emit be limited to below the major source threshold, as provided in paragraphs (A)(3)(a) and (A)(3)(b) of this section:

(a) Any source or emissions unit with actual emissions between the levels specified in paragraph (A)(2)(a) above and the major source levels may apply for a Class II permit, as a synthetic minor source, which provides enforceable limits to potential emissions, as provided in Article 2, Sections 7 through 15.

(b) Any source or emissions unit with actual greenhouse gases (GHGs) emissions less than one hundred (100) tons per year on a mass basis and/or less than one~~-~~ hundred thousand (100,000) tons per year carbon dioxide equivalents (CO_2e) may apply for a Class II permit which provides enforceable limits to potential emissions, as provided in Article 2, Sections 7 through 15.

(B) Source Category Exemptions.

(1) In accordance with 40 CFR Part 70, §70.3 paragraphs (b)(1) and (2) as related to §70.3 paragraph (a)(2), all sources listed in paragraph (A) of this section that are not major sources, or affected sources, are exempt from the obligation to obtain a Class I permit unless required to do so under another applicable requirement of the LLCAPCPRS or under the Act.

(2) The following sources are exempt from applying for and having a Class I or II operating permit:

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

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

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

(d) All sources and source categories that would be required to obtain a permit solely because of the presence of an emergency generator. This exemption is unavailable to peaking units at electric utilities and any other generator which is used during time periods when power is available from the utility.

(C) Emission Units Covered.

(1) Sources required to obtain an operating permit under the LLCAPCPRS shall identify all relevant emission units in the permit application unless the emissions unit is specifically exempted pursuant to Article 2, Section 7, paragraphs (F)(3) and (F)(4). Emissions that have been exempted from reporting requirements because the emissions unit is an insignificant activity must still be included in the determination of whether a source must obtain a Class I or Class II operating permit.

(2) A source required to obtain an operating permit under the LLCAPCPRS may comply through one of the following methods:

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

(b) The source may request and obtain coverage for one or more emission points eligible for coverage under a general permit issued by the Department and obtain a separate permit for emission points not eligible for such coverage.

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

(E) Except as provided in Article 2, Section 12, paragraph (B), no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under an approved operating permit program. If an operating source submits a timely and complete application for permit issuance, or for renewal, the source's failure to have a permit is not a violation of the LLCAPCPRS or the Act until the Department takes final action on the permit application, provided that the failure to have a permit is through no fault of the source. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to Article 2, Section 7, paragraph (C), the applicant fails to submit any additional information necessary to process the application within the deadline specified in writing by the Department.

(F) The submittal of a complete Class I or II operating permit application shall not affect the requirement that any source have a pre-construction permit as may be required by the LLCAPCPRS.

(G) Any source required to obtain a permit under the provisions of this section shall pay permit fees in accordance with Article 1, Section 6, paragraph (D).

Ref: Title 129, Chapter 5, Nebraska Department of Environmental Quality

SECTION 15. ~~OPERATING~~ PERMIT MODIFICATIONS – REOPENING FOR CAUSE.

(A) Administrative Permit Amendments.

(1) An "administrative permit amendment" is a permit revision that:

(a) Corrects typographical errors;

(b) Identifies a change in the name, address, or telephone number of any person identified in the permit, provided that the owner or operator of the source is not changed;

(c) Requires more frequent monitoring or reporting by the permittee; and

(d) Allows for a change in ownership or operational control of a source where the ~~permitting authority~~ Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the ~~permitting authority~~ Department.

(2) A permittee may request the ~~Director~~ Department to make an administrative permit amendment in writing by specifying the section of the permit that is to be changed and the reason for the change.

(3) The source may implement the changes addressed in the request immediately upon submittal of the request, subject to the Department's final action on the request under paragraph (A)(4) below.

(4) The Department shall take no more than sixty (60) days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes into the permit without providing notice to the public, EPA, or affected states.

(5) For Class I permits only, the Department shall submit a copy of the revised permit to the Administrator of EPA.

(6) If the Department determines that the permittee's request for an administrative permit amendment should be handled as a minor modification or other permit modification, the Department shall notify the permittee of this determination and proceed with such modification pursuant to the applicable procedures.

(7) The permit shield described in Article 2, Section 8, paragraph (N) shall not apply to administrative permit amendments.

(B) Permit modifications to the Acid Rain portion of a Class I operating permit shall be governed by Article 2, Section 26.

(C) Minor Permit Modifications.

(1) The minor permit modification procedures of this section may be used only for those operating permit modifications that:

(a) Do not violate any applicable requirement or applicable requirement under the Act~~.~~;

(b) Do not involve significant changes to existing monitoring, reporting, or record keeping requirements in the permit;

(c) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;

(d) Do not seek to establish or change a permit term or condition for which there is no corresponding applicable requirement or applicable requirements under the Act and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) A federally enforceable emissions cap assumed to avoid classification as a modification ~~which require a construction permit under Article 2, Section 17~~ under Article 2, Sections 18, 23, 27, or 28; and

(2) An alternative emissions limit approved pursuant to Article 2, Sections 27 or 28.

(e) ~~Are not modifications which~~ Do not relate to a change within a permitted facility that:

(1) ~~Require a construction permit under Article 2, Section 17~~Is defined as a modification under Article 2, Sections 18, 23, 27, or 28;

~~(2) Are defined as a modification under the General Provisions for the Standards of Performance for New Stationary Sources incorporated by references in Article 2, Section 18; and~~

~~(3)~~(2) ~~Are defined as a modification subject to preconstruction review~~ Requires a construction permit under Article 2, Sections 17 or 19.

~~(4) Are defined as a modification under the National Emissions Standard for Hazardous Air Pollutants incorporated by reference in Article 2, Section 23.~~

(f) Are not required by the Director to be processed as a significant modification; and

(g) Involve the use of economic incentives, marketable permits, emissions trading, and other similar programs or procedures; provided that such minor permit modification procedures are explicitly allowed for in a applicable State Implementation Plan or in an applicable requirement or applicable requirement under the Act.

(2) The "minor permit modification" procedures of this section may be used for construction permit modifications 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)~~(3) A permittee may request a minor permit modification by ~~filing the standard form for either a Class I or a Class II operating permit, as appropriate~~ submitting a request to the Department in writing~~, and shall~~ that includes the following:

(a) A description of the change, the emissions resulting from the change, and any new applicable requirements and/or applicable requirements under the Act that will apply if the change occurs~~:~~;

(b) The source's suggested draft permit language;

(c) Certification by the responsible official, in accordance with Article 2, Section 7, paragraph (H) that the proposed modification meets the criteria in paragraph (C)(1) above for use of minor modification procedures and a request that such procedures be used;

(d) For ~~a~~ Class I operating permit minor modifications only, ~~two extra copies of~~ one (1) original and one (1) copy of the completed forms identified in paragraph (C)(~~2~~3)(a) through (C)(~~2~~3)(c) above for use by the Department ~~to use~~ to notify the Administrator and affected states.

~~(3)~~(4) For Class I operating permit modifications only, within five (5) working days of receipt of a complete minor permit modification application, the Department shall notify the Administrator and affected states of the requested permit modification.

(a) Affected states shall have thirty (30) days to review and provide comments on the ~~requested~~ complete permit modification application. The Department shall provide notice to the Administrator and any affected state in writing of any refusal by the Department to accept all recommendations that the affected state has submitted.

(b) EPA shall have forty-five (45) days to review and comment on the ~~requested~~ complete permit modification application. The Department shall not issue a final permit modification until after EPA's forty-five (45) day review period or until EPA has notified the Department that EPA will not object to issuance of the permit modification, whichever is first.

~~(4)~~(5) Within ninety (90) days of the Department's receipt of an application under the minor permit modification procedures or fifteen (15) days after the end of EPA's forty-five (45) day review period, whichever is later, the Department shall:

(a) Issue the permit modification as proposed;

(b) Deny the permit modification application;

(c) Determine that the requested modification does not meet the minor permit modification criteria in paragraph (C)(1) above and should be reviewed under the significant modification procedures; or

(d) For Class I operating permits only, ~~Revise~~ revise the draft permit modification and ~~for Class I operating permit modifications only,~~ transmit the new proposed permit modification to EPA for review as required in paragraph (C)(~~3~~4)(b) above.

~~(5)~~(6) A source submitting a minor permit modification request may make the change proposed immediately after it files the application, unless notified by the Department that the request does not qualify as a minor permit modification. After the source makes the change, and until the Department takes action under paragraph (C)(~~4~~5)(a) through (C)(~~4~~5)(c) above, the source must comply with both the applicable requirements governing the change, applicable requirements under the Act, and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to modify may be enforced and such failure to comply shall be cause for denial of the minor permit modification request.

~~(6)~~(7) The permit shield described in Article 2, Section 8, paragraph (L) shall not apply to a minor permit modification.

(D) Group Processing of Minor Permit Modifications.

(1) The Director~~, at his or her discretion,~~ may modify the minor permit modification procedures in paragraph (C) above to process groups of a source's applications for certain modifications eligible for minor permit modification procedures.

(2) Group processing of modifications may only be used for those permits modifications:

(a) That meet the criteria for minor permit modification procedures under paragraph (C) above; and

(b) That collectively are below the following threshold levels: ten percent (10%) of the emissions allowed by the permit for the emissions unit for which the change is requested, twenty percent (20%) of the applicable definition of major source for purpose of Class I permitting, or five (5) tons per year, whichever is less.

(3) A permittee may request the use of group processing procedures in this section by filing the standard application form for a Class I or Class II operating permit, as appropriate, and shall include the following:

(a) A description of the change, the emissions resulting from the change, any applicable requirements and/or applicable requirements under the Act that will apply if the change occurs;

(b) The source's requested draft permit language;

(c) Certification by a responsible official, in accordance with Article 2, Section 7, paragraph (H), that the proposed modification meets the criteria for use of group~~s~~ processing procedures and a request that such procedures be used;

(d) A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under paragraph (D)(2)(b) above;

(e) For Class I operating permit modifications only, ~~two extra copies~~ one (1) original and one (1) copy of the completed forms for use by the Department to ~~use to~~ notify the Administrator and affected states.

(1) Within five (5) working days of receipt of ~~an~~ a complete application for the group processing of a source's minor permit modification requests, the Department shall notify the Administrator and affected states of the request for group processing.

(2) Affected states shall have thirty (30) days to review and comment on the request. The Department shall notify EPA and any affected states in writing of any refusal by the Department to accept all recommendations for the proposed permit modification that the affected states has submitted.

(3) EPA shall have forty~~-~~five (45) days to review and comment on requests for group processing of minor permit modifications. The Department shall not issue a final permit modification until after EPA's forty~~-~~five (45) day review period or until EPA has notified the ~~permitting authority~~ Department that EPA will not object to issuance of the permit modification, whichever is first.

(4) Within one~~-~~hundred eighty (180) days of receipt of the application for group processing of minor permit modifications or fifteen (15) days after the end of the EPA's forty~~-~~five (45) day review period, the Director shall:

(a) Issue the permit modification as proposed;

(b) Deny the permit modification application;

(c) Determine that the requested modification does not meet the criteria for group processing in paragraph (D)(2) of this section and should be reviewed under the significant modification procedures; or

(d) Revise the draft permit modification and, for Class I operating permit modifications only, transmit to the Administrator the new proposed Class I operating permit modification as required by paragraph (D)(3)(e)(3) above.

(5) A source submitting a complete request for a group processing of minor permit modifications may make the change proposed immediately after ~~it files~~ filing the application unless notices by the Department that the request did not qualify as a minor permit modification. After the source makes the change, and until the Department takes action under paragraph (D)(4)(a) through (D)(4)(c) above, the source must comply with applicable requirements governing the change, applicable requirements under the Act, and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to modify may be enforced and such failure to comply shall cause for denial of the minor permit modification request.

(6) The permit shield described in Article 2, Section 8, paragraph (N) shall not apply to group-processed minor permit modifications.

(E) Significant Permit Modifications.

(1) A "significant permit modification" is any revision or change to a permit that cannot be accomplished as an administrative permit amendment or as a minor permit modification. Any relaxation ~~in~~ of existing monitoring, reporting, or record keeping shall be considered significant.

(2) A permittee may request a significant permit modification by ~~complying with~~ submitting the application forms ~~procedures for permit issuance~~ in accordance with Article 2, Section 7~~, paragraph (F)~~ for operating permits, or in accordance with Article 2, Section 17, paragraph (S) for construction permits.

(3) The Department shall review an application for a significant modification following the applicable procedures for permit issuance, including public participation, and EPA and affected states review.

(4) The permit shield described in Article 2, Section 8, paragraph (L), shall apply to a significant modification only after the Director approves the modification, provided that the permit contains a permit shield.

(5) Any significant permit modification shall be subject to permit fees in accordance with Article 1, Section 6, paragraph (D).

(F) Reopening for Cause; Revocation and Reissuance; and Termination.

(1) Any Class I or Class II operating permit issued by the Director shall be reopened, revoked and reissued, or terminated~~,~~ during its term for cause, including but not limited to:

(a) Additional ~~applicable~~ requirements under the Act or the LLCAPCPRS become applicable to a Class I or Class II source with a remaining permit term of three (3) or more years. Such reopening shall be completed no later than eighteen (18) months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later ~~that~~ than the date on which the permit is due to expire, unless the original permit or any ~~if~~ of its terms and conditions ~~had~~ has been extended.

(b) Additional requirements, including excess emissions requirements, become applicable to an affected source under the Acid Rain program under Title IV of the Act.

(c) The Director, or Administrator for a Class I operating permit only, determines that the permit must be revoked and reissued to assure compliance with the applicable requirements.

(d) The Director, or the Administrator for a Class I operating permit only, determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms and conditions of the permit.

(e) The Director, or the Administrator for a Class I operating permit only, determines that an applicable requirement or applicable requirement under the Act applies which was not identified by the permittee in its application.

(2) A ~~Class I or Class II operating~~ permit may be revoked during its term for cause, including, but not limited to:

(a) The existence at the ~~facility~~ source of unresolved noncompliance with applicable requirements or a term or condition of the permit, and refusal of the permittee to agree to an enforceable schedule of compliance to resolve the noncompliance;

(b) The permittee has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA;

(c) The Director determines that the permitted ~~facility~~ source or activity endangers human health or the environment and that the danger cannot be removed by a modification of the permit; or

(d) The permittee has failed to pay a penalty owed pursuant to a court order, stipulation and agreement, or an order issued by the Administrator.

(3) The Department shall initiate a reopening or revocation under paragraphs (F)(1) or (F)(2) above by providing a notice of intent to the permittee no less than thirty (30) days prior to the date that the permit is to be re-opened, unless the Director determines that an emergency exists which necessitates a shorter time period.~~and publishing notice of such intent following the procedures applicable to permit issuance including public participation, and EPA and affected state review for Class I permits only.~~ Proceedings to reopen a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. ~~The Department shall provide a minimum thirty (30) day public comment period unless the Director determines that an emergency exists which necessitates a shorter time period.~~

(4) Within ninety (90) days of receiving notification from the Administrator that a Class I operating permit should be reopened for cause pursuant to this section, the Department shall proceed with reopening the permit, or revoking and reissuing the permit, as appropriate.

(5) If the Administrator does not object to the Department's determination under paragraph (F)(4) above within ninety (90) days, the Department shall proceed as indicated.

(6) If the Administrator objects to the Department's determination under paragraph (F)(4) above within ninety (90) days, the Department shall have an additional ninety (90) days from receipt of EPA's objection during which the Department may take action to terminate, modify, or revoke and reissue the permit in accordance with the EPA's objection.

(7) If the Department fails to take action as stated in any EPA objection under paragraph (F)(6) of this section, the permit may be subject to action by the Administrator.

(G) Changes Allowed for Class I and Class II Operating Permits Only.

~~(G)~~(1) ~~For Class I operating permits only, a~~A permittee may make the following changes within a permitted facility without a permit revision, if the change is not a modification ~~which would require a construction permit~~ under Article 2, Sections ~~17,~~ 18, ~~19,~~ 23, 27, ~~and~~ or 28, the change does not require a construction permit under Article 2, Sections 17 or 19, and the change does not result in the emissions allowable under the permit (whether expressed therein as a rate of emissions or in the terms of total emissions) being exceeded, provided that the permittee provides the Director with written notification ~~as required below~~ a minimum of ~~thirty (30)~~ seven (7) days in advance of the proposed changes, unless the Director determines a shorter time is necessary for emergency reasons. ~~The permittee shall attach a copy of the notice to its copy of the Class I operating permit.~~ The permit shield described in Article 2, Section 8, paragraph (N) shall not apply to any change made under this section.

~~(1)~~(a) Changes in the configuration of the facility's equipment, defined as "Section 502 (b)(10) changes"~~, as defined~~ in Article 2, Section 1, provided that the written notification required above ~~shall~~ includes:

~~(a)~~(1) A brief description of the change within the permitted facility;

~~(b)~~(2) The date on which the change will occur;

~~(c)~~(3) Any changes in emissions; and

~~(d)~~(4) Any permit term or condition that is no longer applicable as a result of the change.

~~(2)~~(b) Trading of increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision; provided that the written notification required in paragraph (G)(1) above ~~shall~~ includes such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum:

~~(a)~~(1) The date the proposed change will occur;

~~(b)~~(2) A description of each such change;

~~(c)~~(3) Any change of emissions;

~~(d)~~(4) The regulatory provisions and permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan; and

~~(e)~~(5) The pollutants emitted subject to the emissions trade.

~~(3)~~(c) Trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that has been established pursuant to Article 2, Section 8, paragraph (S); provided, that the written notification required above shall include:

~~(a)~~(1) The date the change will occur;

~~(b)~~(2) A description of the changes in emission that will result; and

~~(c)~~(3) How these increases and decreases in emissions will comply with the terms and conditions of the permit.

(4) For Class I sources, the written notifications above shall also be submitted to the Administrator.

(5) Notwithstanding any other part of this regulation, the Director may, upon review of written notice submitted in accordance with paragraph (G)(1) above, require a source to apply for an operating permit if the change does not meet the requirements of paragraph (G)(1) above.

(2) A permittee may make changes within a permitted facility without a permit revision, if the change is not a modification under Article 2, Sections 18, 23, 27, or 28, and the change is not a change which would require a construction permit under Chapters 17 or 19. The permittee may make such changes provided that:

(a) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition;

(b) The source shall provide contemporaneous written notice to the Director of each such change, except for changes that qualify as insignificant activities under the provisions of Article 2, Section 7, paragraphs (F)(3) and (F)(4). Such written notice shall include the following:

(1) A description of each change;

(2) The date each change will be made;

(3) A description of any change in emissions;

(4) A list the pollutants emitted; and

(5) A list of any applicable requirement(s) that would apply as a result of the change, including terms and conditions established in the relevant operating permit for synthetic minor purposes.

(c) For Class I sources, the written notice required in paragraph (G)(2)(b) above shall also be provided contemporaneously to the Administrator

(H) No permit revisions shall be required under any State-approved programs providing for economic incentives, marketable permits, emissions trading, or other similar programs or processed for changes that are provided for in the permit.

Ref: Title 129, Chapter 15, Nebraska Department of Environmental Quality

SECTION 17. CONSTRUCTION PERMITS – WHEN REQUIRED.

(A) Except as provided under paragraph ~~(S)~~ (R) of this section or under Article 2, Section 19, no person shall cause the construction, reconstruction, or modification of any of the following without first having obtained a construction permit from the Department:

(1) A construction permit shall be required for any air contaminant source or emission unit for which there is a net increase in potential emissions equal to or exceeding the levels set forth in Table 17-1 below. When determining the net change in potential emissions, fugitive emissions shall be addressed in accordance with the requirements of Article 2, Section 2, paragraphs (A)(1) and (B) of the LLCAPCPRS without regard to classification of the source.

Table 17-1

Pollutants	Net Increase in Potential to Emit (in units of tons per year, or tpy)
Particulate matter less than 10 micrometers nominal diameter (PM_{10})	15.0 tpy
Particulate matter less than 2.5 micrometers nominal diameter ($PM_{2.5}$)	10.0 tpy
Sulfur dioxide (SO_2), sulfur trioxide (SO_3), or any combination of the two	40.0 tpy
Oxides of nitrogen, calculated as NO_2	40.0 tpy
Volatile organic compounds (VOC)	40.0 tpy
Carbon monoxide (CO)	50.0 tpy
Lead (Pb)	0.6 tpy

(2) A construction permit shall be required for any air contaminant source or emission unit for which there is a net increase in potential emissions equal to or exceeding two and one-half (2.5) tons per year of any hazardous air pollutant, or an aggregate of ten (10) tons per year of any hazardous air pollutants, including all associated fugitive emissions. Such construction, reconstruction, and/or modification shall be subject to the 'best available control technology (BACT)' requirements set forth under Article 2, Section 27, paragraph (B) of the LLCAPCPRS.

(3) A construction permit shall be required for any incinerator used for the following:

(a) Processing of salvageable materials;

(b) Cremation of human or animal remains; and

(c) Incineration of Type 4 (pathological) waste.

(4) 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 construction permit under this section except as follows:

(a) The procedure for determining a net increase in projected actual emissions shall 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 pollutants, individual hazardous air pollutants, and total hazardous air pollutants. 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. 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 (0) tons of emissions per year for all pollutants. 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 set forth in paragraphs (A)(4)(a) or (A)(4)(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. No reduction in emissions from the new unit shall be allowed because of the elimination of actual emissions from the existing emission unit being replaced, and those emissions 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. The permittee must comply with all conditions of the construction permit. Any permit noncompliance shall constitute a violation of the LLCAPCPRS 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 the LLCAPCPRS 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 significant levels set forth under Table 17-2 at any locality that does not, or would not, meet the applicable national standard:

Table 17-2

	Averaging Time				
Pollutants	**Averaging Time Annual**	**Averaging Time 24 hrs**	**Averaging Time 8 hrs**	**Averaging Time 3hrs**	**Averaging Time 1 hr**
~~SO_2~~	~~1.0 μg/m³~~	~~5.0 μg/m³~~	~~---~~	~~25.0 μg/m³~~	~~---~~
PM_{10}	1.0 μg/m³	5.0 μg/m³	---	---	---
$PM_{2.5}$	0.3 μg/m³	1.2 μg/m³	---	---	---
NO_2	1.0 μg/m³	---	---	---	---
SO_2	1.0 μg/m³	5.0 μg/m³	---	25.0 μg/m³	---
CO	---	---	0.5 mg/m³	---	2.0 mg/m³

Note: "μg/m³" means micrograms per cubic meter
"mg/m³" means milligrams per cubic meter

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

(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 eighteen (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 or 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~~ 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~~, unless 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 the LLCAPCPRS allows for 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. However, where an applicant can establish that it shut down or curtailed production less than one year prior to the date of permit application, and the proposed new source is a replacement for the shutdown or curtailment 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 Part 51, Subpart I or in demonstrating attainment or reasonable further progress.

(g) Emissions reductions otherwise required by the Act or ~~these Regulations and Standards~~ the LLCAPCPRS 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) Fossil fuel-fired steam electric plants of more than two~~-~~ hundred fifty million British thermal units per hour (250.0 MMBtu/hr) heat input;

(b) Fossil fuel-fired boilers (or combination thereof) totaling more than two~~-~~ hundred fifty million British thermal units per hour (250.0 MMBtu/hr) heat input;

~~(c)~~

~~(d)~~(c) Coal cleaning plants (with thermal dryers);

~~(e)~~(d) Kraft pulp mills;

~~(f)~~(e) Portland cement plants;

~~(g)~~(f) Sintering plants;

~~(h)~~(g) Primary copper smelters;

~~(i)~~(h) Primary lead smelters;

~~(j)~~(i) Primary zinc smelters;

~~(k)~~(j) Iron and steel mills;

~~(l)~~(k) Coke oven batteries;

~~(m)~~(l) Secondary metal production plants;

~~(n)~~(m) Primary aluminum ore reduction plants;

~~(o)~~(n) Taconite ore processing plants;

~~(p)~~(o) Lime plants;
~~(q)~~(p) Phosphate rock processing plant;
~~(r)~~(q) Hydrofluoric, sulfuric, or nitric acid plants;
~~(s)~~(r) Petroleum refineries;
~~(t)~~(s) Petroleum storage and transfer units with a total storage capacity exceeding three- hundred thousand (300,000) barrels;
~~(u)~~(t) Fuel conversion plants;
~~(v)~~(u) Sulfur recovery plants;
~~(w)~~(v) Carbon black plants (furnace process);
~~(x)~~(w) Municipal incinerators capable of charging more than two- hundred fifty (250) tons of refuse per day;
~~(y)~~(x) Glass fiber processing plants;
~~(z)~~(y) Charcoal production plants;
~~(aa)~~(z) Chemical process plants (the term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System (NAICS) codes 325193 or 312140);
~~(bb)~~(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 set forth in Article 2, Section 15, paragraph (C)(2) 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~~ Article 2, Section 15, paragraph (C)(2) shall be processed as follows:

(a) The owner or operator shall submit an application for modification of a construction permit as provided in Article 2, Section 15, paragraph (C)(3) ~~of this section~~, and provide such additional information as may be required to determine if the conditions of ~~paragraph (N)(1) above~~ Article 2, Section 15, paragraph (C)(2) 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~~ Article 2, Section 15, paragraph (C)(2) must be processed through the full construction permit process as provided in paragraphs (C) through (M) of this section.

(O) Construction Permits ~~Exemption~~ for Commercial, Industrial, and Institutional Emergency Electrical Generators.

(1) The provisions in this paragraph shall apply to the following emergency electrical generators where the total emergency electrical generator capacity at a commercial, industrial, or institutional facility is or will be equal to or greater than the following: two hundred kilowatts (200 ~~K~~kW) for units burning fuel oil, liquefied petroleum gas (LPG), or natural gas ~~fired units,~~; ~~or equal to or greater than~~ nineteen kilowatts (19 ~~K~~kW) where one or more ~~of these~~ generator(s) is fueled with gasoline:

(a) Stationary units that are installed on or after ~~11-15-2009~~ November 15, 2009 provided that the owner~~/~~ or operator submits the ~~request for exemption~~ application for a construction permit no later than ~~sixty (60) days after~~ thirty (30) days prior to installation; and

(b) Portable units that are installed on or after ~~11-15-2009~~ November 15, 2009 provided that the owner~~/~~ or operator submits the ~~request for exemption~~ application for a construction permit no later than two (2) days after installation except as provided for in paragraph (O)~~(3), below,~~(3)(f) for disasters.

~~(2) Owners/operators of emergency electrical generators that do not submit the request for exemption within the required time period shall be required to obtain a construction permit in accordance with the requirements set forth in paragraph (A)(1) of this section.~~

~~(3) Within eighteen (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, Sections 5 or 10 (portable units).~~

~~(4)~~(2) To qualify for ~~the exemption~~ a construction permit under the provisions of this paragraph, owners~~/~~ or operators of these units shall comply with the following requirements:

(a) Each generator shall be equipped with a non-resettable hour meter.

~~(a)~~(b) ~~Limit operating~~ Total hours of operation for each unit shall be limited to no more than five hundred (500) hours per calendar year.

~~(b)~~(c) The ~~owner/operator shall maintain~~ following records shall be maintained in accordance with Article 2, Section 8, paragraph (D)(2)(b): ~~of annual operating hours.~~

(1) Total hours of operation during each calendar year;

(2) Hours of operation for maintenance and/or readiness testing during each calendar year; and

(3) Hours of operation for any non-emergency use (excluding maintenance and/or readiness testing), including any hours of operation for a demand response program, if applicable, during each calendar year.

~~(c) Owners/operators of stationary units manufactured after April 1, 2006 must stipulate that maintenance and readiness testing of such units shall be limited to no more than one hundred (100) hours per year, except that:~~

~~(1) 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 one hundred (100) hours per year, the one hundred (100) hour per year limit shall not be imposed.~~

~~(2) The overall operating limit of five hundred (500) hours per year shall not be exceeded.~~

(d) Owners or operators of ~~Stationary~~ stationary emergency ~~generators (engines~~ RICE must operate each unit as an 'Emergency stationary RICE' as defined in 40 CFR Part 63, Subpart ZZZZ §63.6675. In addition, owners or operators of stationary emergency RICE must operate each unit in compliance with the requirements set forth under the following rules, if applicable:~~) may be operated up to fifty (50) hours per year in non-emergency situations and up to fifteen (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 §63.6640 paragraph (f);~~

~~(2)~~(1) ~~For new, modified, or reconstructed compression ignition engines,~~ 40 CFR Part 60, Subpart IIII ~~§60.4211 paragraph (f)~~ for compression ignition (CI) internal combustion engines; ~~and~~ or

~~(3)~~(2) ~~For new, modified or reconstructed spark ignition engines,~~ 40 CFR Part 60, Subpart JJJJ ~~§60.4243 paragraph (d)~~ for spark ignition (SI) internal combustion engines.

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

~~(f)~~(e) The sulfur content of any fuel oil combusted in these units shall not exceed fifteen parts per million (15 ppm) by weight. Any fuel oil combusted must ~~also~~ have either a cetane index of forty (40) or a maximum aromatic content of thirty-five percent by volume (35% v/v) ~~volume percent~~.

~~(g)~~(f) ~~An exemption~~ A construction permit 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 (7)~~ thirty (30) days. If a portable unit will be operated more than ~~seven (7)~~ thirty (30) days, the owner~~/~~ or operator shall ~~be required to~~ apply for ~~the exemption~~ a construction permit within twenty-four (24) hours after conclusion of the ~~seventh~~ thirtieth (30th) 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.~~

~~(5)~~(3) To obtain ~~the exemption~~ an construction permit under the provisions of this paragraph, owners~~/~~ or operators of ~~stationary~~ emergency generators shall submit their ~~requests~~ applications to the Department and provide the following information for each unit:

(a) The make and model number of the engine.

~~(a)~~(b) An indication of whether the emergency electrical generator is stationary or portable.

~~(b)~~(c) The brake horsepower (bhp) rating and ~~KW~~ kilowatt (kW) rating, the date ordered, the date the engine was manufactured (year), engine displacement (liters/cylinder), and the type of engine ~~-~~(compression ignition or spark ignition)~~, an if~~. If it is a spark ignition engine, the owner or operator shall state whether it is 2-~~stoke,~~-stroke or 4-~~stoke~~-stroke engine, and whether it is a rich burn~~,~~ or lean burn engine.

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

~~(d)~~(e) If fuel oil is combusted, indicate the grade~~,~~ ~~(such as~~e.g. No. 2)~~, and~~ the sulfur content (percent by weight, or wt%), and the cetane index or the aromatic content. Provide a statement of certification from the fuel supplier confirming the grade, ~~and~~ sulfur content, and cetane index or aromatic content of the fuel oil delivered and a letter from the owner~~/~~ or operator certifying that this is the only type of fuel oil being combusted. If gasoline is combusted, the owner~~/~~ or 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~~,~~ §80.195.

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

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

~~(g)~~(f) A site plan showing the proposed location of the unit and the location of any adjacent habitable structures, such as businesses, schools, and/or 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 granted.~~ 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.

~~(6) 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 paragraph (O)(2)(a) above;~~

~~(b) The horsepower rating (bhp), kilowatt rating (kW), the date ordered, and the year engine was manufactured;~~

~~(c) The information required in paragraphs (O)(2)(e) and (O)(2)(g) of this section.~~

~~(7)~~(4) In the event the owner~~/~~ or operator of an emergency generator who holds ~~an exemption~~ a construction permit issued under the provisions of this paragraph ~~no longer qualifies for the exemption according to the requirements in paragraphs (O)(1)(a) through (O)(1)(c) above, or the owner/operator~~ chooses to operate the generator ~~for other than emergency purposes~~ in a manner that is not consistent with the provisions of paragraph (O)(3) of this section, the owner~~/~~ or operator shall submit a construction permit application to the Department ~~within sixty (60)~~ no less than thirty (30) days ~~of~~ prior to ~~the finding or declaration~~ operating the RICE as a non-emergency generator ~~and shall obtain a permit~~. Within eighteen (18) months of issuance of a construction permit, the Department may require the owner~~/~~ or operator to submit an application for an operating permit in accordance with the requirements of Article 2, Sections 5 or ~~10~~ 9.

~~(8)~~(5) ~~Owners/operators of emergency generators who violate the applicable requirements in paragraphs (O)(2), (O)(3), or (O)(4) above shall be subject to the provisions of Article 1, Sections 3 and 4.~~ The owner~~/~~ or operator of an emergency ~~generator~~ RICE whose hours of operation exceed~~s five hundred (500) hours and/or one hundred (100) hours per year (for units manufactured after April 1, 2006) for maintenance and readiness testing during the year~~ an applicable limit set forth under paragraph (O)(3) of this section shall report ~~these events~~ the exceedance(s) to the Department no later than thirty (30) days after ~~the month in which the applicable limit was exceeded~~ discovery of any such exceedance(s).

~~(9)~~(6) Within thirty (30) days of the date the Department issues the construction permit, the owner or operator shall submit a ~~A processing~~construction permit fee for review of the construction permit ~~exemption request~~ application, drafting the construction permit, and issuing the permit. The fee shall be assessed in accordance with Article 1, Section 6, paragraph (E).

~~(10) The Department will provide a letter of exemption to the owner/operator of a qualifying emergency generator, provided that all required information and the applicable construction permit exemption fee has been received by the Department. The exemption shall remain in effect for each unit that continues to qualify.~~

~~(11)~~(7) In the event the Department determines that ~~an exemption~~ a construction permit cannot be granted under the provisions of this paragraph, a letter explaining the reason(s) for refusal will be sent to the owner~~/~~ or operator. The owner~~/~~ or operator who is denied ~~an exemption~~ a construction permit may provide additional information to support their request, or may appeal the decision to the Director according to the procedures established in Article 1, Section 4.

(8) Owners or operators issued a construction permit under the provisions of paragraph (O) of this section shall not be required to submit an annual emissions inventory in accordance with Article 2, Section 6, and shall not be required to submit annual emission fees in accordance with Article 1, Section 6, paragraph (A).

(P) Construction Permit Requirements for Commercial, Industrial, and Institutional Non-Emergency Generators.

(1) The provisions of this paragraph shall apply to any stationary electric power producing generators operated at commercial, industrial, or institutional facilities where the owner~~/~~ or operator participates in a demand response program established by the local utility in which the utility may request that the owner~~/~~ or operator use these generators to produce a limited number of hours of electric power during periods when power from the local utility is unavailable. An owner~~/~~ or 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 purpose. The owner~~/~~ or operator may utilize these generators for both emergency and non-emergency purposes in accordance with the following requirements:

(2) To qualify for a construction permit issued under the provisions of paragraph (P) of this section, owners or operators of these units shall comply with the following requirements:

(a) Each generator shall be equipped with a non-resettable hour meter.

~~(a)~~(b) 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)~~(c) The number of hours ~~the~~ each unit may be operated shall be limited as follows:

(1) Total hours of operation shall be limited to no more than five hundred (500) hours per calendar year;

~~(1)~~(2) Hours of operation for ~~non-emergency purposes~~ demand response shall be limited to no more than two hundred (200) hours per calendar year.~~;~~

~~(2) Hours of operation for emergency, maintenance, and readiness-testing purposes shall be limited to no more than three hundred (300) hours per calendar year.~~

~~(3) For units manufactured after April 1, 2006, maintenance and readiness testing is limited to no more than one hundred (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 one hundred (100) hours per year. Regardless of the two hundred (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.~~

(d) Owners or operators of stationary RICE must operate each unit in accordance with the applicable requirements set forth under 40 CFR Part 63, Subpart ZZZZ. In addition, owners or operators of stationary RICE must operate each unit in compliance with the requirements set forth under the following rules, if applicable:

(1) 40 CFR Part 60, Subpart IIII for compression ignition (CI) internal combustion engines; or

(2) 40 CFR Part 60, Subpart JJJJ for spark ignition (SI) internal combustion engines.

~~(c)~~(e) The following records ~~A record of unit operating hours for emergency and testing purposes and for non-emergency purposes~~ shall be maintained on a monthly basis~~.~~, and ~~These records~~ shall be made available to the Department upon request:~~. The owner/operator shall report to the Department any exceedances of the applicable limits set forth in paragraph (P)(1)(b) above. The report of exceedances shall be submitted no later than thirty (30) days after the month in which the applicable limit(s) is exceeded.~~

(1) Total hours of operation during each calendar month;

(2) If applicable, hours of operation for participation in a demand response program during each calendar month; and

(3) Hours of operation for emergency purposes, and for maintenance and/or readiness testing during each calendar year.

(f) The sulfur content of fuel oil combusted shall not exceed fifteen parts per million (15 ppm) by weight. Any fuel oil combusted must also have either a minimum cetane index of forty (40), or a maximum aromatic content of thirty-five percent by volume (35% v/v).

~~(d)~~(g) The owner~~/~~ or operator shall maintain a record of the quantity of fuel (natural gas, LPG, gasoline, fuel oil) combusted annually for emergency purposes, ~~and~~ maintenance and/or readiness testing purposes, and for non-emergency purposes (i.e. demand response).

~~(e)~~(h) An ~~annual~~ emissions inventory shall be submitted annually as required in Article 2, Section 6. The emission inventory shall be submitted on forms provided by, or acceptable to, the Department and shall contain emission information for the previous calendar year. For each generator subject to the requirements of this paragraph, the inventory must include a separate accounting of the hours of operation, and emissions or fuel use resulting from non-emergency operation and those resulting from emergency use~~,~~ and maintenance~~,~~ and/or readiness testing.

~~(f) The sulfur content of fuel oil combusted shall not exceed fifteen parts per million (15 ppm) by weight. Any fuel oil combusted must also have either a minimum cetane index of forty (40), or a maximum aromatic content of thirty five (35) volume percent. The owner/operator shall provide a statement of certification from the fuel supplier confirming that the fuel oil delivered meets these standards. The owner/operator shall also certify that the only type of fuel oil being combusted is that which meets these standards. If gasoline is combusted, the owner/operator shall obtain a fuel certification from the fuel supplier to document that the sulfur content of the gasoline meets the requirements of 40 CFR Part 80, §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 thirty (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.~~

~~(i) The owner/operator shall pay annual emission fees to the Department in accordance with Article 1, Section 6.~~

~~(j)~~(3) To obtain a construction permit issued under the provisions of paragraph (P) of this section, owners or operators of these units ~~The owner/operator~~ shall provide the following information for each non-emergency generator in the construction permit application submitted to the Department:

~~(1)~~(a) The make and model number of the ~~generator;~~ engine.

~~(2)~~(b) The ~~KW and~~ brake horsepower (bhp) rating and kilowatt (kW) rating~~s~~, the date ordered, the date the engine was manufactured (year), engine displacement (liters/cylinder), and the type of engine- (compression ignition or spark ignition)~~., and, if~~ If it is a spark ignition engine, the owner or operator shall state whether it is 2-~~stoke~~-stroke~~,~~ or 4-~~stoke~~-stroke engine, and whether it is a rich burn~~,~~ or lean burn engine.~~:~~

~~(3)~~(c) The type of fuel(s) (natural gas, LPG, gasoline, fuel oil) combusted~~:~~.

~~(4)~~(d) ~~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~~If fuel oil is combusted, indicate the grade (e.g. No. 2), the sulfur content (percent by weight, or wt%), and the cetane index or the aromatic content. Provide a statement of certification from the fuel supplier confirming the grade, sulfur content, and cetane index or aromatic content of the fuel oil delivered and a letter from the owner or operator certifying that this is the only type of fuel oil being combusted. If gasoline is combusted, the owner or 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 §80.195.

~~(5)~~(e) 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/or 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.

~~(2)~~(4) The owner~~/~~ or 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 paragraph 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. 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, if required. ~~for facilities required to have this permit.~~

(5) The owner or operator of a non-emergency generator whose hours of operation exceed an applicable limit set forth under paragraph (P)(3) of this section shall report the exceedance(s) to the Department no later than thirty (30) days after discovery of any such exceedance(s).

(6) Within thirty (30) days of the date the Department issues the construction permit, the owner or operator shall submit a construction permit fee as required by Article 1, Section 6, paragraph (D).

~~(3) Construction permits issued under this paragraph shall not be subject to the public participation provisions of Article 2, Section 14.~~

~~(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, liquefied petroleum 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.~~

~~(R)~~(Q) Any person or source issued a construction permit under this section shall pay annual emission fees as required under Article 1, Section 6, except as provided for under paragraph (O)(8) of this section.

~~(S)~~(R) 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) of this section for the following purposes:

(1) Establishing enforceable limits to avoid otherwise applicable requirements under the provisions of the LLCAPCPRS.

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

(3) Establishing a PAL pursuant to the provisions of Article 2, Section 19. 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 Nebraska Administrative Code Title 129 (Department of Environmental Quality), Chapter 43~~, Nebraska Department of Environmental Quality~~.

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

SECTION 18. NEW SOURCE PERFORMANCE STANDARDS AND EMISSION LIMITS FOR EXISTING SOURCES.

(A) Standards of Performance for New Stationary Sources. Notwithstanding any other provisions of these regulations, the following "Standards of Performance for New Stationary Sources", also referred to as "New Source Performance Standards" (NSPS), published at 40 CFR Part 60, effective July 1, ~~2013~~ 2014, unless otherwise indicated are hereby adopted by reference and incorporated herein:

(1) Subpart A: General Provisions
(2) Subpart D: NSPS for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971
(3) Subpart Da: NSPS for Electric Utility Steam Generating Units
(4) Subpart Db: NSPS for Industrial-Commercial-Institutional Steam Generating Units
(5) Subpart Dc: NSPS for Small Industrial-Commercial-Institutional Steam Generating Units
(6) Subpart E: NSPS for Incinerators (applicable to municipal type waste incinerators)
(7) Subpart Ea: NSPS for Municipal Waste Combustors for Which Construction is Commenced After December 20, 1989 and on or Before September 20, 1994
(8) Subpart Eb: NSPS for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996
(9) Subpart Ec: NSPS for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996
(10) Subpart F: NSPS for Portland Cement Plants
(11) Subpart G: NSPS for Nitric Acid Plants
(12) Subpart Ga: NSPS for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011
(13) Subpart H: NSPS for Sulfuric Acid Plants
(14) Subpart I: NSPS for Hot Mix Asphalt Facilities
(15) Subpart J: NSPS for Petroleum Refineries
(16) Subpart Ja: NSPS for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007
(17) Subpart K: NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978
(18) Subpart Ka: NSPS for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984
(19) Subpart Kb: NSPS for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984
(20) Subpart L: NSPS for Secondary Lead Smelters
(21) Subpart M: NSPS for Secondary Brass and Bronze Production Plants
(22) Subpart N: NSPS for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973
(23) Subpart Na: NSPS for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983
(24) Subpart O: NSPS for Sewage Treatment Plants
(25) Subpart P: NSPS for Primary Copper Smelters
(26) Subpart Q: NSPS for Primary Zinc Smelters
(27) Subpart R: NSPS for Primary Lead Smelters
(28) Subpart S: NSPS for Primary Aluminum Reduction Plants
(29) Subpart T: NSPS for the Phosphate Fertilizer Industry – Wet-Process Phosphoric Acid Plants
(30) Subpart U: NSPS for the Phosphate Fertilizer Industry – Superphosphoric Acid Plants
(31) Subpart V: NSPS for the Phosphate Fertilizer Industry – Diammonium Phosphate Plants
(32) Subpart W: NSPS for the Phosphate Fertilizer Industry – Triple Superphosphate Plants
(33) Subpart X: NSPS for the Phosphate Fertilizer Industry – Granular Triple Superphosphate Storage Facilities
(34) Subpart Y: NSPS for Coal Preparation and Processing Plants
(35) Subpart Z: NSPS for Ferroalloy Production Facilities
(36) Subpart AA: NSPS for Steel Plants – Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983
(37) Subpart AAa: NSPS for Steel Plants – Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983

(38) Subpart BB: NSPS for Kraft Pulp Mills
(39) Subpart CC: NSPS for Glass Manufacturing Plants
(40) Subpart DD: NSPS for Grain Elevators
(41) Subpart EE: NSPS for Surface Coating of Metal Furniture
(42) Subpart GG: NSPS for Stationary Gas Turbines
(43) Subpart HH: NSPS for Lime Manufacturing Plants
(44) Subpart KK: NSPS for Lead-Acid Battery Manufacturing Plants
(45) Subpart LL: NSPS for Metallic Mineral Processing Plants
(46) Subpart MM: NSPS for Automobile and Light Duty Truck Surface Coating Operations
(47) Subpart NN: NSPS for Phosphate Rock Plants
(48) Subpart PP: NSPS for Ammonium Sulfate Manufacture
(49) Subpart QQ: NSPS for the Graphic Arts Industry: Publication Rotogravure Printing
(50) Subpart RR: NSPS for Pressure Sensitive Tape and Label Surface Coating Operations
(51) Subpart SS: NSPS for Industrial Surface Coating – Large Appliances
(52) Subpart TT: NSPS for Metal Coil Surface Coating
(53) Subpart UU: NSPS for Asphalt Processing and Asphalt Roofing Manufacture
(54) Subpart VV: NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and ~~on~~ On or Before November 7, 2006
(55) Subpart VVa: NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
(56) Subpart WW: NSPS for the Beverage Can Surface Coating Industry
(57) Subpart XX: NSPS for Bulk Gasoline Terminals
(58) Subpart AAA: NSPS for New Residential Wood Heaters
(59) Subpart BBB: NSPS for the Rubber Tire Manufacturing Industry
(60) Subpart DDD: NSPS for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry
(61) Subpart FFF: NSPS for Flexible Vinyl and Urethane Coating and Printing
(62) Subpart GGG: NSPS for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and ~~on~~ On or Before November 7, 2006
(63) Subpart GGGa: NSPS for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006
(64) Subpart HHH: NSPS for Synthetic Fiber Production Facilities
(65) Subpart III: NSPS for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes
(66) Subpart JJJ: NSPS for Petroleum Dry Cleaners
(67) Subpart KKK: NSPS for Equipment Leaks of VOC From Onshore Natural Gas Processing Plants
(68) Subpart LLL: NSPS for Onshore Natural Gas Processing – SO_2 Emissions
(69) Subpart NNN: NSPS for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations
(70) Subpart OOO: NSPS for Nonmetallic Mineral Processing Plants
(71) Subpart PPP: NSPS for Wool Fiberglass Insulation Manufacturing Plants
(72) Subpart QQQ: NSPS for VOC Emissions From Petroleum Refinery Wastewater Systems
(73) Subpart RRR: NSPS for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes
(74) Subpart SSS: NSPS for Magnetic Tape Coating Facilities
(75) Subpart TTT: NSPS for Industrial Surface Coating – Surface Coating of Plastic Parts for Business Machines
(76) Subpart UUU: NSPS for Calciners and Dryers in Mineral Industries
(77) Subpart VVV: NSPS for Polymeric Coating of Supporting Substrates Facilities
(78) Subpart WWW: NSPS for Municipal Solid Waste Landfills
(79) Subpart AAAA: NSPS for 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
(80) Subpart CCCC: NSPS for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced After November 30, 1999 or for Which Modification or Reconstruction Is Commenced ~~on~~ On or After June 1, 2001

(81) Subpart DDDD: Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999
(82) Subpart EEEE: NSPS for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced ~~on~~ On or After June 16, 2006
(83) Subpart FFFF: Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units That Commenced Construction On or Before December 9, 2004
(84) Subpart IIII: NSPS for Stationary Compression Ignition Internal Combustion Engines
(85) Subpart JJJJ: NSPS for Stationary Spark Ignition Internal Combustion Engines
(86) Subpart KKKK: NSPS for Stationary Combustion Turbines
(87) Subpart LLLL: NSPS for New Sewage Sludge Incineration Units
(88) Subpart OOOO: NSPS for Crude Oil and Natural Gas Production, Transmission, and Distribution
(89) Appendices A, B, C, and F

(B) Except as provided in paragraphs (C) and (D) below, New Source Performance Standards (NSPS) are applicable only to those new, modified, or reconstructed facilities specified or defined as an "affected facility".

(C) Emission Limits for Existing Municipal Solid Waste (MSW) Landfills. The designated facility to which these limits apply is each existing MSW landfill for which construction, reconstruction, or modification was commenced before May 30, 1991, which has accepted waste at any time since November 8, 1987, or has additional capacity available for future waste deposition:

(1) Each designated facility shall submit an initial design capacity report ninety (90) days after September 8, 1997 on forms provided by the Department. The final determination of design capacity shall be subject to review and approval by the Department. Any changes in the physical boundaries, operation, or waste deposition practices which increase or decrease the design capacity of the landfill shall require the submittal of an amended design capacity report.

(2) Each designated facility having an aggregate design capacity of two and one-half (2.5) million megagrams or two and one-half (2.5) million cubic meters or more shall calculate and report non-methane organic compound (NMOC) emissions as provided for new MSW landfills under paragraph (A)(78) of this section beginning ninety (90) days after September 8, 1997.

(3) Each designated facility having an NMOC emission rate of fifty (50) megagrams per year or more shall design, install, and operate a landfill gas collection and control system (LGCCS) as provided for new MSW landfills under paragraph (A)(78) of this section. An alternate design plan may be approved by the Department provided the source demonstrates that:

(a) Meeting the requirements of paragraph (A)(78) of this section will result in unreasonable costs of control due to plant age, location, or basic process design~~.~~;

(b) It will be physically impossible to install necessary control equipment needed to meet the requirements of paragraph (A)(78) of this section~~,~~; or

(c) Other factors specific to the facility will make application of a less stringent standard significantly more reasonable than meeting the requirements of paragraph (A)(78) of this section.

(4) Each designated facility subject to the control provisions of paragraph (C)(3) above shall submit the LGCCS design for Department review within one (1) year of the first report in which NMOC emissions equal or exceed fifty (50) megagrams per year, and shall install the approved LGCCS within thirty (30) months of that report, except as provided under paragraph (A)(78) of this section.

(5) Each designated facility subject to the control provisions of paragraph (C)(3) above shall conduct testing, monitoring, record keeping, and reporting for the LGCCS as provided for new landfills under paragraph (A)(78) of this section.

(6) If a source received approval for an alternate design plan under paragraph (C)(3) above, the Department may also approve alternative testing and monitoring procedures for the source provided the source demonstrates that the testing and monitoring requirements in paragraph (A)(78) of this section are not practical for the alternate design and that the alternate procedures are adequate to determine compliance with the approved alternate design plan.

(D) Emission Limits for Existing Hospital/Medical/Infectious Waste Incinerators. The designated facility to which these limits apply is each individual hospital/medical/infectious waste incinerator for which construction, reconstruction, or modification was commenced on or before June 20, 1996. The emission limits under this section apply at all times except during startup, shutdown, or malfunction, provided that no hospital waste or medical/infectious waste is charged to the designated facility during startup, shutdown, or malfunction. For purposes of this section, the definitions in 40 CFR Part 60, Subpart Ce §60.31e, and the exceptions and exemptions from the definition of designated facility in 40 CFR Part 60, Subpart Ce §60.32e (b) through (h), are adopted by reference and incorporated herein.

(1) Beginning September 15, 2000, each designated facility subject to paragraph (D) above shall be operated pursuant to a Class I operating permit.

(2) For purposes of paragraph (D) above, the size classifications and emission limits provided in Tables 1 and 2 of 40 CFR Part 60, Subpart Ce are adopted by reference and incorporated herein. On or after the date on which the initial compliance test is required, no designated facility shall cause to be discharged into the atmosphere any gases that contain stack emissions in excess of the limits for its size, as provided in either Table 1 or 2 of 40 CFR Part 60, Subpart Ce, as applicable, or exhibit greater than ten (10) percent opacity, as evaluated by Method 9 in Appendix A of 40 CFR Part 60.

(3) Each designated facility subject to the provisions of this section shall comply with the requirements for operator training and qualification, waste management plans, and record keeping and reporting, except for requirements relating to siting and fugitive emissions, as provided for new sources under paragraph (A)(9) of this section.

(4) Each designated facility subject to the provisions of Table 1 of 40 CFR Part 60, Subpart Ce shall comply with the requirements for compliance and performance testing and monitoring, except for fugitive emissions testing, as provided for new sources under paragraph (A)(9) of this section.

(5) Each designated facility subject to the provisions of Table 2 of 40 CFR Part 60, Subpart Ce shall undergo an initial equipment inspection within one (1) year of the effective date of December 15, 1998, and subsequent equipment inspections no more than twelve (12) months following each previous equipment inspection. For purposes of this paragraph, the inspection requirements in 40 CFR Part 60, Subpart Ce §60.36e (a)(1) and (2) are adopted by reference.

(6) Each designated facility subject to the provisions of Table 2 of 40 CFR Part 60, Subpart Ce shall comply with the following:

(a) Requirements for compliance and performance testing as provided in 40 CFR Part 60, Subpart Ce §60.37e (b)(1) through (5);

(b) Requirements for monitoring as provided in 40 CFR Part 60, Subpart Ce §60.37e (d)(1) through (3); and

(c) Requirements for ~~reporting and~~ record keeping and reporting as provided in 40 CFR Part 60, Subpart Ce §60.38e (b)(1) and (2).

(7) Each designated facility subject to the provisions of paragraph (D) above shall comply with all provisions ~~of~~ set forth in paragraphs (D) of this section no later than one (1) year after the EPA approval of the state plan for existing hospital/medical/infectious waste incinerators.

Ref: Title 129, Chapter 18, Nebraska Department of Environmental Quality

SECTION 19. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY.

(A) The following paragraphs are those adopted from Nebraska Administrative Code, Title 129 ~~Nebraska Air~~ (Department of Environmental Quality~~) Regulations~~, Chapter 19, and those of 40 CFR Part 52 §52.21 published on July 1, ~~2013~~ 2014 which are incorporated by reference into ~~Article 2, Section 19~~ this section of the LLCAPCPRS:

(1) §52.21 (b)(2)(iii)(i) through (b)(2)(iii)(k) related to clean coal technology demonstration projects;
(2) §52.21 (b)(34) through (b)(38) definitions related to clean coal technology demonstration projects;
(3) §52.21 (e) Restrictions on area classifications;
(4) §52.21 (g) Redesignation; and
(5) §52.21 (p) "Sources impacting Federal Class I areas", as published at 75 Federal Register 64906.

(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 from 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) below. 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 twenty-four (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 (5) 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 (10) years is more representative of normal source operations.
(2) For all other units, within the ten (10) 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 twenty-four (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 ~~e~~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 twenty-four (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 twenty-four (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 twenty-four (24) month period.

(8) When a project involves multiple emissions units, only one consecutive twenty-four (24) month period must be used to determine the BAE for the emissions units being changed. A different consecutive twenty-four (24) month period can be used for each regulated NSR pollutant.

(9) The average rate per unit shall not be based on any consecutive twenty-four (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 ~~B~~balance.

(11) Other methodologies or a different order of preference of methodologies than those listed in (E)(10) above 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 (0); and thereafter, for all other purposes, shall equal the unit's PTE.

(13) For a ~~PAL for a~~ stationary source with a 'Plant-wide Applicability Limit' (PAL), the BAE shall be calculated in accordance with the procedures contained in paragraphs (E)(1) through (E)(12) above.

(F) Projected actual emissions (PAE) is the maximum annual rate, in tons per year (consecutive twelve (12) month period), at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five (5) 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 (10) 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 twenty-four (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) above, 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 (0) 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) below) 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 (5) 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 Prevention of Significant Deterioration (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 rates set forth in Table 19-1 below. For any regulated NSR pollutant not listed in Table 19-1, any increase is significant.

Table 19-1

Pollutant	Significant Emission Rate (in tons per year, or tpy, unless other stated)
Carbon Monoxide (CO)	100.0 tpy
Nitrogen Oxides (NOx)	40.0 tpy
Sulfur Dioxide (SO_2)	40.0 tpy
Particulate matter (PM)	25.0 tpy
Particulate matter less than 10 micrometers nominal diameter (PM_{10})	15.0 tpy
Particulate matter less than 2.5 micrometers nominal diameter ($PM_{2.5}$)	Any of the following: • 10.0 tpy of direct $PM_{2.5}$ • 40.0 tpy of NOx • 40.0 tpy of SO_2

Table 19-1

Pollutant	Significant Emission Rate (in tons per year, or tpy, unless other stated)
Ozone	Any of the following: • 40.0 tpy of NOx • 40.0 tpy of Volatile Organic Compounds (VOC)
Lead	0.6 tpy
Fluorides	3.0 tpy
Sulfuric Acid (H_2SO_4) Mist:	7.0 tpy
Hydrogen Sulfide (H_2S)	10.0 tpy
Total Reduced Sulfur Compounds (including H_2S)	10.0 tpy
Reduced Sulfur Compounds (including H_2S)	10.0 tpy
Municipal Waste Combustor Organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2×10^{-6} megagrams per year; or 3.5×10^{-6} tpy
Municipal Waste Combustor Metals (measured as particulate matter)	14.0 megagrams per year; or 15.0 tpy
Municipal Waste Combustor Acid Gases (measured as SO_2 and hydrogen chloride)	36.0 megagrams per year; or 40.0 tpy
Municipal Solid Waste Landfill Emissions (measured as non-methane organic compounds)	45.0 megagrams per year; or 50.0 tpy
Greenhouse Gases (GHGs)	Both of the following: • Greater than zero (>0) tons per year on a mass basis; and • 75,000 tons per year on a carbon dioxide equivalent (CO_2e) basis

(K) Actuals PALs. The term "Plant-wide 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 twelve (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 twelve (12) consecutive months is less than the PAL (a twelve (12) month average, rolled monthly). For each month during the first eleven (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) of this section, 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) above, 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 ~~a~~Application to ~~e~~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 "Best Available Control Technology" (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 twelve (12) month rolling total for each month as required by paragraph (K)(12) of this section.

(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 (1) pollutant.

(c) Each PAL shall have an effective period of ten (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) of this section 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) of this section 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) of this section.

(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 twelve (12) month rolling total for each month as required by paragraph (K)(12) of this section.

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

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

(m) A requirement to submit the reports required under paragraph (K)(14) of this section 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 twenty-four (24) month period used for the BAE must be subtracted from the PAL level. Emissions from units on which actual construction began after the twenty-four (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)~~.~~; and

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

(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~~.~~; or

(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 ten (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) of this section, 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 PALSs. 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) of this section 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) below 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 fifteen (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 fifteen (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) of this section, 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 (5) 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) of this section and of the PAL, including a determination of each emissions unit's twelve (12) month rolling total emissions, for five (5) 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 (5) 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 thirty (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~~/~~ per year, or tpy) based on a twelve (12) month rolling total for each month in the reporting period recorded pursuant to paragraph (K)(13) of this section~~.~~;

(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 six (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) of this section~~.~~; and

(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 forty-five (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 than eighteen (18) months and no later than six (6) 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) of this section~~.~~;

(b) A proposed PAL level~~.~~;

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

(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) of this section at the time of renewal is equal to or greater than eighty percent (80%) 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) below.

(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) above~~,~~:

(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) of this section.

(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 following requirements. Any PAL that is not renewed in accordance with the procedures in paragraph (K)(15) of this section shall expire at the end of the PAL effective period and the requirements in this paragraph 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 this paragraph 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) of this section, 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~~ determined 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) of this section, such distribution shall be made as if the PAL had been adjusted.

(2) The Department shall ~~decide~~ determine 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 twelve (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) above, 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) of this section.

(L) Ambient Air Increments. For any period other than an annual period listed below, the applicable maximum allowable increase may be exceeded during one (1) 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 levels set forth in Table 19-2 below (in units of micrograms per cubic meter or $\mu g/m^3$).

Table 19-2

Pollutants	Annual Arithmetic Mean	24-hour Maximum	3-hour Maximum
SO_2	20.0 $\mu g/m^3$	91.0 $\mu g/m^3$	512.0 $\mu g/m^3$
PM_{10}	17.0 $\mu g/m^3$	30.0 $\mu g/m^3$	---
$PM_{2.5}$	4.0 $\mu g/m^3$	9.0 $\mu g/m^3$	---
NO_2	25.0 $\mu g/m^3$	---	---

(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) below shall be excluded in determining compliance with a maximum allowable increase. No exclusions of concentrations referred to in paragraphs (N)(1) and (N)(2) below shall apply more than five (5) 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 not impact ~~no~~ any Class I area ~~and no~~ or 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 would not impact ~~no~~ any Class I area ~~and no~~ or 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 fifty (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 amounts set forth in Table 19-3 below, or as provided in paragraphs (P)(7)(b) through (P)(7)(e) below.

Table 19-3

Pollutants	Annual Average	3-month Average	24-hour Average	8-hour Average	1-hour Average
SO_2	---	---	13.0 $\mu g/m^3$	---	---
PM_{10}	---	---	10.0 $\mu g/m^3$	---	---
NO_2	14.0 $\mu g/m^3$	---	---	---	---
CO	---	---	---	575.0 $\mu g/m^3$	---
Lead	---	0.1 $\mu g/m^3$	---	---	---
Fluorides	---	---	0.25 $\mu g/m^3$	---	---
Total Reduced Sulfur	---	---	---	---	10.0 $\mu g/m^3$
Hydrogen Sulfide	---	---	---	---	0.2 $\mu g/m^3$
Reduced Sulfur Compounds	---	---	---	---	10.0 $\mu g/m^3$

Note: "$\mu g/m^3$" means micrograms per cubic meter.

(b) No de minimis air quality level is provided for ozone. However, any net increase of one hundred (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.

(c) No de minimis air quality level is provided for $PM_{2.5}$.

(d) 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) above; or

(e) The pollutant is not listed in paragraph (P)(7)(a) above.

(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 total suspended particulate (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 eighteen (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.

(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 Part 51, Appendix W (Guideline on Air Quality Models).

(2) Where an air quality model specified in 40 CFR Part 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 2, 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 non-methane 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 (1) 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 (1) year (but not less than four (4) 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) above.

(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 Part 58, Appendix B during the operation of monitoring stations for purposes of satisfying the requirements of paragraph (T) of this section.

(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 sixty (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 sixty (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 (1) 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) of this section, 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) above 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) above, and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five (5) years following resumption of regular operations after the change, or for a period of ten (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 sixty (60) days after the end of each calendar year during which records must be generated under paragraph (X)(3)(c) above, 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) above exceed the BAE (as documented and maintained pursuant to paragraph (X)(3)(a)(3) above) by eighty percent (80%) 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 sixty (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) above~~.~~; and

(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~~ significance level listed in paragraph (J) of this section notwithstanding PAE below the ~~significant~~ significance level.

(4) The owner or operator shall make the information required to be documented and maintained pursuant to paragraph (X)(3) of this section 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

SECTION 20. PARTICULATE LIMITATIONS 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, and incinerators ~~and~~ (including coatings bake off ovens ~~(~~ and burn-off furnaces), in excess of the amounts allowed in Table 20-~~1~~ 2 of this section during any one (1) hour. Incinerators shall be subject to the applicable particulate emission standards established in Article 2, Section 22.

~~(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 one-tenth (0.1) grains per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to twelve percent (12%) carbon dioxide (CO_2).~~

~~(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 one-thousand two hundred degrees Fahrenheit (1,200 °F). The burner(s) shall be interlocked with operation of the primary combustion chamber so that the oven cannot 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:

Table 20-1

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
Between 10 and 10,000	$A = \frac{1.026}{I^{0.233}}$
10,000 or more	0.12

~~(C) The allowable emission rate for equipment having immediate heat input between 10.0 MMBtu/hr and 10,000.0 MMBtu/hr may be determined by the formula:~~

$$\cancel{A = \frac{1.026}{I^{0.233}}}$$

Where:

A = The allowable emission rate in lbs/MMBtu
I = The total heat input in MMBtu/hr

(C) Paragraphs (A) and (B) of this section shall apply unless a more stringent particulate matter standard is specified in the underlying requirements of an applicable federal rule or is specified within a construction permit issued pursuant to Article 2, Sections 17 or 19.

(D) For the purpose of this section, 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) Unless subject to a more stringent opacity standard, ~~as~~ specified in another section of the LLCAPCPRS, no person shall cause or allow emissions from any existing source 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 (COMS) operated and maintained pursuant to 40 CFR Part 60, Appendix B, except as provided for in paragraph (F) of this section.

(F) Exceptions.

(1) Emission sources subject to monitoring requirements of Article 2, Section 34, paragraph (E) are allowed to have one six (6) minute period per hour of not more than twenty-seven percent (27%) opacity.

(2) For exceptions due to breakdowns or scheduled maintenance, see Article 2, Section 35.

Table 20-1-2

Process Weight Rate (lbs/hr)	Process Weights 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	10.4	200,000	100.00	51.2
9,000	4.50	11.2	1,000,000	500.00	69.0
10,000	5.00	12.0	2,000,000	1,000.00	77.6
12,000	6.00	13.6	6,000,000	3,000.00	92.7

Interpolation of the data in this table for process weight rates up to 60,000 lbs/hr shall be accomplished by use of the following equation:

$E = 4.10p^{.67}$

Interpolation of the data for process weight rates in excess of 60,000 lbs/hr shall be accomplished by use of the following equation:

$E = 55.0p^{.11}-40$

Where:

E = rate of emission in lbs/hr
p = process weight rate in tons/hr

If two (2) 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.

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

SECTION 21. COMPLIANCE ASSURANCE MONITORING.

The provisions of 40 CFR Part 64 "Compliance Assurance Monitoring", as in effect on July 1, ~~2013~~ 2014 for purposes of implementing the compliance assurance monitoring (CAM) program, are hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 31, Nebraska Department of Environmental Quality

SECTION 22. INCINERATOR 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 in 40 CFR Part 60, Subpart AAAA §60.1015;

(b) The unit has the capacity to combust at least thirty-five (35) tons per day but no more than two-hundred fifty (250) tons per day of municipal solid waste or refuse-derived fuel. Units that are exempt from the requirements of Subpart AAAA are set forth in §60.1020 paragraphs (a) through (k) of Subpart AAAA.

(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 (HMIWI) unit means any device that combusts any amount of "Type 5 waste" as defined in Article 2, Section 1 of the LLCAPCPRS. A combustor is not subject to Subpart Ce if it qualifies for one of the exemptions listed in §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 (HMIWI) unit means any device that combusts any amount of "Type 5 waste" as defined in Article 2, Section 1 of the LLCAPCPRS. A combustor is not subject to Subpart Ec if it qualifies for one of the exemptions listed in §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 (CISWI) is a combustion device as defined in §60.2265 of Subpart CCCC. A combustor is not subject to Subpart CCCC if it qualifies for one of the exemptions listed in §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 (CISWI) is a combustion device as defined in §60.2875 of Subpart DDDD. A combustor is not subject to Subpart DDDD if it qualifies for one of the exemptions listed in §60.2555 paragraphs (a) through (o) of Subpart DDDD.

(8) Incinerators, as defined at 40 CFR Part 60, Subpart E §60.51, that are capable of charging more than fifty (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 §60.50 paragraphs (c) through (e) of Subpart E.

(9) Municipal waste combustors capable of charging greater than two-hundred fifty (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 §60.50a paragraphs (c) through (k) of Subpart Ea.

(a) Municipal waste combustion units with capacities greater than two-hundred fifty (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 §60.50a paragraphs (c) through (k).

(b) Municipal waste combustion units with capacities greater than two-hundred fifty (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 §60.50a paragraphs (c) through (k).

(10) Large municipal waste combustors capable of charging greater than two- hundred fifty (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 §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 thirty-five (35) tons per day, as well as institutional waste incineration units as defined in §60.3078 of Subpart FFFF. Unit types listed in §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 thirty-five (35) tons per day, as well as institutional waste incineration units as defined in §60.2977 of Subpart EEEE. Unit types listed in §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 §261.3. A source planning to construct a hazardous waste incinerator in Lancaster County, Nebraska 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~~ LLCAPCPRS 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 (A)(13) of this section shall comply with the requirements of paragraphs (A)(14)(a) through (A)(14)(f) below. These incineration units commonly include, but are not limited to, units that combust "Type 4 waste" as defined in Article 2, Section 1 of the LLCAPCPRS, as well as part, rack, and/or drum reclamation units (also referred to as bake-off ovens or burn-off furnaces).

(a) No person shall cause or permit particulate matter (PM) emissions from any incinerator to be discharged into the outdoor atmosphere to exceed one-tenth (0.10) of a grain~~s~~ per dry standard cubic foot (gr/dscf) of exhaust gas, corrected to twelve percent (12%) carbon dioxide (CO_2). The exhaust gases contributed by the burning of a liquid or gaseous fuel shall be excluded.

(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 one thousand two hundred degrees Fahrenheit (1,200 °F). The burner(s) shall be interlocked with operation of the primary combustion chamber so that the oven cannot be operated unless the secondary combustion chamber burner(s) is functioning.

~~(b)~~(c) 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)~~(d) Waste burned during performance testing required by Article 2, Section 34 of the LLCAPCPRS 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)~~(e) 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)~~(f) Each incinerator shall meet the design criteria as set forth in the definition of incinerator at Article 2, Section 1 of the LLCAPCPRS 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 section and the visible emission standard in Article 2, Section 20, paragraph (E) of the LLCAPCPRS can be demonstrated.

~~(f)~~(g) Chemotherapeutic and low level radioactive wastes (as defined at 40 CFR Part 60 Subpart Ec §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 (B)(3) below. Incinerators not included in the exemptions listed in paragraphs (B)(1) through (B)(3) must comply with the construction permit requirements set forth in Article 2, Section 17, paragraph (A)(2) of the LLCAPCPRS. 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 of the LLCAPCPRS; 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)(3)(a) through (B)(3)(d) below, and as defined in Article 2, Section 1 of the LLCAPCPRS. Air curtain incinerators must comply with the requirements set forth in paragraph (C) of this section.

(a) One~~-~~ hundred percent (100%) wood waste;

(b) One~~-~~ hundred percent (100%) clean lumber;

(c) One~~-~~ hundred percent (100%) yard waste; and/or

(d) A one~~-~~ hundred percent (100%) mixture of only wood waste, clean lumber, and/or yard waste.

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

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

(a) One~~-~~ hundred percent (100%) wood waste, as defined in Article 2, Section 1 of the LLCAPCPRS;

(b) One~~-~~ hundred percent (100%) clean lumber, as defined in Article 2, Section 1 of the LLCAPCPRS; and/or

(c) One~~-~~ hundred percent (100%) mixture of only wood waste, clean lumber, and/or yard waste, as defined in Article 2, Section 1 of the LLCAPCPRS.

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

(a) The opacity limitation is ten percent (10%) (based on a six (6) minute average), except as described in paragraph (C)(2)(b), below;

(b) The opacity limitation is thirty-five percent (35%) (based on a six (6) minute average) during the startup period that is within the first thirty (30) minutes of operation.

(3) Except during malfunctions, the requirements of paragraph (C)(2) apply at all times, and each malfunction must not exceed three (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 in Appendix A of 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, Subpart A §60.8; and

(c) After the initial performance test for opacity, the owner/operator shall conduct annual performance tests no more than twelve (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 on-site (or readily available) in either paper copy or electronic format, unless the Director approves another format, for at least five (5) years.

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

(c) The results of the initial opacity tests must be submitted no later than sixty (60) days following the initial test. Submit annual opacity test results within twelve (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 (5) years.

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

SECTION 23. HAZARDOUS AIR POLLUTANTS – EMISSION STANDARDS.

(A) Notwithstanding any other provisions of the LLCAPCPRS, the following "National Emissions Standards for Hazardous Air Pollutants" (NESHAPs), published at 40 CFR Part 61, effective July 1, ~~2013~~ 2014, are hereby adopted and incorporated herein:

(1) Subpart A: General Provisions
(2) Subpart C: National Emission Standard for Beryllium
(3) Subpart D: National Emission Standard for Beryllium Rocket Motor Firing
(4) Subpart E: National Emission Standard for Mercury
(5) Subpart F: National Emission Standard for Vinyl Chloride
(6) Subpart J: National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
(7) Subpart L: National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
(8) Subpart M: National Emission Standard for Asbestos, and the following:
    (a) All asbestos containing waste covered under 40 CFR Part 61, Subpart M §61.144, §61.145, §61.146, and §61.147 shall be maintained in an adequate wetted state until disposed of by acceptable methods.
    (b) All asbestos containing waste bags shall be transparent so that the asbestos-containing material (ACM) is visible after packaging.
    (c) Containment projects shall use a viewing window or windows where~~-~~ever practical.
(9) Subpart N: National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants
(10) Subpart O: National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters
(11) Subpart P: National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities
(12) Subpart V: National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
(13) Subpart Y: National Emission Standard for Benzene Emissions from Benzene Storage Vessels
(14) Subpart BB: National Emission Standard for Benzene from Benzene Transfer Operations
(15) Subpart FF: National Emission Standard for Benzene Waste Operations~~.~~
(16) Appendices A, B, and C

Ref: Title 129, Chapter 23, Nebraska Department of Environmental Quality

SECTION 26. ACID RAIN.

(A) The provisions of 40 CFR Part 72, as in effect on July 1, ~~2013~~ 2014, for purposes of implementing an Acid Rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference. The term "permitting authority" shall mean the Department and the term "Administrator" shall mean the Administrator of the U.S. Environmental Protection Agency.

(B) If the provisions or requirements of 40 CFR Part 72 conflict with other provisions of the LLCAPCPRS as they apply to affected sources, the Part 72 provisions and requirements shall apply and take precedence.

(C) The provisions of 40 CFR Part 75, as in effect on July 1, ~~2013~~ 2014, for purposes of implementing an Acid Rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.

(D) The provisions of 40 CFR Part 76, as in effect on July 1, ~~2013~~ 2014, for purposes of implementing an Acid Rain program that meets the requirements of Title IV of the Act, are hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 26, Nebraska Department of Environmental Quality

SECTION 27. HAZARDOUS AIR POLLUTANTS – MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY (MACT).

(A) Notwithstanding any other provisions of the LLCAPCPRS, 40 CFR Part 63, Subpart D §63.70 through §63.81, as effective on July 1, ~~2013~~ 2014, pertaining to compliance extensions for early reductions, are hereby adopted and incorporated by reference.

(B) Requirements for New, Modified, or Reconstructed Sources of Hazardous Air Pollutants. Any owner/operator constructing a new source, or performing construction/reconstruction/modification at an existing source, where the potential to emit any hazardous air pollutant from the constructed/reconstructed/modified source equals or exceeds the levels specified in Article 2, Section 17, paragraph (A)(2) of the LLCAPCPRS, will only be issued a permit to construct/reconstruct/modify if best available control technology ~~(~~, as determined by the Director~~)~~, is applied for each hazardous air pollutant for which the potential to emit exceeds the levels specified in Article 2, Section 17, paragraph (A)(2) of the LLCAPCPRS. The source shall comply with all other applicable requirements of the LLCAPCPRS. 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 Article 2, Sections 18, 23, 27, or 28.

(C) Requirements for New or Reconstructed Major Sources of Hazardous Air Pollutants. Any new source with the potential to emit an amount equal to or in excess of ten (10) tons per year of any hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants, will only be issued a permit for construction/reconstruction/modification required under Article 2, Section 17, paragraph (A)(2) of the LLCAPCPRS if maximum achievable control technology, as determined by the Director, is applied, and the source is required to comply with all other requirements of the LLCAPCPRS.

(1) For the purposes of this section, the provisions set forth in 40 CFR Part 63, Subpart B §63.40 (b); §63.41; §63.42 (c); §63.43 (a), (b), and (d); and §63.44, as effective on July 1, ~~2013~~ 2014, are hereby adopted and incorporated by reference.

(2) Except as provided in paragraph (C)(1) above, the provisions and procedures of Article 2, Section 17 of the LLCAPCPRS and paragraph (B) above apply.

(D) Notwithstanding any other provisions of the LLCAPCPRS, the provisions set forth in 40 CFR Part 63, Subpart B §63.50 through §63.56 as effective on July 1, ~~2013~~ 2014, pertaining to maximum achievable control technology determinations for emission units subject to case-by-case determination of equivalent emission limitations, are hereby adopted and incorporated by reference.

(E) Notwithstanding any other provisions of the LLCAPCPRS, the provisions set forth in 40 CFR Part 68 "Chemical Accident Prevention Provisions", Subparts A thru H, as effective on July 1, ~~2013~~ 2014, are hereby adopted and incorporated by reference.

Ref: Title 129, Chapter 27, Nebraska Department of Environmental Quality

SECTION 28. HAZARDOUS AIR POLLUTANTS – MACT EMISSION STANDARDS.

(A) Notwithstanding any other provisions of the LLCAPCPRS, the following "National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Source Categories" published at 40 CFR Part 63, as effective on July 1, ~~2013~~ 2014 are hereby adopted and incorporated herein:

(1) Subpart A: General Provisions
(2) Subpart F: NESHAP for Organic HAPs from the Synthetic Organic Chemical Manufacturing Industry
(3) Subpart G: NESHAP for the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater
(4) Subpart H: NESHAP for Organic HAPs from Equipment Leaks
(5) Subpart I: NESHAP for Organic HAPs from Certain Processes Subject to the Negotiated Regulation for Equipment Leaks
(6) Subpart J: NESHAP for Polyvinyl Chloride and Copolymers Production
(7) Subpart L: NESHAP for Coke Oven Batteries
(8) Subpart M: National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities
(9) Subpart N: NESHAP for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks
(10) Subpart O: NESHAP for Ethylene Oxide from Sterilization Operations
(11) Subpart Q: NESHAP for Industrial Process Cooling Towers
(12) Subpart R: Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)
(13) Subpart S: NESHAP for the Pulp and Paper Industry
(14) Subpart T: NESHAP for Halogenated Solvent Cleaning
(15) Subpart U: NESHAP for Group I Polymers and Resins
(16) Subpart W: NESHAP for Epoxy Resins Production and Non-Nylon Polyamides Production
(17) Subpart X: NESHAP for Secondary Lead Smelting
(18) Subpart AA: NESHAP for Phosphoric Acid Manufacturing Plants
(19) Subpart BB: NESHAP for Phosphate Fertilizers Production Plants
(20) Subpart CC: NESHAP for Petroleum Refineries
(21) Subpart DD: NESHAP for Off-Site Waste and Recovery Operations
(22) Subpart EE: NESHAP for Magnetic Tape Manufacturing Operations
(23) Subpart GG: NESHAP for Aerospace Manufacturing and Rework Facilities
(24) Subpart HH: NESHAP for Oil and Natural Gas Production Facilities
(25) Subpart JJ: NESHAP for Wood Furniture Manufacturing Operations
(26) Subpart KK: NESHAP for the Printing and Publishing Industry
(27) Subpart LL: NESHAP for Primary Aluminum Reduction Plants
(28) Subpart MM: NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills
(29) Subpart OO: NESHAP for Tanks – Level 1
(30) Subpart PP: NESHAP for Containers
(31) Subpart QQ: NESHAP for Surface Impoundments
(32) Subpart RR: NESHAP for Individual Drain Systems
(33) Subpart SS: NESHAP for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
(34) Subpart TT: NESHAP for Equipment Leaks – Control Level 1 Standards
(35) Subpart UU: NESHAP for Equipment Leaks – Control Level 2 Standards
(36) Subpart VV: NESHAP for Oil-Water Separators and Organic-Water Separators
(37) Subpart WW: NESHAP for Storage Vessels (Tanks) – Control Level 2
(38) Subpart XX: NESHAP for Ethylene Manufacturing Process Units – Heat Exchange Systems and Waste Operations
(39) Subpart YY: NESHAP for Source Categories – Generic MACT Standards
(40) Subpart CCC: NESHAP for Steel Pickling – HCI Process and Hydrochloric Acid Regeneration Plants
(41) Subpart DDD: NESHAP for Mineral Wool Production
(42) Subpart EEE: NESHAP for Hazardous Waste Combustors
(43) Subpart GGG: NESHAP for Pharmaceutical Production
(44) Subpart HHH: NESHAP for Natural Gas Transmission and Storage Facilities
(45) Subpart III: NESHAP for Flexible Polyurethane Foam Production
(46) Subpart JJJ: NESHAP for Group IV Polymers and Resins
(47) Subpart LLL: NESHAP for the Portland Cement Manufacturing Industry
(48) Subpart MMM: NESHAP for Pesticide Active Ingredient Production

(49) Subpart NNN: NESHAP for Wool Fiberglass Manufacturing
(50) Subpart OOO: NESHAP for Manufacture of Amino/Phenolic Resins
(51) Subpart PPP: NESHAP for Polyether Polyols Production
(52) Subpart QQQ: NESHAP for Primary Copper Smelting
(53) Subpart RRR: NESHAP for Secondary Aluminum Production
(54) Subpart TTT: NESHAP for Primary Lead Smelting
(55) Subpart UUU: NESHAP for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units
(56) Subpart VVV: NESHAP for Publicly Owned Treatment Works
(57) Subpart XXX: NESHAP for Ferroalloys Production – Ferromanganese and Silicomanganese
(58) Subpart AAAA: NESHAP for Municipal Solid Waste Landfills
(59) Subpart CCCC: NESHAP for Manufacturing of Nutritional Yeast
(60) Subpart EEEE: NESHAP for Organic Liquids Distribution (Non-Gasoline)
(61) Subpart DDDD: NESHAP for Plywood and Composite Wood Products
(62) Subpart FFFF: NESHAP for Miscellaneous Organic Chemical Manufacturing
(63) Subpart GGGG: NESHAP for Solvent Extraction for Vegetable Oil Production
(64) Subpart HHHH: NESHAP for Wet-Formed Fiberglass Mat Production
(65) Subpart IIII: NESHAP for Surface Coating of Automobiles and Light-Duty Trucks
(66) Subpart JJJJ: NESHAP for Paper and Other Web Coating
(67) Subpart KKKK: NESHAP for Surface Coating of Metal Cans
(68) Subpart MMMM: NESHAP for Surface Coating of Miscellaneous Metal Parts and Products
(69) Subpart NNNN: NESHAP for Surface Coating of Large Appliances
(70) Subpart OOOO: NESHAP for Printing, Coating, and Dyeing of Fabrics and Other Textiles
(71) Subpart PPPP: NESHAP for Surface Coating of Plastic Part and Products
(72) Subpart QQQQ: NESHAP for Surface Coating of Wood Building Products
(73) Subpart RRRR: NESHAP for Surface Coating of Metal Furniture
(74) Subpart SSSS: NESHAP for Surface Coating of Metal Coil
(75) Subpart TTTT: NESHAP for Leather Finishing Operations
(76) Subpart UUUU: NESHAP for Cellulose Products Manufacturing
(77) Subpart VVVV: NESHAP for Boat Manufacturing
(78) Subpart WWWW: NESHAP for Reinforced Plastic Composites Production
(79) Subpart XXXX: NESHAP for Rubber Tire Manufacturing
(80) Subpart YYYY: NESHAP for Stationary Combustion Turbines
(81) Subpart ZZZZ: NESHAP for Stationary Reciprocating Internal Combustion Engines
(82) Subpart AAAAA: NESHAP for Lime Manufacturing Plants
(83) Subpart BBBBB: NESHAP for Semiconductor Manufacturing
(84) Subpart CCCCC: NESHAP for Coke Ovens: Pushing, Quenching, and Battery Stacks
(85) Subpart DDDDD: NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources
(86) Subpart EEEEE: NESHAP for Iron and Steel Foundries
(87) Subpart FFFFF: NESHAP for Integrated Iron and Steel Manufacturing Facilities
(88) Subpart GGGGG: NESHAP for Site Remediation
(89) Subpart HHHHH: NESHAP for Miscellaneous Coating Manufacturing
(90) Subpart IIIII: NESHAP for Mercury Emissions From Mercury Cell Chlor-Alkali Plants
(91) Subpart JJJJJ: NESHAP for Brick and Structural Clay Products Manufacturing
(92) Subpart KKKKK: NESHAP for Clay Ceramics Manufacturing
(93) Subpart LLLLL: NESHAP for Asphalt Processing and Asphalt Roofing Manufacturing
(94) Subpart MMMMM: NESHAP for Flexible Polyurethane Foam Fabrication Operations
(95) Subpart NNNNN: NESHAP for Hydrochloric Acid Production
(96) Subpart PPPPP: NESHAP for Engine Test Cells/Stands
(97) Subpart QQQQQ: NESHAP for Friction Materials Manufacturing Facilities
(98) Subpart RRRRR: NESHAP for Taconite Iron Ore Processing
(99) Subpart SSSSS: NESHAP for Refractory Products Manufacturing
(100) Subpart TTTTT: NESHAP for Primary Magnesium Refining
(101) Subpart UUUUU: NESHAP for Coal- and Oil-Fired Electric Utility Steam Generating Units
(102) Subpart WWWWW: NESHAP for Hospital Ethylene Oxide Sterilizers at Area Sources
(103) Subpart YYYYY: NESHAP for Area Sources – Electric Arc Furnace Steelmaking Facilities
(104) Subpart ZZZZZ: NESHAP for Iron & Steel Foundries Area Sources

(105) Subpart BBBBBB: NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities at Area Sources
(106) Subpart CCCCCC: NESHAP for Gasoline Dispensing Facilities at Area Sources
(107) Subpart DDDDDD: NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources
(108) Subpart EEEEEE: NESHAP for Primary Copper Smelting Area Sources
(109) Subpart FFFFFF: NESHAP for Secondary Copper Smelting Area Sources
(110) Subpart GGGGGG: NESHAP for Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium
(111) Subpart HHHHHH: NESHAP for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources
(112) Subpart JJJJJJ: NESHAP for Industrial, Commercial, and Institutional Boilers at Area Sources
(113) Subpart LLLLLL: NESHAP for Acrylic and Modacrylic Fibers Production Area Sources
(114) Subpart MMMMMM: NESHAP for Carbon Black Production Area Sources
(115) Subpart NNNNNN: NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds
(116) Subpart OOOOOO: NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources
(117) Subpart PPPPPP: NESHAP for Lead Acid Battery Manufacturing Area Sources
(118) Subpart QQQQQQ: NESHAP for Wood Preserving Area Sources
(119) Subpart RRRRRR: NESHAP for Clay Ceramics Manufacturing at Area Sources
(120) Subpart SSSSSS: NESHAP for Glass Manufacturing Area Sources
(121) Subpart TTTTTT: NESHAP for Secondary Nonferrous Metals Processing Area Sources
(122) Subpart VVVVVV: NESHAP for Chemical Manufacturing Area Sources
(123) Subpart WWWWWW: NESHAP for Plating and Polishing Operations at Area Sources
(124) Subpart XXXXXX: NESHAP for Nine Metal Fabrication and Finishing Source Categories at Area Sources
(125) Subpart YYYYYY: NESHAP for Area Sources – Ferroalloys Production Facilities
(126) Subpart ZZZZZZ: NESHAP – Area Source Standards for Aluminum, Copper, and Other Nonferrous Foundries
(127) Subpart AAAAAAA: NESHAP for Area Sources – Asphalt Processing and Asphalt Roofing Manufacturing
(128) Subpart BBBBBBB: NESHAP for Chemical Preparation Industry at Area Sources
(129) Subpart CCCCCCC: NESHAP for Paints and Allied Products Manufacturing at Area Sources
(130) Subpart DDDDDDD: NESHAP for Prepared Feeds Manufacturing at Area Sources
(131) Subpart EEEEEEE: NESHAP – Gold Mine Ore Processing and Production Area Source Category
(132) Subpart HHHHHHH: NESHAP for Polyvinyl Chloride and Copolymers Production at Major Sources

(B) Operational Limits for Area Sources. Area sources subject to a standard adopted by reference in paragraph (A) of this section and specifically referenced in this paragraph may accept operational limits to avoid the requirements associated with operating at the source's maximum design capacity.

(1) General Provisions. An owner or operator of a source may apply for coverage under this provision if the following criteria are met:

(a) The Director has established operational limitations for the industry category in paragraph (B)(6) below.

(b) The responsible official for the source certifies that it will comply with the applicable paragraph(s) of this section.

(c) Records are collected and maintained as described for each applicable paragraph and retained for a period of not less than five (5) years and made available to the Department for review upon request.

(d) A source may change its status under paragraph (B)(6) below without violating this rule by meeting the following requirements:

(1) The owner or operator of the source must provide written notification to the Department of the intent to change status. The notification must be certified by the responsible official for the source;

(2) The source must comply with the requirements for its industry category;

(3) Once a source changes status, it is no longer eligible for coverage under paragraph (B).

(2) Approval Procedures.

(a) Notice of Intent. The owner or operator of a source intending to be covered under this provision shall submit a complete Notice of Intent Form provided by the Department.

(b) Department Approval. Department approval of the Notice of Intent Form request shall be in writing. Upon approval, the source must comply with the applicable limitations specified in paragraph (B) of this section.

(3) Duty to Comply. Each source approved for coverage under this provision must comply with all paragraphs of this section applicable to the source. Any non-compliance shall constitute a violation of the LLCAPCPRS and the Act, and is grounds for enforcement action and/or for disapproval of the Notice of Intent to operate under this provision.

(4) Compliance with Other Applicable Requirements. Compliance with the provisions of this section does not shield the owner or operator from the duty to comply with any other applicable requirement under the LLCAPCPRS or the Act not specifically addressed in this section.

(5) Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as required by Article 2, Section 6, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Article 2, Section 4, must be provided upon Department request.

(6) Industry Categories Eligible to Accept Operational Limits.

(a) A bulk gasoline terminal subject to 40 CFR Part 63, Subpart BBBBBB (NESHAP for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities at Area Sources), with a maximum calculated design throughput capacity greater than or equal to twenty thousand (20,000) gallons per day, may be approved to operate pursuant to the provisions of paragraph (B) of this section if the owner or operator certifies that the source will comply with paragraphs (B)(1) through (B)(5) above and each of the following:

(1) Limit actual gasoline throughput to less than twenty thousand (20,000) gallons per day; and

(2) Maintain a daily record of actual gasoline throughput, in accordance with the provisions of paragraph (B)(1)(c); and

(3) Comply with the requirements specified in 40 CFR Part 63, Subpart BBBBBB for bulk gasoline plants with a maximum design throughput capacity of less than twenty thousand (20,000) gallons per day.

Ref: Title 129, Chapter 28, Nebraska Department of Environmental Quality

SECTION 30. ~~CONSTRUCTION PERMIT FEE.~~RESERVED.

~~(A) Any person or source required to obtain a construction permit in accordance with the requirements of Article 2, Section 17 shall pay a fee as prescribed under Article 1, Section 6, paragraph (D) for the following activities.~~

~~(1) Review of an application for a permit for the construction, installation, modification, or reconstruction of processing machines, equipment or devices, fuel burning equipment, and waste incinerators;~~

~~(2) Development of a draft permit to construct, install, modify, or reconstruct;~~

~~(3) Review of an application or request to modify an existing permit to construct, install, modify, or reconstruct, whereas the modification(s) meets the requirements set forth under Article 2, Section 17, paragraph (N)(1);~~

~~(4) Development of a modified draft permit to construct, install, modify, or reconstruct;~~

~~(5) Development of a statement of basis to issue an initial, or modified, permit to construct, install, modify, or reconstruct;~~

~~(6) Development of a document to provide notice for public participation as provided in Article 2, Section 14.~~

~~(7) Issuance of a construction permit for a non-emergency electrical generator in accordance with the provisions set forth in Article 2, Section 17, paragraph (P).~~

SECTION 34. EMISSION SOURCES – TESTING~~—~~ AND MONITORING.

(A) The Department may require any person responsible for the operation of an emission source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe, on the basis of estimates of potential contaminant emissions rates from the source and due consideration of probable efficiency of any existing control device, or visible emission determinations made by an official observer, that existing emissions exceed the limitations required in the LLCAPCPRS. Such tests may also be required pursuant to verifying that any newly installed control device meets performance specifications. Should the Department determine that the test did not represent normal operating conditions or emissions, additional tests may be required. Such a requirement shall be considered as an order and subject to all administrative and legal requirements specified.

(B) Required tests shall be conducted in accordance with the following test methods and procedures, as applicable:

(1) 40 CFR Part 51, Appendix M, effective July 1, ~~2013~~ 2014;

(2) 40 CFR Part 60, Appendices A, B, C, F, effective July 1, ~~2013~~ 2014;

(3) 40 CFR Part 61, Appendix B, effective July 1, ~~2013~~ 2014;

(4) 40 CFR Part 63, Appendix A, effective July 1, ~~2013~~ 2014;

(5) 40 CFR Part 266, Appendix IX, effective July 1, ~~2013~~ 2014; and/or

(6) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846 (3rd Edition) (November 1986) and its ~~Revisions~~ Updates I, II, IIA, IIB, ~~and~~ III, IIIA, IIIB, IVA, and IVB ~~effective June 13, 1997~~.

(7) Such tests shall be conducted by reputable, qualified individuals. A certified written copy of the test results signed by the person conducting the test shall be provided to the Department within ~~forty-five (45)~~ sixty (60) days of completion of the test unless a different period is specified in the underlying requirements of an applicable federal rule.

(C) The owner or operator of a source shall provide notice to the Department at least thirty (30) days prior to testing to afford the Department an opportunity to have an observer present. The Department may, in writing, approve a notice of less than thirty (30) days. If the testing is pursuant to an underlying requirement contained in a federal rule, the notice provisions of the underlying requirement shall apply.

(D) The Department may conduct tests of emissions of contaminants from any stationary source.

(1) Upon written request from the Department, the person responsible for the source to be tested shall cooperate with the Department in providing all necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices, as may be reasonably required to conduct the test with due regard being given to expenditures and possible disruption of normal operations of the source.

(2) A report concerning the findings of such tests shall be furnished to the person responsible for the source upon request.

(E) A continuous monitoring system for the measurement of opacity shall be installed and placed in operation by the owner or operator of any fossil fuel-fired steam generator with greater than two~~-~~ hundred fifty ~~(250)~~ million British thermal units per hour (250.0 MMBtu/hr) heat input. Exemptions from this requirement will be made if gaseous fuel(s) and/or oil ~~is~~ are the only fuels ~~burned~~ combusted and the source has never been found to be in violation of Article 2, Section 20. Installation, calibration, operation, and reporting shall be performed in accordance with the procedures specified in 40 CFR Part 60.

(F) The Director may require the owner or operator of any other emission source which is subject to the provisions of these regulations to install, use and maintain such stationary monitoring equipment as is required to demonstrate continuing compliance with any applicable emissions limitations, and to maintain records and make reports regarding such measured emissions to the Department in a manner and on a schedule to be determined by the Director.

(G) When a new or modified stationary source becomes operational, the owner or operator will submit a written report of performance tests (if required) to the Director within sixty (60) days after reaching maximum capacity but not later than one- hundred eighty (180) days after the startup of operations. Failure to meet established performance standards will result in withdrawal of the provisional approval granted to operate the new or modified stationary source. Final approval and issuance of an operating permit will be withheld for operation of the affected facility until such time as the owner or operator has corrected the deficiencies determined by the performance tests. Upon satisfactory accomplishment of a valid series of performance tests, approval for operation of the new or modified stationary source will be granted through issuance of an operating permit in accordance with Article 2, Section 5.

(H) Notwithstanding any other provisions of the LLCAPCPRS, the following methods may be used to determine compliance with applicable requirements:
- (1) A monitoring method approved for the source and incorporated in an operating permit pursuant to Article 2, Section 8;
- (2) Any compliance test method specified in the State Implementation Plan (SIP);
- (3) Any test or monitoring method approved for the source in a permit issued pursuant to Article 2, Sections 17, 19, or 27;
- (4) Any test or monitoring method provided for in the LLCAPCPRS; or
- (5) Any other test, monitoring, or information gathering method that produces information comparable to that produced by any method described in paragraphs -(H)(1) through (H)(4) above.

(I) Predictive Emissions Monitoring System (PEMS) Requirements. Where allowed by the Department, the owner or operator of any PEMS used to meet a pollutant monitoring requirement must comply with the following:
- (1) The PEMS must predict the pollutant emissions in the units of the applicable emission limitations.
- (2) Monitor diluent, either oxygen (O_2) or carbon dioxide (CO_2) when applicable:
  - (a) Using a CEMS:
    - (1) In accordance with 40 CFR Part 60 Appendix B, Performance Specification 3 for diluent; or
    - (2) With a similar alternative method approved by the Director and EPA; or
  - (b) Using a PEMS with a method approved by the Director and EPA.
- (3) Any PEMS shall meet the requirements of 40 CFR Part 75 Subpart E, except as provided in paragraph (I)(5) of this section.
- (4) The owner or operator of any PEMS installed subsequent to adoption of paragraph (I) of this section shall perform the following initial certification procedures:
  - (a) Conduct initial Relative Accuracy Test Audit (RATA) at low, medium, and high operating levels using 40 CFR Part 60, Appendix B:
    - (1) Performance Specification 2, Section 8.4 (pertaining to nitrogen oxides, or NOx) in terms of the applicable standard in parts per million by volume (ppmv), pounds per- ~~MMBtu~~ million British thermal units (lbs/MMBtu), or grams per horsepower-hour (g/hp-hr),~~.~~ except the relative accuracy shall be within ten percent (10%)~~,~~ or ~~within~~ two parts per million (2.0 ppm) absolute difference;
    - (2) Performance Specification 3, Sections 8 and 13.2 (pertaining to O_2 or CO_2); and
    - (3) Performance Specification 4, Sections 8 and 13.2 (pertaining to carbon monoxide, or CO), for owners or operators electing to use a CO PEMS; and
  - (b) Conduct a t-test, an F-test, and a correlation analysis using 40 CFR Part 75, Appendix A, Section 7.6 and 40 CFR Part 75 §75.41 (c)(1) and (2) at low, medium, and high load levels.
    - (1) Calculations shall be based on a minimum of twenty-~~-~~seven (27) successive emission data points at each tested level which are at least seven (7) minute averages;
    - (2) The t-test and the correlation analysis shall be performed using all data collected at low, medium, and high load levels;

(3) The correlation analysis may be waived following review of the waiver request submittal if:

(a) The process design is such that it is technically impossible to vary the process to result in a concentration change sufficient to allow a successful correlation analysis statistical test. Any waiver request must also be accompanied with documentation of the reference method measured concentration. The waiver is to be based on the measured value at the time of the waiver. Should a subsequent RATA effort identify a change in the reference method measured value by more than thirty percent (30%), the statistical test must be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement; or

(b) The data for a measured compound (e.g., NOx, O_2) are determined to be autocorrelated according to the procedures of 40 CFR Part 75 §75.41 (b)(2). A complete analysis of autocorrelation with support information shall be submitted with the request for waiver. The statistical test shall be repeated at the next RATA effort to verify the successful compliance with the correlation analysis statistical test requirement.

(5) Allowable Test Adjustments

(a) For either NOx or CO and for the purpose of conducting an f-test, if the standard deviation of the EPA reference method is less than either three percent (3%) of the span or five (5) parts per million (ppm), use an EPA reference method standard deviation of either five (5) ppm or three percent (3%) of span.

(b) For the diluent CO_2 or O_2, and for the purpose of conducting an f-test, if the standard deviation of the reference method is less than three percent (3%) of span, use an EPA reference method standard deviation of three percent (3%) of span.

(c) For either NOx or CO and at any one test level, if the mean value of the EPA reference method is less than either ten (10) ppm or five percent (5%) of the standard, all statistical tests are waived for that emission parameter at that specific test level.

(d) For the diluent O_2~~-~~ or CO_2 and at any one test level, if the mean value of the reference method is less than three percent (3%) of span, all statistical tests are waived for that diluent parameter at that specific test level.

(e) All requests for waivers shall be submitted to the Department for review and approval. The Director shall approve or deny each waiver request;

(f) The owner or operator shall, for each alternative fuel fired in a unit, certify the PEMS in accordance with paragraphs (I)(4)(a) and (I)(4)(b) of this section unless the alternative fuel effects on NOx, CO, and O_2 (or CO_2) emissions were addressed in the model training process.

(g) The PEMS shall be subject to the approval of the Director.

(6) The owner or operator may vary from paragraphs (I)(3) or (I)(4) of this section if the owner or operator:

(a) Demonstrates to the satisfaction of the Director that the alternative is substantially equivalent to the requirements; or

(b) Demonstrates to the satisfaction of the Director that the requirement is not applicable.

(J) Applying for Approval of a PEMs system

(1) Owners or operators shall submit the following information in the application for certification or recertification of a PEMS. Approval to use PEMS will be limited to the specific unit and fuel type for which certification testing was conducted. Any future change in the type or composition of the fuel, or combustion characteristics of the boiler, will require that the PEMS be recertified, unless the PEMS was initially constructed to account for different fuel types and/or compositions. In this case, fuel switching would be permitted without recertification. Owners or operators may attempt to justify that a slight change in fuel composition does not affect emissions and the PEMS does not need be recertified. The approval of such justification will be determined by the Director.

(2) Owners or operators shall submit the following:

(a) Source identification information including unit description, heat rate, and fuel type.

(b) A general description of the software and hardware components of the PEMS including manufacturer, type of computer, name(s) of software product(s), and monitoring technique (e.g. method of emission correlation). Manufacturer literature and other similar information shall also be submitted, as appropriate.

(c) A detailed description of the PEMS. Identify all operational parameters or ambient conditions which are determined to have an effect on the predicted emissions. If the PEMS is developed on the basis of physical principles, identify any specific physical assumptions or mathematical manipulations made that justify suitability of the model. If the PEMS is developed on the basis of linear or nonlinear regression analysis, submit the paired raw data used in developing or training the model and specifically identify the tested operating range for every input parameter and the number of data points used in the development of the model.

(d) A detailed description of the hardware CEMS or the reference method used during the testing period.

(e) Data collection procedures, including location of the sampling probe and methods to ensure accurate representativeness of emissions being measured.

(f) A detailed description of all PEMS operation, maintenance, and quality assurance, and control procedures to be implemented.

(g) Identification of all sensors pertaining to the PEMS and a detailed description of the sensor validation procedure and calibration frequency for each sensor.

(h) Description of monitor reliability, accessibility, and timeliness analysis from paragraph (K) of this section.

(i) A description of the method used to calculate heat input, if applicable.

(j) Data, calculations, and results of the RATA test and the statistical tests performed at all three load levels and fuel types as listed under 40 CFR Part 75 §75.48 (a)(3).

(k) Data plots as specified in 40 CFR Part 75 §75.41 (a)(9) and §75.41 (c)(2)(i).

(l) A summary of all results and calculations which demonstrates that PEMS is equivalent in performance to that of the certified hardware CEMS or EPA reference method.

(K) Quality Assurance Procedure for PEMS. The owner or operator must develop and implement a quality assurance and quality control (QA/QC) manual for the PEMS and its components. The manual should include daily, quarterly, and semiannual or annual assessment procedures or operations to ensure continuous and reliable performance of the PEMS. The QA/QC manual should also include a ready and detailed specific corrective action plan that can be executed at times when the monitoring systems are inoperative. The QA/QC manual shall be placed in a readily accessible location on the plant site. Owners or operators must assign the responsibility of implementing the QA/QC manual to designated employees and must ensure at all times that these employees have the technical and practical training needed to execute this plan.

(1) Daily Assessment. Identify any specific steps, measures, or maintenance plans that can be taken to ensure proper functioning of the monitoring systems. Develop a plan to detect any thermocouple, flow monitoring, and sensor failures. If the PEMS is developed to operate in a specific operating range, develop a plan that will ensure continuous operation within the specified operating range. It is the responsibility of the owner or operator to make sure that the model is trained over a wide range of operating parameters. Operation outside any of the operating ranges will be considered monitor downtime.

(2) Quarterly Assessment. The owner or operator must develop and implement a plan that will ensure proper accuracy and calibration of all operational parameters that affect emissions and serve as input to the predictive monitoring system. All sensors must be calibrated as often as needed but never to exceed the time recommended by the manufacturers, for the specific applications these sensors are being used.

(3) Semiannual or Annual Assessment. Following initial RATA, conduct RATA semiannually, pursuant to paragraph (I)(4)(a) of this section, at normal load operations, for each unit. If the relative accuracy for the initial or most recent audit for the NOx, CO, CO_2, (or O_2) monitors is seven and one-half percent (7.5%) or less, subsequent RATA may be performed on an annual basis.

(L) PEMS Partial Certification. In certain cases, the owner or operator may not be able to adjust all of the parameters of the model over the entire desired range of operation at one time. In this case, the owner or operator may certify the PEMS in a restricted range of operation in accordance with the PEMS certification procedure.

(1) If, at a later date, the owner or operator wishes to operate outside the demonstrated range of the certified PEMS, the owner or operator may extend the demonstrated range by certifying at a new range within sixty (60) days of cumulative operation of the parameter at that range.

(M) Monitor downtime periods for PEMS include the following:

(1) Operating out of range of any operational parameters that affect NOx~~.~~;

(2) One or more sensor failures~~.~~;

(3) Uncertified fuel switching or fuel composition changes unless approved~~.~~;

~~(4) Failing the RATA or any applicable statistical tests. If a PEMS fails the RATA or statistical tests, downtime is the time corresponding to the completion of the sampling that results in the failure, until the time corresponding to the completion of the subsequent successful sampling.~~

~~(5)~~(4) Failure of any quality assurance procedure specified in accordance with paragraph (K) of this section~~.~~;

~~(6)~~(5) Failure to complete a minimum of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive fifteen (15) minute period of emission unit operation~~.~~; and/or

(6) Failing the RATA or any applicable statistical tests. If a PEMS fails the RATA or statistical tests, downtime is the time corresponding to the completion of the sampling that results in the failure, until the time corresponding to the completion of the subsequent successful sampling.

(N) PEMS Adjustments and Tuning. Adjustments and tuning are permissible provided that the date, reasons, and details of the PEMS adjustments are documented, submitted to the Department and the documentation placed in an accessible location on the plant site, suitable for inspection. The Department must be able to identify, at any time, that the PEMS for any unit has been inspected, the occurrence of the last PEMS adjustment, and the last RATA performed for that unit. The PEMS must be retrained on an augmented set of data which includes the set of data used for training the model prior to adjustment and the newly collected set of data needed for adjustment of the model. When PEMS retraining is performed within the demonstrated range of certification, no RATA testing is required. No tampering with the PEMS is allowed during periods when no PEMS adjustments or tuning are being performed.

(O) Notification, Recordkeeping, and Reporting. Owners or operators using PEMS shall maintain ~~a file~~ records of all measurements, data, reports, and other information~~,~~ for each unit~~, in a form suitable for inspection~~. All records, which may be kept either in written or electronic form, shall be maintained for at least five (5) years from the date of each record and shall be made available upon request by authorized representatives of the Department or EPA.

(1) Notification.

(a) The owner or operator shall submit written notification to the Department in accordance with paragraph (C) of this section of the date of any PEMS RATA.

(b) The owner or operator shall submit to the Department a copy of results of any PEMS RATA and statistical testing conducted in accordance with paragraph (K)(3) of this section.

(2) Recordkeeping. ~~The owner or operator shall maintain written or electronic records of the data specified below. Such records shall be kept for a period of at least five (5) years and shall be made available upon request by authorized representatives of the Department or EPA~~. The PEMS monitoring records shall include:

(a) Hourly emissions in units of the standard and fuel usage (or stack exhaust flow)

(b) Records to verify minimum data collection requirement of one (1) cycle of operation (sampling, analyzing, and data recording) for each successive fifteen (15) minute period of emission unit operation.

(c) Pounds per million British thermal units (lbs/MMBtu) heat input;

(d) Detailed records of any daily, quarterly, and semiannual or annual quality assurance programs or monitoring plans.

(e) Compliance with the applicable recordkeeping requirements of 40 CFR Part 75 §75.57 (d) and (e).

(f) Compliance with the certification, quality assurance, and quality control record provisions of 40 CFR Part 75 §75.59 (a)(5) through (a)(7).

(3) Reporting. The owner or operator of a unit approved to utilize a PEMS for demonstrating continuous compliance~~,~~ shall report, in writing, to the Department on a quarterly basis the monitoring system performance and any exceedance of the applicable emission standard. All reports shall be postmarked or received by the thirtieth (30th) day following the end of each calendar quarter. Written reports shall include the following information:

(a) The magnitude of excess emissions computed in accordance with 40 CFR Part 60 §60.13 (h), any conversion factors used, the date and time of commencement and completion of each time period of excess emissions, and the unit operating time during the reporting period;

(b) Specific identification of each period of excess emissions that occurs during start-ups, shutdowns, and malfunctions of the affected unit, the nature and cause of any malfunction (if known), and the corrective action taken or preventative measures adopted;

(c) The date and time identifying each period during which the continuous monitoring system was inoperative or down as described in paragraph (M) of this section and the nature of the system repairs or adjustments;

(d) The results of any quality assurance assessments conducted during the quarter;

(e) When no excess emissions have occurred or the continuous monitoring system has not been inoperative, repaired, or adjusted, such information shall be stated in the report.

Ref: Title 129, Ch. 34, Nebraska Department of Environmental Quality