

SECTION 17. CONSTRUCTION PERMITS – WHEN REQUIRED.

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(A) Except as provided under paragraph (S) of this section or under Article 2, Section 19 ~~of these Regulations and Standards~~, no person shall cause the construction, reconstruction, or modification ~~at of~~ any of the following without first having obtained a construction permit from the Department ~~in the manner prescribed by these Regulations and Standards~~:

- (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

Pollutant	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 ~~will, 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, and toxic individual hazardous air pollutants, and total toxic hazardous air pollutants, ~~where applicable~~. In this case, the source may also use actual emissions decreases from emission units that are dissimilar in function to the unit(s) being replaced in order to make this demonstration, provided the actual emissions decreases are concurrent with the planned replacement. ~~However, any~~ 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 ~~of emission for all pollutants~~. This demonstration is not applicable to emission units that are subject to the requirements of Article 2, Section 27, paragraph (C).

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- (c) If the exceptions ~~of 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. ~~ie., no.~~ No reduction in emissions from the new unit shall be allowed because of the elimination of actual emissions from the existing emission unit ~~which is~~ being replaced, and those 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.
~~(1) The permittee must comply with all conditions of the construction permit. Any permit noncompliance shall constitute a violation of these Regulations and Standards and the Act and is grounds for enforcement action or permit revocation.~~
- (C) The owner or operator of any source required to obtain a construction permit under ~~these Regulations and Standards~~ 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~~ 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

Pollutants	Averaging Time				
	Averaging Time Annual	Averaging Time 24 hrs	Averaging Time 8 hrs	Averaging Time 3hrs	Averaging Time 1 hr
SO ₂	1.0 µg/m ³	5.0 µg/m ³	---	25.0 µg/m ³	---
PM ₁₀	1.0 µg/m ³	5.0 µg/m ³	---	---	---
PM _{2.5}	0.3 µg/m ³	1.2 µg/m ³	---	---	---
NO ₂	1.0 µg/m ³	---	---	---	---
CO	---	---	0.5 mg/m ³	---	2.0 mg/m ³

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

- (J) Issuance of permits. The Director shall publish notice of intent to approve or disapprove the application in accordance with procedures in Article 2, Section 14 ~~of these Regulations and Standards.~~
- (K) Approval, by issuance of a permit for any construction, reconstruction, or modification, does not relieve the owner or operator from his or her responsibility to comply with the applicable portions of the Implementation Plan control strategy.
- (L) If construction, reconstruction, or modification of the source is not commenced within 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~~ 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:
- By the time the facility is to commence operation, total ~~Allowable~~ 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.
 - The proposed source is required to comply with the lowest achievable emission rate (LAER); and
 - The owner or operator of the proposed new or modified source has demonstrated that all other major stationary sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the State subject to emissions limitations are in compliance with all applicable emission limitations and standards.
 - The proposed source is in compliance with requirements established under the Implementation ~~Plan~~ Plan and the Director shall not issue a permit if the Administrator has determined that the applicable Implementation ~~Plan~~ Plan is not adequately implemented for the non-attainment area in which the proposed source is to be constructed or modified.

- (e) The source has completed an analysis of alternative sites, sizes, production processes, and environmental and social costs imposed as a result of its location, construction, or modification.
- (2) The requirements of paragraph (M)(1)(a), above, for emission reductions from existing sources in the vicinity of proposed new sources or modifications, shall be determined on a case-by-case basis. The offset baseline shall be the actual emissions of the source from which offset credit is obtained.
- (3) The following shall apply to emission offsets:
- (a) If the emissions limit under ~~these Regulations and Standards allow a 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.
~~(1) — However, where an applicant can establish that it shutdown or curtailed production less than one year prior to the date of permit application, and the proposed new source is a replacement for the shutdown or curtailment may be applied to offset emissions for the new source;~~
- (d) No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds." (42 FR 35314, July 8, 1977);
- (e) The procedures set out in 40 CFR Part 51, Appendix S, Section IV(D), relating to the permissible location of offsetting emissions, shall be followed, unless the Director determines that an equally stringent or more stringent procedure is appropriate.
- (f) Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR 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 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)~~ Coal cleaning plants (with thermal dryers);
- ~~(b)(e)~~ Kraft pulp mills;
- ~~(e)(f)~~ Portland cement plants;
- (g) Sintering plants;
- (h) Primary copper smelters;
- (i) Primary lead smelters;

- ~~(d)(j)~~ Primary zinc smelters;
- ~~(e)(k)~~ Iron and steel mills;
- ~~(l)~~ Coke oven batteries;
- ~~(m)~~ Secondary metal production plants;
- ~~(f)(n)~~ Primary aluminum ore reduction plants;
- ~~(o)~~ Taconite ore processing plants;
- ~~(p)~~ Lime plants;
- ~~(q)~~ Phosphate rock processing plant;
- ~~(g)~~ Primary copper smelters;
- ~~(h)~~ Municipal incinerators capable of charging more than 250 tons of refuse per day;
- ~~(i)(r)~~ Hydrofluoric, sulfuric, or nitric acid plants;
- ~~(j)(s)~~ Petroleum refineries;
- ~~(t)~~ Petroleum storage and transfer units with a total storage capacity exceeding three-hundred thousand (300,000) barrels;
- ~~(u)~~ Fuel conversion plants;
- ~~(k)~~ Lime plants;
- ~~(l)~~ Phosphate rock processing plant;
- ~~(m)~~ Coke oven batteries;
- ~~(n)(v)~~ Sulfur recovery plants;
- ~~(o)(w)~~ Carbon black plants (furnace process);
- ~~(p)~~ Primary lead smelters;
- ~~(q)~~ Fuel conversion plants;
- ~~(r)~~ Sintering plants;
- ~~(s)~~ Secondary metal production plants;
- ~~(x)~~ Municipal incinerators capable of charging more than two-hundred fifty (250) tons of refuse per day;
- ~~(y)~~ Glass fiber processing plants;
- ~~(z)~~ Charcoal production plants;
- ~~(aa)~~ 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);
- ~~(u)~~ Fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- ~~(v)~~ Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- ~~(w)~~ Taconite ore processing plants;
- ~~(x)~~ Glass fiber processing plants;
- ~~(y)~~ Charcoal production plants;
- ~~(z)~~ Fossil fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;
- ~~(aa)(bb)~~ 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~~ section.

- (1) Subject to the approval of the Director, the terms of a construction permit may be modified without public review through the substitution of alternative provisions, provided the following conditions are met:
- (a) No emission limit in the original construction permit is exceeded;
 - (b) No applicable requirement included in an operating permit to which the source is subject is violated;

- (c) No emissions limit, equipment or operational standard applicable to the source will be exceeded;
 - (d) No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and
 - (e) The nature of the constructed facility will be consistent with that described in the original public notice materials.
- (2) Modifications meeting the conditions of paragraph (N)(1); above; shall be processed as follows:
- (a) The owner or operator shall submit an application for modification of a construction permit as provided in paragraph (C); ~~above of this section~~, and provide such additional information as may be required to determine if the conditions of paragraph (N)(1); above; have been met;
 - (b) The Department shall review the application and determine whether or not a modification of the construction permit is required. The applicant shall not proceed with the project until a determination is made by the Director.
- (3) Proposed modifications to a construction permit which do not meet the conditions of paragraph (N)(1); above; must be processed through the full construction permit process as provided in paragraphs (C) through (M); ~~above of this section~~.

(O) Construction Permit Exemption for Commercial, Industrial, and Institutional Emergency Generators.

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

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~~(a)~~ ~~(a)~~ Stationary units that are installed on or after 11-15-2009 provided that the owner/operator submits the request for exemption no later than sixty (60) days after installation; and

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

~~(2)~~ Owners/operators of emergency electrical generators that do not submit the request for exemption within the required time period ~~provided for in (a) or (b)~~ shall be required to obtain a construction permit in accordance with the requirements ~~of Article 2, Section 17 set forth in paragraph (A)(1) of the Regulations and Standards~~ this section.

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~~(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) ~~of the Regulations & Standards~~.

~~(4)~~ To qualify for the exemption, owners/operators of these units shall comply with the following requirements:

(a) ~~Stipulate that annual~~ Limit operating hours for ~~a each unit will not exceed to no more than five hundred (500) hours per year, (including maintenance and readiness testing)~~

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~~and that records~~ The owner/operator shall maintain records of annual operating hours ~~will be maintained~~.

(c) ~~Also, for 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:-~~

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~~(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.

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

- (d) Stationary emergency generators (engines) 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~~HAPs) whether the engine is located at a major or minor source of ~~HAPS~~HAPs, the applicability of one or more of the following rules should be assessed:
- (1) ~~(1)~~ In the case of HAP requirements for new, reconstructed, or existing stationary emergency RICE, 40 CFR Part 63, Subpart ZZZZ, ~~Section §63.6640~~, paragraph (f);
- (2) ~~(2)~~ For new, modified, or reconstructed compression ignition engines, 40 CFR Part 60, Subpart IIII, ~~Section §60.4211~~, paragraph (f); and
- (3) ~~(3)~~ For new, modified or reconstructed spark ignition engines, 40 CFR Part 60, Subpart JJJJ, ~~Section §60.4243~~, paragraph (d).
- ~~(b)~~(e) Record operating hours for both test and emergency conditions, and for any non-emergency and demand response hours, if applicable.
- ~~(e)~~(f) The sulfur content of any fuel oil combusted in these units shall not exceed ~~0.05% (500 ppm) by weight. Beginning June 1, 2010, the per gallon sulfur content of non-road diesel fuel shall not exceed fifteen parts per million (15 ppm) by weight, and the~~ Any fuel oil combusted must also have either a cetane index of forty (40) or a maximum aromatic content shall either be a minimum cetane index of 40 or a maximum aromatic content of thirty five (35) volume percent.
- ~~(d)~~(g) An exemption for a portable unit shall not be required in cases where the unit is relocated to Lancaster County for the express purpose of addressing an immediate emergency condition, such as the result of a natural or man-made disaster, and the unit will not remain operational for a period greater than seven (7) days. If a portable unit will be operated more than seven (7) days, the owner/operator shall be required to apply for the exemption within twenty-four (24) hours after conclusion of the seventh day of operation in order to avoid the construction permit requirement. After these periods, the owner/operator will be required to submit a construction permit application and to obtain a permit if an exemption was not obtained.
- ~~(5)~~(5) To obtain the exemption, owners/operators of stationary emergency generators, shall submit their requests to the Department and provide the following information for each unit:
- (a) The make and model number.
- (b) The horsepower rating and KW rating, the date ordered, the date engine was manufactured (year), engine displacement (liters/cylinder), the type of engine - compression ignition or spark ignition, an if it is spark ignition, whether it is 2-stoke, 4-stoke, rich burn, or lean burn.
- (c) The type of fuel (natural gas, LPG, gasoline, fuel oil) combusted.
- (d) If fuel oil is combusted, indicate the grade, such as No. 2, and the sulfur content (~~%percent~~ by weight). Provide a statement of certification from the fuel supplier confirming the grade and sulfur content of the fuel oil delivered and a letter from the owner/operator certifying that this is the only type of fuel oil being combusted. If gasoline is combusted, the owner/operator shall obtain from the fuel supplier a fuel certification to document that the sulfur content of the gasoline meets the requirements of 40 CFR Part 80, ~~Section §80.195~~.
- (e) An estimate of the anticipated annual hours of unit operation at the commercial, industrial, or institutional facility. The estimate shall ~~included~~ include both test and emergency operating conditions.
- (f) The estimated quantity of fuel that will be combusted annually.
- (g) A site plan showing the proposed location of the unit and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of the unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Approval of the unit's location by the Department is required before an exemption will be ~~grants~~ granted.
- ~~(6)~~(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 ~~Article 2, Section 17~~, paragraphs (O)(2)(a) ~~above and (b); for horsepower and KW rating only; and~~

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

~~(c) The information required in Article 2, Section 17 paragraphs (O)(2)(e) and (O)(2)(g) of this section.~~

~~(7) In the event the owner/operator of an emergency generator who holds an exemption no longer qualifies for the exemption according to the requirements of Article 2, Section 17, in paragraphs (O)(1)(a) through (O)(1)(c) above, or the owner/operator chooses to operate the generator for other than emergency purposes, the owner/operator shall submit a construction permit application to the Department within sixty (60) days of the finding or declaration and shall obtain a permit. Within eighteen (18) months of issuance of a construction permit, the Department may require the owner/operator to submit an application for an operating permit in accordance with the requirements of Article 2, Sections 5 or 10 of these Regulations and Standards.~~

~~(8) Owners/operators of emergency generators who operate these units in non-compliance with violate the applicable requirements of Article 2, Section 17, in paragraphs (O)(2), (O)(3), or (O)(4) above shall be deemed in violation of these requirements and shall be subject to the provisions of Article 1, Sections 3 and 4 of these Regulations and Standards. The owner/operator of an emergency generator whose hours of operation exceeds 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 shall report these events to the Department no later than thirty (30) days after the month in which the 500 and/or 100 hours per year limits were applicable limit was exceeded.~~

~~(9) A processing fee for review of the construction permit exemption request shall be assessed in accordance with Article 1, Section 6 of these Regulations and Standards.~~

~~(10) The Department will provide a letter of exemption to the owner/operator of an a qualifying emergency generator who has requested the exemption, has provided that all required the information required in Article 2, Section 17, paragraph (O)(2), and/or paragraph (O)(3), the Department has determined the unit qualifies for the exemption according to Article 2, Section 17, paragraphs (O)(1)(a) through (e), and has submitted and the applicable construction permit exemption request fee has been received by the Department. The exemption shall remain in effect for each unit that continues to qualify.~~

~~(11) In the event the Department determines that an exemption cannot be granted, a letter explaining the reason(s) for refusal will be sent to the owner/operator. The owner/operator who is denied an exemption may provide additional information to support their request. If the Department, after review of this additional information, continues to deny the exemption, the owner/operator or may appeal the decision to the Director according to the procedures established in Article 1, Section 4 of these Regulations and Standards.~~

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

~~(1) This subsection The provisions of this paragraph shall apply to any stationary electric power producing generators operated at commercial, industrial, or institutional facilities where the owner/operator participates in a program established by the local utility in which the utility may request that the owner/operator use these generators to produce a limited number of hours of electric power during periods when power from the local utility is available unavailable. An owner/operator who participates in this program must obtain a construction permit from the Department that applies to all generators at the facility that may be used for this non-emergency purpose. The owner/operator may utilize these generators for both emergency and non-emergency purposes but they will be designated as non-emergency generators for purposes of this subsection, in accordance with the following requirements:~~

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

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

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

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

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

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- (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~~ section shall not be exceeded.
- (c) A record of unit operating hours for emergency and testing purposes and for non-emergency purposes shall be maintained on a monthly basis. These records shall be made available to ~~authorized representatives of~~ the Department upon request. The owner/operator shall report to the Department any exceedances of the ~~200 hour per year and/or 300 hour per year and/or the 100 hour per year limits limit that are applicable to a generator operating under the requirements of this subsection~~ 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 ~~200 hour per year the 300 hour per year and/or the 100 hour per year limits are applicable~~ limit(s) is exceeded.
- (d) ~~The owner/operator shall maintain a~~ record of the quantity of fuel (natural gas, LPG, gasoline, fuel oil) combusted annually for emergency and testing purposes and for non-emergency purposes ~~shall be maintained~~.
- (e) An annual emissions inventory shall be submitted annually as required in Article 2, Section 6- ~~to the Department. The emission inventory shall be submitted~~ on forms provided by the Department ~~by March 31st of each year,~~ and shall contain emission information for the previous calendar year. ~~The~~ 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, maintenance, and including readiness testing, ~~operation of each generator subject to the requirements of this subsection. This submittal shall also include the records required in subparagraph (c) (operating hours) and (d) (quantities of fuel) above.~~
- (f) The sulfur content of fuel oil combusted shall not exceed 0.05% by weight. However, beginning June 1, 2010 the per gallon sulfur content of the non-road diesel fuel oil shall not exceed fifteen parts per million (15 ppm) by weight. Any fuel oil combusted must also have either a and the cetane index or the aromatic content shall either be 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 ~~does not exceed this limit meets these standards, and the~~ The owner/operator shall also certify that oil with this sulfur limit is the only type of fuel oil being combusted is that which meets these standards. If gasoline is combusted, the owner/operator shall obtain ~~from the fuel supplier~~ a fuel certification from the fuel supplier to document that the sulfur content of the gasoline meets the requirements of 40 CFR Part 80, ~~Section §80.195.~~
- (g) Total criteria and non-criteria emissions from all of these units at a facility during non-emergency operation shall be less than ten (10) tons during a calendar year. The emission factors used to calculate these emissions shall be those provided in AP-42, by the generator manufacturer, or by other sources of information acceptable to the Department.
- (h) Within 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 ~~of the Regulations and Standards~~.
- (i) ~~Annually, the permittee~~ The owner/operator shall pay annual emission fees to the Department in accordance with Article 1, Section 6, ~~paragraph (B)(1)(d).~~
- (j) The owner/operator shall provide the following information for each non-emergency generator in the construction permit application submitted to the Department:
- (1) The make and model number of the generator;
 - (2) The KW and horsepower ratings, the date ordered, the date engine was manufactured (year), engine displacement (liters/cylinder), the type of engine-compression ignition or spark ignition, and, if spark ignition, whether it is 2-stroke, 4-stroke, rich burn, or lean burn;
 - (3) The type of fuel(s) (natural gas, LPG, gasoline, fuel oil) combusted;

- (4) If fuel oil is combusted, indicate the grade, such as No. 2, the sulfur content (% by weight); the cetane index, and the aromatic content. If gasoline is combusted, indicate the sulfur content: and
 - (5) A site plan showing the location of the stationary non-emergency generator(s) and the location of any adjacent habitable structures, such as businesses, schools, and residences. The height of each unit's exhaust stack and the elevations of surrounding habitable structures shall also be indicated. Depending on the level of concern raised by evaluation of the site plan, the Department may request that an ambient air quality impact analysis be performed.
- (2) The owner/operator who has been issued a construction permit for a stationary non-emergency generator(s) that will be operated in accordance with the requirements of this ~~subsection 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 ~~of these Regulations and Standards~~. The emissions from emergency generators operated in conjunction with non-emergency generators at a facility must also be included in determining the need for an operating permit. A non-emergency generator shall not be considered an insignificant activity and it must be included as an emission unit in the operating permit for facilities required to have this permit.
- (3) Construction permits issued under this ~~subsection paragraph~~ shall not be subject to the ~~affected states review or the~~ public participation provisions of Article 2, Sections ~~13 or 14 of these Regulations and Standards, respectively~~.
- (Q) Construction Permit Requirements for Commercial, Industrial, and Institutional Electrical Generators Used for Purposes Other Than Those Pertaining to paragraphs (O) and (P) of this Section. These generators, powered by fuel oil, natural gas, 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 ~~of these Regulations and Standards~~.
- (R) Any person or source issued a construction permit under this section shall pay annual emission fees as required under Article 1, Section 6 ~~of these Regulations and Standards~~.
- (S) Any source not required to obtain a construction permit pursuant to paragraph (A) of this section may request a construction permit to be issued in the manner prescribed by paragraphs (B) through (M) of this section for the following purposes:
- (1) Establishing enforceable limits to avoid otherwise applicable requirements under the provisions of ~~these Regulations and Standards, the LLCAPCPRS~~.
 - (2) Revising existing construction permits to incorporate significant permit revisions as ~~defines defined~~ in Article 2, Section 15 ~~of these Regulations and Standards~~.
 - (3) Establishing a PAL pursuant to the provisions of Article 2, Section 19 ~~of these Regulations and Standards~~. The construction permit used to establish a PAL must include the information and conditions listed in Article 2, Section 19, paragraph (K)(6).
 - (4) Establishing a Best Available Retrofit Technology (BART) permit or other permit required to reduce visibility impairment in a Class I Federal area pursuant to the provisions Title 129, Chapter 43, Nebraska Department of Environmental Quality.

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