

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF AMENDING ARTICLE 2 )  
OF THE LINCOLN-LANCASTER COUNTY AIR ) RESOLUTION NO. R-19-0085  
POLLUTION CONTROL PROGRAM )  
REGULATIONS AND STANDARDS, AS )  
PROVIDED IN ATTACHMENT "A" )

WHEREAS, pursuant to Neb. Rev. Stat. §13-801, et seq., Lancaster County and the City of Lincoln entered into an Interlocal agreement for the purpose of providing for the establishment of the 1993 Lincoln-Lancaster County Air Pollution Program;

WHEREAS, the Lancaster County Board of Commissioners readopted the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards on December 10, 2013, under County Resolution No. R-13-0072;

WHEREAS, the Lincoln-Lancaster County Health Department has recommended amendments to Article 2 of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards, as provided in Attachment "A", attached hereto and incorporated by this reference;

WHEREAS, the City of Lincoln has scheduled a public hearing for December 16, 2019 regarding adoption of the amendments to Article 2 of the Lincoln-Lancaster County Air Pollution Program Regulations and Standards, as provided in Attachment "A"; and

WHEREAS, on December 17, 2019, the Board of County Commissioners of Lancaster County, Nebraska, conducted a public hearing regarding the adoption of the amendments to Article 2 of the Lincoln-Lancaster County Air Pollution Program Regulations and Standards, as provided in Attachment "A";

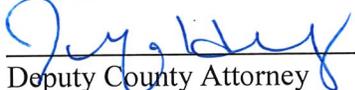
NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Lancaster County, the amendments to County Resolution No. R-13-0072, Lincoln-Lancaster County Air Pollution Control Regulations and Standards, Article 2, as provided in Attachment "A" are hereby adopted, and shall become effective on the date of this Resolution. These amendments shall supersede all previous amendments not in conformance herewith.

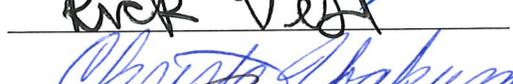
BE IT FURTHER RESOLVED, that a copy of this Resolution be placed on file in the office of the County Clerk.

DATED this 17<sup>th</sup> day of December, 2019, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY  
COMMISSIONERS OF  
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM  
this 17<sup>th</sup> day of  
December, 2019.

  
Deputy County Attorney  
for PAT CONDON  
Lancaster County Attorney


**ARTICLE 2**  
**SECTION 1**

**DEFINITIONS**

**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:

001. "40 CFR" means Title 40 of the Code of Federal Regulations.
002. "Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).
003. "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.
004. "Actual emissions", for purposes of the Prevention of Significant Deterioration (PSD) program, shall be as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.
005. "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.
006. "Administrator" means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or his or her designee.
007. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard of performance is specifically applicable.
008. "Affected source" means a source that includes one or more affected units.
009. "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.
010. "Affected unit" means a unit that is subject to emission reduction requirements or limitations under Article 2, Section 26.
011. "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.
012. "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.

**ARTICLE 2**  
**SECTION 1**

**DEFINITIONS**

013. "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.
014. "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.
015. "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.
016. "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".
017. "Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.
018. "AP-42" refers to the Compilation of Air Pollutant Emission Factors, published by the EPA Office of Air Quality Planning and Standards.
019. "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 the Prevention of Significant Deterioration (PSD) program as 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.
020. "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.
021. "Baseline actual emissions" shall be as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19, section 005.
022. "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  $\mu\text{g}/\text{m}^3$ ) (annual average) for  $\text{SO}_2$ ,  $\text{NO}_2$ , or  $\text{PM}_{10}$ ; or equal to or greater than three-tenths of a microgram per cubic meter (0.3  $\mu\text{g}/\text{m}^3$ ) (annual average) for  $\text{PM}_{2.5}$ .
023. "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.
024. "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.
025. "Best Available Control Technology", or "BACT":
- (1) For purposes of the Prevention of Significant Deterioration (PSD) program, Best Available Control Technology (BACT) shall be as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.

- (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.
026. "Board of Health" means the Lincoln-Lancaster County Board of Health.
027. "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.
028. "Building, structure, facility, or installation", for purposes of the Prevention of Significant Deterioration (PSD) program, shall be as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.
029. "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.
030. "Class I source" means any source subject to the Class I permitting requirements of Article 2, Section 5.
031. "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.
032. "Class II source" means any source subject to the Class II permitting requirements of Article 2, Section 5.
033. "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.
034. "CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)" 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).
035. "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.
036. "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.
037. "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.
038. "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.

039. "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.
040. "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.
041. "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).
042. "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<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter value(s) on a continuous basis.
043. "Control" and "controlling" means prohibition of contaminants as related to air pollution.
044. "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.
045. "Control strategy" means a plan to attain National Ambient Air Quality Standards (NAAQS) or to prevent exceeding those standards.
046. "Crematory" means a furnace used to cremate human or animal remains that is owned and/or operated by a person(s) engaged in the business of conducting cremations.
047. "Department" means the Lincoln-Lancaster County Health Department.
048. "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.
049. "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.
050. "Director" means the Health Director of the Lincoln-Lancaster County Health Department, or any representatives, agents, or employees of the Director.
051. "Dioxin/furans" means total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
052. "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.
053. "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.
054. "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.
055. "Elevated terrain" means terrain, which may affect the calculation of good engineering practice stack height.
056. "Emergency generator" means a generator whose sole function is to provide backup power when electric power from the local utility is interrupted.
057. "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.
058. "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.
059. "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.
060. "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, which are defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.

061. "Emissions" means releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof.
062. "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 (PSD) program (40 CFR Part 51 §51.166 and 40 CFR Part 52 §52.21), an excessive concentration is as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 16.
  - (2) For sources 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.
063. "Existing source" means equipment, machines, devices, articles, contrivances, or installations which are in being on the effective date of the LLCAPCPRS.
064. "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.
065. "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.
066. "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.
067. "Fixed capital cost" means the capital needed to provide all the depreciable components of a source.
068. "Fuel burning equipment" means any furnace, boiler, apparatus, stack, and all associated equipment used in the process of burning fuel.
069. "Fugitive dust" means solid airborne particulate matter emitted from any source other than a flue or stack.
070. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

071. "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.
072. "General permit" means a general construction permit, a Class I or Class II general operating permit, or a combination general construction permit and general operating permit that meets the requirements of Article 2, Section 9.
073. "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<sub>2</sub>). The pollutant greenhouse gases (GHGs) is adjusted to calculate CO<sub>2</sub> equivalence using "Table A-1 – Global Warming Potentials" at 40 CFR Part 98, Subpart A, effective July 1, 2016.
074. "Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six (6) gases: carbon dioxide (CO<sub>2</sub>), nitrous oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>).
075. "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,  $H_g = 2.5H$ , provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limit, where:
    - $H_g$  = 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,  $H_g = H + 1.5L$ , where:
    - $H_g$  = 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.
076. "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.
077. "High terrain" means any area having an elevation nine hundred (900) feet or more above the base of the stack of a source.
078. "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.

079. "Hospital/Medical/Infectious waste" or "HMI 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. HMI 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 HMI waste once the incineration process has been complete, human corpses, remains, and anatomical parts that are intended for interment or cremation; or 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.
080. "Incinerator" means any article, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of one or more refractory lined combustion furnace(s) employing adequate design parameters necessary for maximum combustion of the material(s) to be burned. 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.
081. "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.
082. "Insignificant activities" refers to activities and emissions that may be excluded from reporting for operating permit applications and/or emissions inventories.
083. "Installation" means an identifiable piece of process equipment. (This definition does not apply to the Prevention of Significant Deterioration (PSD) program. See the definition for "Building, structure, facility, or installation" set forth in this section.)
084. "LLCAPCPRS" means the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards. This may also be referred to as the Regulations and Standards.
085. "LLCHD" mean the Lincoln-Lancaster County Health Department.
086. "Low terrain" means any area other than high terrain.
087. "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.
088. "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.
089. “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 a regulated NSR pollutant and a significant net emissions increase of that pollutant from the major stationary source.
- (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 steam 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 Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19 for a PAL for that pollutant. Instead, the definition of “PAL major modification” shall apply.
090. “Major source baseline date” means, in the case of PM<sub>10</sub> and sulfur dioxide (SO<sub>2</sub>), January 6, 1975, in the case of nitrogen dioxide (NO<sub>2</sub>), February 8, 1988, and in the case of PM<sub>2.5</sub>, October 20, 2010.
091. “Major stationary source” or “major source” means any source identified in Article 2, Section 2.
092. “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.
093. "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.
094. "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.
095. "Minor source" means any source which is not defined as a major source in Article 2, Section 2.
096. "Minor source baseline date" shall be as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.
097. "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.
098. "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.
099. "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.
100. "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.
101. "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.
102. "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 the Prevention of Significant Deterioration (PSD) program as defined in this section; 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 Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19, section 005 except that sections 005.05 and 005.06 of Chapter 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 between the date five (5) years before the source begins actual construction of the project and the date that the increase from the project occurs.
- (2) An increase or decrease in actual emissions is creditable only if:
- (a) It occurs within the contemporaneous period defined in paragraph 102(1)(c) of this section; 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<sub>2</sub>), particulate matter (PM), or nitrogen oxides (NO<sub>x</sub>) 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 003(1) of this section shall not apply for determining creditable increases and decreases.
103. "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.
104. "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.
105. "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.
106. "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).
107. "Opacity" means a state which renders material partially or wholly impervious to rays of visible light and causes obstruction of an observer's view.

108. "Open burning" or "Open fires" means the burning of any matter in such a manner that the products of combustion resulting from such fires are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.
109. "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.
110. "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.
111. "PAL effective period" means the period beginning with the PAL effective date and ending ten (10) years later.
112. "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.
113. "PAL permit" means the construction permit issued by the Department that establishes a Plant-wide Applicability Limitation (PAL) for a major stationary source.
114. "PAL pollutant" means the pollutant for which a Plant-wide Applicability Limitation (PAL) is established at a major stationary source.
115. "Particulate matter (PM)" means any airborne finely divided solid or liquid material, except uncombined water, with an aerodynamic diameter smaller than one hundred micrometers (100  $\mu\text{m}$ ). PM is further defined to include the following:
- (1) "PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (10  $\mu\text{m}$ ) as measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods.
  - (2) "PM<sub>2.5</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers (2.5  $\mu\text{m}$ ) as measured by a reference method based on Appendix L at 40 CFR Part 50 or equivalent methods.
116. "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 an approved State Implementation Plan (SIP). PM emissions are further defined to include the following:
- (1) "PM<sub>10</sub> emissions" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (10  $\mu\text{m}$ ) emitted to the ambient air.
  - (2) "PM<sub>2.5</sub> emissions" means particulate matter with an aerodynamic diameter less than or equal to a nominal two and one-half micrometers (2.5  $\mu\text{m}$ ) emitted to the ambient air.
117. "Pathological waste" or "Pathological material" means waste or material consisting of only human or animal remains, anatomical parts and/or tissue, and related waste materials, including but not limited to the bags/containers used to collect and transport pathological waste or material, and animal bedding, if applicable.
118. "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.
119. "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).
120. "Permitting authority", except for permits issued under the Prevention of Significant Deterioration (PSD) program, means the Lincoln-Lancaster County Health Department (LLCHD).
121. "Person" means any individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; public agency; municipality or other governmental subdivision, other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

122. "Plan" or "Implementation Plan" means an implementation plan adopted by the State of Nebraska pursuant to Section 110 of the Act, to attain and maintain a national standard.
123. "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 Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19, section 011.
124. "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.
125. "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.
126. "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<sub>2</sub> or CO<sub>2</sub> concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.
127. "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.
128. "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.
129. "Primary standard" means a primary National Ambient Air Quality Standard (NAAQS) identified in Article 2, Section 4.
130. "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.
131. "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.
132. "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.
133. "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.
134. "Project" means a physical change in, or change in method of operation of, an existing major stationary source.
135. "Projected actual emissions (PAE)" is as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19, section 006.

136. "Proposed Class I operating permit" means the version of a permit that the Department proposes to issue and forwards to the Administrator for review.
137. "Pyrolysis" means the endothermic (absorption of heat) gasification of waste material using external energy.
138. "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.
139. "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.
140. "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.
141. "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.
142. "Regional Administrator" means the Regional designee appointed by the Administrator.
143. "Regulated air pollutant" means the following:  
(1) Nitrogen oxides (NO<sub>x</sub>) 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.
144. "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<sub>10</sub>;  
(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).
145. "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 (NO<sub>x</sub>) are precursors to ozone in all attainment and unclassifiable areas.  
(b) Sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub> are precursors to PM<sub>2.5</sub> 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) as follows:
- (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<sub>2</sub>e) 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<sub>2</sub>e or more; and
- (b) Beginning July 1, 2011, in addition to the provisions in paragraph 145(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<sub>2</sub>e 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<sub>2</sub>e 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<sub>2</sub>e or more.
- (c) The term emissions increase as used in 145(5)(a) and 145(5)(b) above shall be as defined for "Greenhouse gases (GHGs) under "Regulated NSR pollutant" in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 1.
146. "Renewal" means the process by which a permit is reissued at the end of its term.
147. "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.
148. "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.

149. "Rule, regulation or standard" means any rule or regulation of the City of Lincoln or the Lancaster County Board of Commissioners.
150. "Salvage operation" means any operations conducted in whole or in part for the salvaging or reclaiming of any product or material.
151. "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.
152. "Secondary standard" means a secondary National Ambient Air Quality Standard (NAAQS) identified in Article 2, Section 4.
153. "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.
154. "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 <sub>x</sub> )	40 tpy
Sulfur Dioxide (SO <sub>2</sub> )	40 tpy
Particulate Matter (PM)	25 tpy
PM <sub>10</sub>	15 tpy
PM <sub>2.5</sub>	10 tpy
Ozone	40 tpy of Volatile Organic Compounds (VOC), or 40 tpy of NO <sub>x</sub>
Lead	0.6 tpy
Fluorides	3.0 tpy
Sulfuric Acid (H <sub>2</sub> S) Mist	7.0 tpy
Total Reduced Sulfur (including H <sub>2</sub> S)	10 tpy
Reduced Sulfur Compounds (including H <sub>2</sub> S)	10 tpy
Municipal Waste Combustor Organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.2 x 10 <sup>-6</sup> megagrams per year (3.5 x 10 <sup>-6</sup> tpy)
Municipal Waste Combustor Metals (measured as particulate matter)	14 megagrams per year (15 tpy)
Municipal Waste Combustor Acid Gases (measured as SO <sub>2</sub> and Hydrogen Chloride (HCl))	36 megagrams per year (40 tpy)
Municipal Solid Waste Landfill Emissions (measured as nonmethane organic compounds (NMOC))	45 megagrams per year (50 tpy)

155. "Significant emissions increase" is as defined in Nebraska Administrative Code Title 129 (Nebraska Air Quality Regulations) Chapter 19, section 008.
156. "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 qualify the unit as a major emissions unit as defined in this section.
157. "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.
158. "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.
159. "Source" means any property, real or personal, or person contributing to air pollution.
160. "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.
161. "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.
162. "Stack height" means the distance from the ground level elevation of a stack to the elevation of the stack outlet.
163. "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.
164. "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.
165. "Startup of operation" means the beginning of routine operation of an affected facility.
166. "State" means any non-federal permitting authority, including any local agency, interstate association, or statewide program.
167. "Statement of basis" or "fact sheet" means a document 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.
168. "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.
169. "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).
170. "Title V Program" means a program approved by the Administrator for purposes of Title V of the Act.

171. "Total reduced sulfur" means total sulfur from the following compounds; hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide.
172. "Total Suspended Particulates (TSP)" means particulate matter as measured by the method described in Appendix B of 40 CFR Part 50.
173. "UTM coordinates" refer to the Universal Transverse Mercator (UTM) coordinate 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.
174. "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), effective July 1, 2016, 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) subsequent to the effective date referenced above.

Table 1-2

CAS Number	Compound Name	Other Names or Designations
67-64-1	Acetone	Propanone
71-55-6	1,1,1-Trichloroethane	Methyl chloroform
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
75-69-4	Trichlorofluoromethane	CFC-11, R-11
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)
107-31-3	Methyl formate	Methyl ester
108-32-7	Propylene carbonate	Propylene ester
124-68-5	2-Amino-2-methyl-1-propanol	
127-18-4	Tetrachloroethylene	Perchloroethylene
306-83-2	2,2-Dichloro-1,1,1-Trifluoroethane	HCFC-123, R-123
353-36-6	Ethylfluoride	Fluoroethane, HFC-161
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

Table 1-2

CAS Number	Compound Name	Other Names or Designations
406-58-6	1,1,1,3,3-Pentafluorobutane	HFC-365mfc
406-78-0	1,1,2,2-Tetrafluoro-1-(2,2,2-trifluoroethoxy)ethane	HFE-347pcf2
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
431-31-2	1,1,1,2,3-Pentafluoropropane	HFC-245eb
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
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
540-88-5	tert-Butyl acetate	t-Butyl acetate, TBAC
593-70-4	Chlorofluoromethane	HCFC-31
616-38-6	Dimethyl carbonate	Dimethyl ester
679-86-7	1,1,2,2,3-Pentafluoropropane	HFC-245ca
690-39-1	1,1,1,3,3,3-Hexafluoropropane	HFC-236fa
754-12-1	2,3,3,3-Tetrafluoropropene	HFO-1234yf
811-97-2	1,1,1,2-Tetrafluoroethane	HFC-134a, R-134a
1615-75-4	1-Chloro-1-Fluoroethane	HCFC-151a
1691-17-4	oxybis(Difluoromethane)	HFE-134
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
24270-66-4	1,1,2,3,3-Pentafluoropropane	HFC-245ea
29118-24-9	<i>trans</i> -1,3,3,3-Tetrafluoropropene	HFO-1234ze
78522-47-1	Bis(Difluoromethoxy)(Difluoro)Methane	HFE-236cal2
102687-65-0	<i>trans</i> -1-Chloro-3,3,3-Trifluoroprop-1-ene	Solstice 1233zd(E)
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	HFE-43-10pccc, HG-11, 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, HFE-569sf2
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, HFE-449s1
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-4310mee
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: <ul style="list-style-type: none"> <li>• Cyclic, branched, or linear, completely fluorinated alkanes;</li> <li>• Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;</li> <li>• Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and</li> </ul>	

Table 1-2

CAS Number	Compound Name	Other Names or Designations
	<ul style="list-style-type: none"><li>Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.</li></ul>	

175. "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.
176. "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 8. OPERATING PERMITS – CONTENT.

- (A) Each Class I Operating Permit shall include the standard permit requirements in paragraphs (B) through (K) of this section.
- (B) Emission Limitations and Standards. Each operating permit shall specify emission limitations and standards, including those operational requirements and limitations that assure compliance with all requirements applicable at the time of permit issuance.
- (1) The permit shall specify and reference the origin of, and authority for, each term or condition. In addition, it shall identify any difference to the terms or conditions as compared to the applicable requirement upon which the term or condition is based.
  - (2) Where an applicable requirement is more stringent than an applicable requirement specified in Article 2, Section 26, both provisions shall be incorporated into the permit.
  - (3) If an applicable implementation plan or an applicable requirement allows a source to comply through an alternative emission limit or means of compliance equivalent to that contained in the plan, a source may request that such an alternative limit or means of compliance be specified in its permit. Such an alternative emission limit or means of compliance shall be included in a source's permit upon a showing that it is quantifiable, accountable, enforceable, and based on replicated procedures. The source shall propose permit terms and conditions to satisfy these requirements in its application.
- (C) Permit Duration.
- (1) Class I and Class II operating permits shall be issued for a fixed term not to exceed five (5) years;
  - (2) The term of a permit shall not be extended by modification beyond the maximum duration specified, except that the conditions of an expiring permit shall continue until the effective date of a new permit in accordance with Article 2, Section 12, provided that:
    - (a) The permittee has submitted a timely application (except as provided in paragraph (C)(3) below) which has been deemed complete by the Department, and
    - (b) The Director, through no fault of the permittee, does not issue a new permit with an effective date before the expiration date of the previous permit.
  - (3) A Class II permittee who has failed to submit a permit renewal application by the deadline established in the current permit may apply for a variance in order to have the conditions of an expiring permit extended until the effective date of a new permit. The variance request shall be submitted no later than thirty (30) days after the deadline for submittal of the permit renewal application and according to the requirements of Article 1, Section 5. The Director may grant a variance of up to sixty (60) days to submit the permit renewal application.
- (D) Monitoring and Related Record Keeping and Reporting Requirements.
- (1) Each Class I operating permit shall contain the following monitoring requirements:
    - (a) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods established in Article 2, Section 21 or pursuant to any permit or order issued by the Director under the LLCAPCPRS.
    - (b) Where the applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring, periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement.
    - (c) As necessary, requirements concerning the use, maintenance, and installation of monitoring equipment or methods and quality assurance and control procedures.
  - (2) Each Class I operating permit shall incorporate all applicable record keeping requirements and require, if necessary, the following:
    - (a) Records of required monitoring information that include the following:
      - (1) The date and place as defined in the permit, and time of sampling or measurements;
      - (2) The date(s) analyses were performed;
      - (3) The company or entity that performed the analyses;
      - (4) The analytical techniques or methods used;
      - (5) The results of such analyses; and
      - (6) The operating conditions existing at the time of sampling or measurement.

- (b) Retention of records of all required monitoring data and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. The permit may specify that records may be maintained in computerized form.
  - (3) Each Class I operating permit shall incorporate all applicable reporting requirements and require the following:
    - (a) Submittal of reports of required monitoring at least every six (6) months. All instances of deviation from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official in accordance with Article 2, Section 7, paragraph (H).
    - (b) Reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permit shall require reporting of deviations as follows:
      - (1) Any deviation resulting from emergency or upset conditions as defined in Article 2, Section 11 shall be reported within two (2) working days of the date on which the permittee first becomes aware of the deviation, if the permittee wishes to assert the affirmative defense authorized under said section;
      - (2) Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable;
      - (3) Any other deviations that are identified in the permit as requiring more frequent reporting than the permittee's semi-annual report shall be reported on the schedule specified in the permit.
      - (4) All reports of deviations shall identify the probable cause of the deviations and any corrective actions or preventative measures taken.
  - (4) Every report submitted under paragraph (D)(3) of this section shall be certified by a responsible official, except that of a deviation required under paragraph (D)(3)(b) of this section must be submitted within ten (10) days of the deviation, the report may be submitted initially without a certification if an appropriate certification is provided within ten (10) days thereafter, together with any corrected or supplemental information required concerning the deviation.
- (E) Acid Rain. Each Class I permit issued to an affected source shall include a permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under the Act.
  - (1) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the Title IV Acid Rain program developed under the Act, provided that such increases do not require a permit revision under any other applicable requirement.
  - (2) No limit shall be placed on the number of allowances held by the source.
  - (3) The allowances a source possesses shall not be a defense to noncompliance with any other applicable requirement.
  - (4) Any allowances shall be accounted for according to procedures established in Article 2, Section 26.
- (F) Severability. Each Class I and Class II permit shall contain a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- (G) General Conditions. Each operating permit shall contain the following provisions:
  - (1) The permittee must comply with all conditions of the Class I and Class II operating permit. Any permit noncompliance shall constitute a violation of the LLCAPCPRS and the Act, and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
  - (2) It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
  - (3) The permit may be modified; revoked, reopened, and reissued; or terminated for cause in accordance with the provisions of the LLCAPCPRS. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not supersede any permit condition.

- (4) The permit does not convey any property rights of any sort, or any exclusive privilege.
- (5) The permittee shall furnish to the Department, within the time specified by the Department, any information requested by the Department in writing to determine whether cause exists for modifying, revoking and reissuing; or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Department, copies of records required to be kept in accordance with the permit or, for information claimed to be confidential, the permittee may furnish such records along with a claim of confidentiality pursuant to, Neb. Rev. Stat. §84-712.05.
- ~~(6) The provisions of a permit issued under the LLCAPCPRS supersede the provisions of any previously issued operating or construction permit.~~
- ~~(7)~~(6) The owner or operator must maintain a copy of the permit application, including any supporting emission calculations or other related materials, on file at the location of the source or at the owner's or operator's main or corporate office.
- ~~(8)~~(7) The owner or operator must place a copy of the permit and of the letter of transmittal on file at the location of the source no later than fourteen (14) calendar days after the date of the letter of transmittal. A copy of the permit must also be placed on file at the owner's or operator's main or corporate office no later than thirty (30) calendar days after the date of the letter of transmittal.
- (H) Fees. Each Class I and Class II operating permit shall contain a provision to ensure that sources of regulated pollutants pay fees to the Department consistent with the fee schedule in Article 1, Section 6 and Article 2, Section 29.
- (I) Alternative Operating Scenarios. Each operating permit shall contain terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. Such terms and conditions:
- (1) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which the source is operating;
  - (2) Must ensure that the terms and conditions of each alternative scenario meet all applicable requirements and the requirements of the permit; and
  - (3) The permit shield, if requested, described in paragraph (N) of this section shall apply to all terms and conditions under each such operating scenario.
- (J) Reopening for Cause. Each permit shall include provisions specifying the conditions under which the permit will be reopened, revoked and reissued, or terminated, in accordance with Article 2, Section 15, paragraph (F).
- (K) Risk Management Plans. If the source is required to develop and register a risk management plan pursuant to Section 112(r) of the Act or the LLCAPCPRS, the permit will specify that the permittee will comply with the requirement to register such a plan. The content of the risk management plan will not be incorporated as a permit term. The permit shall require:
- (1) Verification of the plan preparation and submittal to the Department, the State Emergency Response Commission, and any local Emergency Planning Committee; and
  - (2) Annual Certification in accordance with Article 2, Section 7, paragraph (F)(2)(i)(3) that the risk management plan is being properly implemented.
- (L) Compliance Requirements. All Class I operating permits shall contain the following elements with respect to compliance:
- (1) Consistent with paragraph (D) of this section, compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document, including reports, required by a Class I operating permit shall contain a certification by a responsible official that meets the requirements of Article 2, Section 7, paragraph (H).
  - (2) Inspection and entry requirements that require the permittee to allow the Department, EPA or an authorized representative, upon presentation of credentials and other documents, to:
    - (a) Enter upon the permittee's premises at reasonable times where a source subject to a Class I operating permit is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
    - (b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

- (c) Inspect at reasonable times any facilities, pollution control equipment, including monitoring and air pollution control equipment, practices, or operations regulated or required under the permit, and
- (d) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.
- (3) A schedule of compliance consistent with Article 2, Section 7, paragraph (F)(2)(h).
- (4) Progress reports consistent with an applicable schedule of compliance and Article 2, Section 7, paragraph (F)(2)(h), to be submitted at least semi-annually, or at a more frequent period if specified in the applicable requirement or by the Director. Such progress reports shall contain the following:
  - (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
  - (b) An explanation of why any dates in the schedule of compliance were not met, or will not be met, and any preventive or corrective measures adopted.
- (5) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
  - (a) The frequency, not less than annually or such more frequent periods as specified in the applicable requirement or by the Department, of submissions of compliance certifications;
  - (b) In accordance with paragraph (D) of this section, a means of monitoring the compliance of the source with its emissions limitations, standards, and work practices;
  - (c) A requirement that the compliance certification include the following:
    - (1) The identification of each term or condition of the permit that is the basis of the certification;
    - (2) The compliance status;
    - (3) A determination of whether compliance was continuous or intermittent;
    - (4) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with the paragraph (D) of this section; and
    - (5) Such other facts as the Department may require to determine the compliance status of the source.
  - (d) A requirement that all compliance certifications be submitted to the Administrator as well as to the Department; and
  - (e) Such additional requirements as may be specified pursuant to the LLCAPCPRS, or the applicable Implementation Plan, or any permit issued under the LLCAPCPRS.
- (M) The Director may place such conditions and restrictions upon a permit issued or renewed under this section as he or she deems necessary to protect public health or the environment. Such conditions or restrictions may be placed upon the permit at the time it is issued, modified, or renewed. By the way of example, and not of limitation, such conditions or restrictions may be new federal applicable requirements not yet adopted in the LLCAPCPRS.
- (N) Permit Shield for Class I Operating Permits.
  - (1) If requested in the permit application, the permit shield provided in this section shall be included in the permit.
  - (2) The permit shield shall provide that compliance with a permit during its term constitutes compliance with all applicable requirements identified pursuant to Article 2, Section 7 as of the date of permit issuance, provided that:
    - (a) Such applicable requirements are included and specifically identified in the permit; or
    - (a) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination.
  - (3) The permit shield does not affect:
    - (a) The provisions for granting variances;
    - (b) Liability for any violation of applicable requirements, or applicable requirements under the Act, prior to or at the time of permit issuance;
    - (c) The applicable requirements of Article 2, Section 26;
    - (d) The authority of the Department or EPA to obtain information; or
    - (e) Any other permit provisions, terms, or conditions, including, but not limited to, construction permits issued pursuant to Article 2, Section 17 or permits issued pursuant to other states or local ordinances, rules or regulations.

- (4) A Class I permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (O) Each Class II operating permit shall include those permit requirements applicable to Class II sources and any additional requirements which the Director deems appropriate, including but not limited to, the following:
  - (1) Emissions limitations and standards which are at least as stringent as any applicable requirement or other requirements contained in the State Implementation Plan.
  - (2) Monitoring and related record keeping and reporting requirements.
  - (3) Compliance certification, testing, monitoring, reporting, and record keeping requirements.
- (P) All terms and conditions in a Class I and Class II operating permit, including any provisions designed to limit a source's potential to emit, are enforced by the Administrator and citizens under the Act except those terms and conditions which have been specifically designated as not federally enforceable under paragraph (Q) of this section.
- (Q) Each Class I operating permit shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements.
- (R) If an applicable requirement provides for the trading of increases and decreases of emissions without a case-by-case approval of each emissions trade, and if requested by the applicant in its permit application, the Director shall establish terms and conditions for the trading of such emissions increases and decreases within the permitted facility. Such terms and conditions shall include all terms required by the LLCAPCPRS to determine compliance and must meet all terms specified in the applicable requirement which allows such trading.
- (S) If an applicant requests in its application, the Director shall establish terms and conditions in the permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. Emissions from emissions units which are not quantifiable and for which there are no replicable procedures shall not be included in any trades. The permit shall also require compliance with all applicable requirements.

Ref: Title 129, Chapter 8, Nebraska Department of Environmental Quality