

# NEBRASKA ADMINISTRATIVE CODE

## Title 129 - Air Quality Regulations

### Chapter 1 – GENERAL PROVISIONS; DEFINITIONS

#### 001 General Provisions.

001.01 Unless otherwise stated, any reference in these rules to standards, procedures, and requirements of Title 40 of the Code of Federal Regulations (40 CFR) refers to the version of 40 CFR published on July 1, 2020.

001.02 When any standards, procedures, or requirements of 40 CFR are adopted for application to a State program, the language of 40 CFR is to be read and interpreted as applying to the State program.

001.03 The text of the federal regulations adopted and incorporated by reference may include references to other federal statutes and regulations that are not specifically adopted by reference in this Title. Unless otherwise stated, such references will be used to assist in interpreting the federal regulations, and the authority and enforceability of any analogous or related portions of Nebraska statutes and regulations will apply.

001.04 Unless otherwise stated, any reference in this Title to standards, procedures, and requirements of 40 CFR will constitute the full adoption by reference of the Part, Subpart, and Paragraph of the Federal Regulations so referenced including any notes and appendices.

001.04A "Administrator" or "Regional Administrator" or "Director" means the Director of the Nebraska Department of Environment and Energy, unless otherwise stated.

001.04B "Permit authority" or "Department" means the Nebraska Department of Environment and Energy, unless otherwise stated.

001.05 Permits issued under these regulations are exempt from financial responsibility requirements authorized in Neb. Rev. Stat. § 81-1505(21)(a).

001.06 Review of plans or advice furnished by the Director or Department will not relieve an owner or operator of a new or modified stationary source of legal compliance with any provision of these regulations, or prevent the Director from enforcing or implementing any provision of these regulations.

002 In addition to the definitions found at Neb. Rev. Stat. § 81-1502, the definitions included here apply to the state regulations in this Title and to the Appendices. Unless otherwise defined, or a different meaning is clearly required by context, the following words and phrases, as used in this Title, have the following meanings:

002.01 "Act" means the definition found at 40 CFR § 70.2.

002.02 "Actual emissions" for purposes other than the Prevention of Significant Deterioration program, means the actual rate of emissions of a pollutant from an emissions unit as determined below:

002.02A Actual emissions are to be calculated using the unit's actual operating hours, production rates, existing control equipment, and types of materials processed, stored, or combusted during the selected time period.

002.02B The Director may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

002.02C For any emissions unit which has not begun normal operations on the particular date, actual emissions are to equal the potential to emit of the unit on that date.

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

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

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

002.06 "Affected States" means:

002.06A A contiguous State and Tribal Treatment as State (TAS) that in the judgment of the Director may be affected by emissions from a facility seeking a Class I permit, modification, or renewal; or

002.06B A contiguous State or TAS within 50 miles of the permitted source.

002.07 "Affected unit" means a unit that is subject to emission reduction requirements or limitations under Chapter 5.

002.08 "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.

002.09 "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.

002.10 "Air pollution control agency" means any of the following:

002.10A The Department for purposes of Neb. Rev. Stat. Sections 81-1501 to 81-1532;

002.10B An agency established by two or more states and having substantial powers or duties pertaining to the prevention and control of air pollution;

002.10C A city, county, or other local government health authority; or in the case of any city, county, or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution, such other agency; or

002.10D An agency of two or more municipalities located in the same state or in different states and having substantial powers or duties pertaining to the prevention and control of air pollution.

002.11 "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. Within one year after the promulgation of a new or revised National Ambient Air Quality Standard, the Governor will designate each region as non-attainment, attainment, or unclassifiable. The Administrator has final approval of the designations.

002.12 "Allowable emissions" means:

002.12A 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:

002.12A1 The applicable standards set forth in 40 CFR Parts 60 (Standards of Performance for New Stationary Sources) or Parts 61 or 63 (National Emission Standards for Hazardous Air Pollutants);

002.12A2 Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

002.12A3 The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

002.13 "Ambient air" means the definition found at 40 CFR § 50.1(e) .

002.14 "AP-42" refers to the *Compilation of Air Pollutant Emission Factors*, published by the EPA Office of Air Quality Planning and Standards. It contains emission factors and process information for more than 200 air pollution source categories.

002.15 "Applicable requirement" means 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 Council through rule-making at the time of issuance but have future-effective compliance dates:

002.15A Any standard or other requirement;

002.15A1 provided for in the applicable implementation plan that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

002.15A2 under Chapter 12 relating to standards of performance for new stationary sources;

002.15A3 established pursuant to Section 112 of the Act and regulations adopted by the Council in Chapter 13 relating to hazardous air pollutants listed in Appendix I;

002.15A4 of the acid rain program under Chapter 5;

002.15A5 established under Chapter 6 or pursuant to any permit or order issued by the Director under this Title;

002.15A6 governing solid waste incineration under Chapter 12 or pursuant to Section 129(e) of the Act and regulations adopted by the Council;

002.15A7 for consumer and commercial products established under Section 183(e) of the Act and regulations adopted by the Council;

002.15A8 for tank vessels established under Section 183(f) of the Act and regulations adopted by the Council;

002.15A9 any standard or other requirement to protect stratospheric ozone as promulgated pursuant to Title VI of the Act and regulations adopted by the Council; and

002.15B Any term or condition of any construction permits;

002.15C Any national ambient air quality standard or increment or visibility requirement under the Prevention of Significant Deterioration Program (PSD) as defined in Chapter 1, but only as it would apply to temporary sources permitted pursuant to Chapter 6.

002.15D "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 Council.

002.16 "Begin actual construction" means the definition found at 40 CFR § 52.21(b)(11).

002.17 "Best Available Control Technology" or "BACT": .For purposes other than the PSD program, means an emission limitation or a design, equipment, work practice, operational standard or combination thereof, which results in the greatest degree of reduction of a pollutant, as determined by the Director to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs.

002.18 "Building, structure, or facility" 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 will 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 or are determined to be support facilities in accordance with 002.97 of this chapter.

002.19 "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 this Title.

002.20 "Class I source" means any source subject to the Class I permitting requirements of Chapter 6.

002.21 "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 this Title.

002.22 "Class II source" means any source subject to the Class II permitting requirements of Chapter 6.

002.23 "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.

002.24 "CO<sub>2</sub> equivalent emissions (CO<sub>2</sub>e)" will represent an amount of greenhouse gases (GHGs) emitted, and will be computed by the sum total of multiplying the mass amount of emissions, in tons per year (tpy), for each of the six greenhouse gases in the pollutant GHGs, by each of the gas's associated global warming potential (see definition for "Global Warming Potential").

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

002.25A Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time; or

002.25B Entered into binding agreements or contractual obligations, which cannot be cancelled 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.

002.26 "Common control" means one person or a number of persons acting together through ownership, management, contract, or otherwise to control pollutant emitting activities.

002.27 "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 additional information.002.28 "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 and/or potential to emit.

002.28 "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 and/or potential to emit.

002.29 "Consumer Price Index" or "CPI" means the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

002.30 "Continuous emissions monitoring system (CEMS)" means the definition found at 40 CFR § 52.21(b)(44).

002.31 "Control" and "controlling" means prohibition of contaminants as related to air, land, or water pollution.

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

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

002.34 "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.

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

002.36 "Emission limitation" and "Emission standard" mean a requirement established pursuant to this Title, the State Act, 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.

002.37 "Emissions unit" means any part or activity of a stationary source, which emits or would have the potential to emit any regulated air pollutant or any pollutant listed in Appendix I. This term includes electric steam generating units. This term is not meant to alter or affect the definition of the "unit" for purposes of Chapter 5.

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

002.39 "Existing source" means equipment, machines, devices, articles, contrivances, or installations, contributing to air pollution, which are in being on the effective date of these regulations.

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

002.41 "Federally enforceable" means the definition found at 40 CFR § 51.165(a)(1)(xiv).

002.42 "Final permit" means the version of a permit issued by the Department that has completed all review procedures required by Chapter 10, and for a Class I permit, Chapter 6.

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

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

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

002.46 "General permit" means a general construction permit or a Class I or Class II general operating permit or a combination general construction and general operating permit that meets the requirements of Chapter 7.

002.47 "Global Warming Potential" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram- of a reference gas, i.e., CO<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.

002.48 "Greenhouse gases (GHGs)" means the air pollutant defined as the aggregate group of six 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>).

002.49 "Hazardous air pollutant" means any air pollutant:

002.49A listed in Appendix I; or

002.49B 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.

002.50 "Incinerator" means any furnace used in the process of burning solid waste or any furnace used for cremation.

002.51 "Installation" means an identifiable piece of process equipment. (This definition does not apply to the Prevention of Significant Deterioration program. See "Building, structure, facility, or installation").

002.52 "Interstate air pollution control agency" means:

002.52A An air pollution control agency established by two or more states; or

002.52B An air pollution control agency of two or more political subdivisions located in different states.

002.53 "Local agency" or "local air quality agency" means any air pollution control agency in Nebraska, other than a state agency, which is charged with responsibility for carrying out part of a plan.

002.54 "Lowest Achievable Emission Rate (LAER)" means the definition found at 40 CFR § 51.165(a)(1)(xiii).

002.55 "Major modification" means the definition found at 40 CFR § 52.21(b)(2).

002.56 "Major stationary source" or "major source" means a stationary source, or group of stationary sources described in 002.56A through 002.56G of this definition belonging to a single industrial grouping.

002.56A Except as otherwise expressly provided herein, a major stationary source of air pollutants is one that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator of EPA);

002.56B A source which emits, or has the potential to emit 5 tpy or more of lead;

002.56C A source located in a nonattainment area with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides will not

apply with respect to any source for which the Administrator of EPA has made a finding, under Section 182(f)(1) or (2) of the Act, that requirements under Section 182(f) of the Act do not apply;

002.56D A source with the potential to emit 50 tpy or more of volatile organic compounds located in an ozone transport region established pursuant to Section 184 (control of ozone or interstate ozone pollution) of the Act;

002.56E A source with the potential to emit 50 tpy or more of carbon monoxide located in a carbon monoxide nonattainment area classified as "serious" and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator of EPA;

002.56F A source with the potential to emit 70 tpy or more of PM<sub>10</sub> and located in a particulate matter (PM<sub>10</sub>) nonattainment areas classified as "serious"; or

002.56G A source that emits or has the potential to emit, in the aggregate, 10 tpy or more of any hazardous air pollutant listed in Appendix I, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator of EPA may establish by rule.

002.56G1 Emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources for hazardous air pollutants.

002.56H For radionuclides, "major source" will have the meaning specified by the Administrator of EPA by rule.

002.56I For the purposes of defining "major source" or "major stationary source", a single industrial grouping includes a stationary source or group of stationary sources and any support facilities that:

002.56I1 Are under common control of the same person (or persons under common control);

002.56I2 Are located on contiguous or adjacent properties; and

002.56I3 Belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification (SIC) Manual, 1987. Except that a support facility is considered to be part of the same industrial grouping as that of the primary facility it supports even if the support facility has a different two digit SIC code.

002.56J For the purposes defining “Major Source” or Major Stationary Source”, the fugitive emissions of a stationary source will not be considered unless the source belongs to one of the source categories found in 40 CFR § 52.21(i)(1)(vii).

002.56K Any physical change that would occur at a stationary source not otherwise qualifying as a major stationary source, will be considered a major stationary source, if the change by itself would constitute a major stationary source.

002.56L A major stationary source that is major for volatile organic compounds or NO<sub>x</sub> will be considered major for ozone.

002.56M Major source of particulate matter, for purposes of Class I operating permits, will be determined based on the potential to emit PM<sub>10</sub>.

002.57 “Maximum achievable control technology” or (MACT)” means:

002.57A 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.

002.57B For existing sources, the emission limitation reflecting the maximum degree of reduction in hazardous air pollutant emissions that the Director, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable by sources in the category or subcategory, which is no less stringent than the average emission limitation achieved by the best performing 12 percent of the existing sources, as determined pursuant to Section 112(d)(3) of the Act.

002.58 "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:

002.58A Routine maintenance, repair, and replacement (except as defined as reconstruction) will not be considered physical changes; and

002.58B An increase in the production rate or hours of operation will not be considered a change in the method of operation, unless such change would violate a permit condition.

002.59 "National standard" as defined in 40 CFR § 51.100(e).

002.60 "New source" means any stationary source the construction, modification, or reconstruction of which is commenced after the publication of regulations by the State of Nebraska or the federal government prescribing a standard of performance which will be applicable to such source.

002.61 "Nonattainment area" means any area designated by the Director or the Administrator of EPA pursuant to Section 107 (d) of the Act as an area exceeding any National Ambient Air Quality Standard.

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

002.63 "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.

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

002.65 "Particulate matter" means the definition found at 40 CFR Part 51.100(oo).

002.66 "Particulate matter emissions" means the definition found at 40 CFR Part 51.100(pp).

002.67 "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.

002.68 "Permit revision" means a revision to an operating or construction permit that meets the requirements of Chapter 9.

002.69 "Permitting authority" means the Department of Environment and Energy.

002.70 "Plan" means the definition found at 40 CFR § 51.100(j).

002.71 "Plantwide applicability limitation (PAL)" means the definition found at 40 CFR § 51.165(f)(2)(v).

002.72 "PM<sub>10</sub>" means the definition found at 40 CFR § 51.100(qq).

002.73 "PM<sub>10</sub> emissions" means the definition found at 40 CFR § 51.100(rr).

002.74 "PM<sub>2.5</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on appendix L of part 50 of Chapter I. Environmental Protection Agency, Subchapter C. Air Programs, and designated in accordance with part 53 of the chapter or by an equivalent method designated in accordance with part 53 of the chapter.

002.75 "PM<sub>2.5</sub> emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the United States Environmental Protection Agency or by a test method specified in an approved State Implementation Plan.

002.76 "Potential to emit" means the definition found at 40 CFR § 51.165(a)(1)(iii).

002.77 "Predictive emissions monitoring system (PEMS)" means the definition found at 40 CFR § 51.165(a)(1)(xxxii).

002.78 "Prevention of Significant Deterioration Program (PSD) program" means a major source preconstruction permit program that has been approved by the Administrator and incorporated into the plan to implement the requirements of 40 CFR § 51.166 or 40 CFR § 52.21.

002.79 "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.

002.80 "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.

002.81 "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 applies.

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

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

002.84 "Reconstruction" means a situation where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred will be made in accordance with the provisions of 40 CFR § 60.15(f)(1)-(3). A reconstructed source will be treated as a new stationary source. In determining best available control technology or lowest achievable emission rate for a reconstructed source, the provisions of 40 CFR § 60.15(f)(4) will be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

002.85 "Regional administrator" means the Regional designee appointed by the Administrator of EPA.

002.86 "Regulated air pollutant" means the following:

002.86A Nitrogen oxides or any volatile organic compounds as defined in this Chapter;

002.86B Any pollutant for which a national ambient air quality standard has been promulgated;

002.86C Any pollutant that is subject to any standard in Chapter 12; and

002.86D Any pollutant subject to a standard or other requirements established in Chapter 13 relating to hazardous air pollutants, including the following:

002.86D1 Any pollutant subject to requirements under Chapter 13, 004.05; and

002.86D2 Any pollutant for which the requirements relating to construction, reconstruction, and modification in Chapter 13, 004.03, have been met, but only with respect to the individual source subject to these requirements.

002.87 "Regulated NSR pollutant" means the definition found at 40 CFR § 52.21(b)(50).

002.88 "Regulated pollutant for fee purposes" means any regulated air pollutant identified in this chapter, except for the following:

002.88A Carbon monoxide;

002.88B Particulate matter, excluding PM<sub>10</sub>;

002.88C 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 regulations adopted by the Council;  
or

002.88D 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 and regulations adopted by the Council.

002.88E Greenhouse gases (GHGs).

002.89 "Responsible official" means the definition found at 40 CFR § 70.2.

002.90 "Significant" means, as pertains to a modification in a nonattainment area, a net increase in actual emissions by a rate that would equal or exceed the rates specified in 40 CFR Part 51 Appendix S, II.A.10.

002.91 "Source" means any property, real or personal, or person contributing to air pollution.

002.92 "Stack" means the definition found at 40 CFR § 51.100(ff).

002.93 "Stack in existence" means the definition found at 40 CFR § 51.100(gg).

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

002.95 "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.

002.96 "Start-up of operation" means the beginning of routine operation of an affected facility.

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

002.98 "State Act" means the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 through §81-1532, as amended.

002.99 "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under this Title.

002.100 "Support Facility" means a facility which conveys, stores, or otherwise assists in the production of a stationary source's primary product. The Department will make a determination on the status of a support facility relationship.

002.100A Where more than 50% of the output or services provided by one facility is dedicated to another facility a support facility relationship is presumed to exist.

002.100B Other factors used to determine support facility relationship include, but are not limited to: the degree to which a facility receives materials or services from a stationary source; the degree to which a stationary source exerts control over a facility's operations; the nature of any contractual arrangements between the facilities; and the reasons for the presence of the facility on property contiguous or neighboring to the stationary source (e.g., whether the facility would exist at that site but for the stationary source).

002.100C Where a single facility is used to support the otherwise distinct sets of activities of a single or multiple sources, the unit is to be included within the source which relies most heavily on its support.

002.101 "TPY" or "tpy" means tons per year.

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

002.103 "Volatile organic compound (VOC)" means the definition at 40 CFR § 51.100(s).

002.104 "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.

## Chapter 01

### EPA Rulemakings

CFR: 40 C.F.R. 52.1420(c)  
FRM: 89 FR 66609 (8/16/2024)  
PRM: 89 FR 47504 (06/03/2024)  
State Submission: 12/02/2022  
State Final: Title 129, Chapter 01 (9/28/2022)  
APDB File: NE-106; EPA-R07-OAR-2024-0025 effective 9/16/2024  
Description: This revision approves the state of Nebraska's request to renumber and combine Chapter 01 – Definitions, Chapter 02 – Definition of Major Source, Chapter 37 – Compliance; Responsibility of Owner/Operator Pending Review by Director, and Chapter 41- General Provisions, to Chapter 01 (single).

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#### **Difference Between the State and EPA-Approved Regulation**

None.

**Note: All previous versions of the rule are obsolete; the record of prior rulemakings is shown below for historical purposes only.**

#### **Former Chapter 01**

CFR: 40 C.F.R. 52.1420(c)and Part 70, Appendix A (p)  
FRM: 84 FR 14878 (4/12/2019)  
PRM: 84 FR 5032 (2/20/2019)  
State Submission: 8/22/18 (effective 7/15/18)  
State Final: 7/15/18  
APDB File: NE 99; EPA-R07-OAR-2018-0852  
Description: This revision to 064, 109, 130.05A and 160 updates definitions and corrects a typographical error. 130.05A is being removed.

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CFR: 40 C.F.R. 52.1420(c)and Part 70, Appendix A (o)  
FRM: 83 FR 14762 (4/6/2018)  
PRM: 82 FR 46453 (10/5/2017)  
State Submission: 7/14/14  
State Final: 5/13/14  
APDB File: NE 92; EPA-R07-OAR-2017-0485  
Description: The revision to Title 129, Chapter 1, "Definitions" removes from the definition of VOC (section 160) a list of exempt organic compounds and incorporates by reference the list in the CFR and revises the notification requirements for "Section 502(b)(10) changes" to make such requirements consistent with the federal operating permit program. Revisions to section 139 are changing from 30 days to 7 days the advance notification requirement. EPA did not approve into the SIP the proposed definition of "solid waste" making it consistent with the definition of "solid waste" found in the Nebraska Environmental Protection Act.

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CFR: 40 C.F.R. 52.1420(c)  
FRM: 79 FR 45108 (8/4/2014)  
PRM: 79 FR 45174 (8/4/2014)  
State Submission: 2/13/13  
State Final: 4/1/12  
APDB File: NE 86; EPA-R07-OAR-2014-0468  
Description: This revision amends Title 129 of the Nebraska Administrative Code to facilitate the implementation of the fine Particulate Matter (PM2.5) program; modifying various definitions; changing the state's minor source construction permit program; adding a minor source permitting threshold for PM2.5 and a level consistent with the significant thresholds for PSD. As a result of U.S. Court of Appeals for the District of Columbia NDEQ requested that provisions relating to SILs and SMCs not be considered for approval at this time.

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CFR: 40 C.F.R. 52.1420(c)  
FRM: 76 FR 15852 (03/22/2011)

PRM: 75 FR 81179 (12/27/2010)  
State Submission: 01/14/2011  
State Final: 01/09/2011  
APDB File: NE-81  
Description: This revision incorporates changes impacting the regulation of GHGs and establishes emission thresholds for GHG emissions; provides NE the authority to issue PSD permits governing GHGs; and reflects 2002 NSR Reform rules. Changes to Chapter 1 add numerous definitions to include GHGs, and renumber existing definitions.

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department, (j)  
FRM: 75 FR 48582 (08/11/2010)  
PRM: 75 FR 48628 (08/11/2010)  
State Submission: 05/27/2009  
State Final: 09/25/2005  
APDB File: NE-79  
Description: Changes to Chapter 1 definition of "Volatile organic compound (VOC)" added four chemicals to the list of excluded compounds. Requirements for t-butyl acetate are still in effect. Change to Part 70 adds paragraph (j) under "Nebraska; City of Omaha; Lincoln-Lancaster County Health Department"

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department, (g)  
FRM: 68 FR 52694 (09/05/2003)  
PRM: 68 FR 52724 (09/05/2003)  
State Submission: 05/01/2003  
State Final: 11/20/2002  
APDB File: NE-59  
Description: Definitions for the following were added: "Air Quality Control Region," "AP-42," "Insignificant activities," "Low emitter," "Method 9," "Method 22," "Mobile source," "Speciation," "Synthetic minor," and "UTM coordinates." In the definition for "Interstate air pollution control agency" the word "municipalities" was replaced with the words "political subdivisions." The definitions were renumbered to accommodate the new definitions.

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department, (f)  
FRM: 68 FR 40528 (07/08/2003)  
PRM: 68 FR 40617 (07/08/2003)  
State Submission: 05/10/2002 and 11/05/2002  
State Final: 04/01/2002 and 07/10/2002  
APDB File: NE-54 and NE-57  
Description: The following changes were made with this revision: definitions for "deviation" and "Maximum Achievable Control Technology (MACT)" were added; an exception clause was added to the definition of "incineration;" the definition of "Volatile organic compound (VOC)" was revised to add "methyl acetate" to the list of exempt VOCs; and definitions for "applicable requirement," "fuel burning equipment," and "incinerators" were clarified.

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department, (e)  
FRM: 67 FR 37325 (05/29/2002)  
PRM: 67 FR 37370 (05/29/2002)  
State Submission: 06/29/2001  
State Final: 12/15/1998 and 08/22/2000  
APDB File: NE-46  
Description: This revision approves the definition of applicable requirement in 014.04 to reference Chapter 23; the version of the SIC Code Manual cited in 018 was updated to 1987; 16 additional compounds were added to the list of exempt VOCs; four definitions from Chapter 1 related to Stack Height Good Engineering Practice were transferred Chapter 16; and a trigger level for "municipal solid waste landfill emissions" was added to the definition of "significant".

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department, (d)  
FRM: 65 FR 3130 (1/20/00)  
PRM: 65 FR 3168 (1/20/00)

State Submission: 2/5/99  
State Final: 9/7/97  
APDB File: NE-41  
Description: This revision broadens the definition of "incinerator" to be consistent with the NSPS adopted in Chapter 18, adds definition of "solid waste" and adds additional chemicals to the list of exempt VOCs.

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CFR: 40 C.F.R. 70, Appendix A, State of Nebraska (a)  
FRM: 60 FR 53872 (10/18/95)  
PRM: 60 FR 12521 (3/7/95)  
State Submission: 11/15/93  
State Proposal: 12/2/94  
State Final: 5/29/95  
APDB File: NE-32  
Description: The EPA fully approved the operating permits program submitted by the state of Nebraska for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources. The EPA also approved, under section 112(l), the state's program for accepting delegation of section 112 standards to enforce air toxics regulations.

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CFR: 40 C.F.R. 52.1420(c)(41)  
FRM: 60 FR 372 (01/04/95)  
PRM: 60 FR 418 (01/04/95)  
State Submission: 2/16/94  
State Proposal: 12/17/93  
State Final: 6/26/94  
APDB File: NE-31  
Description: The EPA approved approximately 30 new definitions and the renumbering of the terms as part of the overall recodification of the Nebraska rules. All definitions were approved as part of the SIP, including those pertaining to Title V, to ensure consistent use of terms.

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CFR: 40 C.F.R. 52.1420(c)(39)  
FRM: 56 FR 50515 (10/7/91)  
PRM: None  
State Submission: 3/8/91  
State Proposal: 12/7/90  
State Final: 2/20/91  
APDB File: NE-30  
Description: The EPA approved a revision as part of an update of a number of regulations. This revision deleted the definition of the Ringlemann Chart and renumbered the sections.

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CFR: 40 C.F.R. 52.1420(c)(37)  
FRM: 54 FR 21059 (5/16/89)  
PRM: None  
State Submission: 6/15/88  
State Proposal: 2/5/88  
State Final: 6/5/88  
APDB File: NE-21  
Description: The EPA reapproved this rule as Chapter 1 as part of an action to update the entire set of regulations in the Nebraska SIP. The state's revisions included definitions pertaining to the PM10 SIP revision as well as revised references and other minor definition changes. The EPA specifically did not act on section 013 pertaining to the definition of best available control technology for air toxics sources.

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CFR: 40 C.F.R. 52.1420(c)(36)  
FRM: 54 FR 7034 (2/16/89)  
PRM: None  
State Submission: 5/16/86; 7/1/86  
State Proposal: 10/3/85; 12/17/85  
State Final: 5/5/86  
APDB File: NE-24  
Description: The EPA approved revisions pertaining to the stack height rules.

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CFR: 40 C.F.R. 52.1420(c)(32)

FRM: 51 FR 6221 (2/21/86)  
PRM: 49 FR 37427 (9/24/84); 50 FR 23031 (5/30/85)  
State Submission: 10/6/83  
State Proposal: 5/23/83  
State Final: 6/17/83  
APDB File: NE-18  
Description: The EPA approved the deletion of definitions pertaining to the review of complex (or indirect) sources and renumbered the sections of the rule accordingly.

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CFR: 40 C.F.R. 52.1420(c)(30)  
FRM: 50 FR 4510 (1/31/85)  
PRM: None  
State Submission: 7/24/84  
State Proposal: Unknown  
State Final: Unknown  
APDB File: NE-13  
Description: The EPA approved revisions pertaining to the definitions of major and minor lead sources.

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CFR: 40 C.F.R. 52.1420(c)(29)  
FRM: 49 FR 29597 (7/23/84)  
PRM: 48 FR 39472 (8/31/83)  
State Submission: 5/23/84; 5/30/84  
State Proposal: 3/25/83  
State Final: 5/22/83  
APDB File: NE-16  
Description: The EPA approved revisions pertaining to new source review, including requirements for nonattainment areas and prevention of significant deterioration. The EPA did not approve the provisions regarding stack height definitions.

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CFR: 40 C.F.R. 52.1420(c)(13)  
FRM: 41 FR 25898 (6/23/76)  
PRM: 41 FR 8072 (2/24/76)  
State Submission: 8/5/75  
State Proposal: 12/14/74  
State Final: Unknown  
APDB File: NE-00  
Description: The EPA approved a provision which changed the definition of designated area (pertaining to complex sources) and added a definition of emissions data.

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CFR: 40 C.F.R. 52.1420(a)  
FRM: 37 FR 10842 (5/31/72)  
PRM: None  
State Submission: 1/28/72  
State Proposal: Unknown  
State Final: 6/6/72  
APDB File: NE-00  
Description: The EPA approved this as Rule 2 as part of the original SIP. The provisions pertaining to the availability of emissions data were disapproved.

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#### **Former Chapter 02**

CFR: 40 C.F.R. 52.1420(c), and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln  
Lancaster County Health Department,(q)  
FRM: 85 FR 21329 (4/17/2020) effective 5/8/20  
PRM: 84 FR 60968 (11/12/19)  
State Submission: 8/28/07, 9/11/18  
State Final: 2/1/08, Effective 2/6/08  
APDB File: NE-84b; EPA-R07-OAR-2019-0532

Description: This revision to 002.20 Chemical process plants, excludes ethanol production facilities from the definition of "chemical process plants" and Remove ethanol plants emitting less than 250 tons per year of a regulated air pollutant from being subject to PSD from 008.01.

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CFR: 40 C.F.R. 52.1420(c)  
FRM: 76 FR 15852 (03/22/2011)  
PRM: 75 FR 81179 (12/27/2010)  
State Submission: 01/14/2011  
State Final: 03/14/2006  
APDB File: NE-81  
Description: This revision incorporates changes impacting the regulation of GHGs and establishes emission thresholds for GHG emissions; provides NE the authority to issue PSD permits governing GHGs; and reflects 2002 NSR Reform rules. Chapter 2 revisions update 002.20 Chemical process plants; 007 Major source for purposes of Class I operating permits; and 008 Major stationary source for the purposes of the Prevention of Significant Deterioration of Air Quality Program (PSD).

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln-Lancaster County Health Department, (f)  
FRM: 68 FR 40528 (07/08/2003)  
PRM: 68 FR 40617 (07/08/2003)  
State Submission: 11/05/2002  
State Final: 07/10/2002  
APDB File: NE-57  
Description: This revision clarifies the definition of major source to include fugitive emissions when determining if a source is major for hazardous air pollutants and was also revised to be consistent in both Title V and the NSR/PSD programs (001.01 and 002.27).

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CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln-Lancaster County Health Department, (d)  
FRM: 65 FR 3130 (1/20/00)  
PRM: 65 FR 3168 (1/20/00)  
State Submission: 2/5/99  
State Final: 9/7/97  
APDB File: NE-41  
Description: This revision adds subsection 009 which establishes that major source determination for PM is based on PM10 particle size.

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CFR: 40 C.F.R. 70, Appendix A, State of Nebraska (a)  
FRM: 60 FR 53872 (10/18/95)  
PRM: 60 FR 12521 (3/7/95)  
State Submission: 11/15/93  
State Proposal: 12/2/94  
State Final: 5/29/95  
APDB File: NE-32  
Description: The EPA fully approved the operating permits program submitted by the state of Nebraska for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources. The EPA also approved, under section 112(I), the state's program for accepting delegation of section 112 standards to enforce air toxics regulations.

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CFR: 40 C.F.R. 52.1420(c)(41)  
FRM: 60 FR 372 (01/04/95)  
PRM: 60 FR 418 (01/04/95)  
State Submission: 2/16/94  
State Proposal: 12/17/93  
State Final: 6/26/94  
APDB File: NE-31  
Description: The EPA approved a new rule pertaining to the definition of major source as part of the overall recodification of the Nebraska rules.

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### **Former Chapter 37**

CFR: 40 C.F.R. 52.1420(c)(41)  
FRM: 60 FR 372 (01/04/95)  
PRM: 60 FR 418 (01/04/95)  
State Submission: 2/16/94  
State Proposal: 9/16/93  
State Final: 6/26/94  
APDB File: NE-31  
Description: The EPA approved the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 22.

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CFR: 40 C.F.R. 52.1420(c)(37)  
FRM: 54 FR 21059 (5/16/89)  
PRM: None  
State Submission: 6/15/88  
State Proposal: 2/5/88  
State Final: 6/5/88  
APDB File: NE-21  
Description: The EPA reapproved this rule as Chapter 22 as part of an action to update the entire set of regulations in the Nebraska SIP.

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CFR: 40 C.F.R. 52.1420(c)(4)  
FRM: 41 FR 8962 (3/2/76)  
PRM: None  
State Submission: 6/9/72  
State Proposal: Unknown  
State Final: 6/6/72  
APDB File: NE-00  
Description: As part of an action to clarify the list of SIP revisions submitted by the states, the EPA reapproved this rule. There were no apparent changes.

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CFR: 40 C.F.R. 52.1420(a)  
FRM: 37 FR 10842 (5/31/72)  
PRM: None  
State Submission: 1/28/72  
State Proposal: Unknown  
State Final: 6/6/72  
APDB File: NE-00  
Description: The EPA approved this as Rule 11 pertaining to owner/operator responsibilities in the original SIP.

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### **Former Chapter 41**

CFR: 40 C.F.R. 52.1420(c); Part 70, Appendix A, Nebraska; City of Omaha; Lincoln Lancaster County Health Department,(e)  
FRM: 67 FR 37325 (05/29/2002)  
PRM: 67 FR 37370 (05/29/2002)  
State Submission: 06/29/2001  
State Final: 12/15/1998  
APDB File: NE-46  
Description: Subsection 007 was added to clarify that copies of the substantial Federal documents (Code of Federal Regulations and the Federal Register) adopted by reference are located and available at NDEQ's office.

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CFR: 40 C.F.R. 52.1420(c); Part 70, Appendix A, Nebraska; City of Omaha; Lincoln Lancaster County Health Department,(d)  
FRM: 65 FR 3130 (1/20/00)  
PRM: 65 FR 3168 (1/20/00)  
State Submission: 2/5/99

State Final: 9/7/97  
APDB File: NE-41  
Description: Subsection 006 was added to incorporate a financial responsibility requirement previously contained in Chapter 45, which is being deleted.

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CFR: 40 C.F.R. 52.1420(c)(43)(i)(A)  
FRM: 61 FR 4899 (2/9/96)  
PRM: 61 FR 4949 (2/9/96)  
State Submission: 6/14/95  
State Proposal: 12/2/94  
State Final: 5/29/95  
APDB File: NE-33  
Description: EPA approved a revision which consolidated regulations from Chapter 40, 42, 43, and 44 into this Chapter 41. No actual change in content was made from the previously approved SIP.

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CFR: 40 C.F.R. 70, Appendix A, State of Nebraska (a)  
FRM: 60 FR 53872 (10/18/95), Correction Notice 61 FR 7073 (2/26/96)  
PRM: 60 FR 12521 (3/7/95)  
State Submission: 11/15/93  
State Proposal: 12/2/94  
State Final: 5/29/95  
APDB File: NE-32  
Description: EPA fully approved the operating permits program submitted by the state of Nebraska for the purpose of complying with Federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources. The EPA also approved, under section 112(l), the states program for accepting delegation of section 112 standards to enforce air toxics regulations.

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CFR: 40 C.F.R. 52.1420(c)(41)  
FRM: 60 FR 372 (01/04/95)  
PRM: 60 FR 418 (01/04/95)  
State Submission: 2/16/94  
State Proposal: 9/16/93  
State Final: 6/26/94  
APDB File: NE-31  
Description: EPA approved the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 26.

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CFR: 40 C.F.R. 52.1420(c)(37)  
FRM: 54 FR 21059 (5/16/89)  
PRM: None  
State Submission: 6/15/88  
State Proposal: 2/5/88  
State Final: 6/5/88  
APDB File: NE-21  
Description: EPA reapproved this rule as Chapter 26 as part of an action to update the entire set of regulations in the Nebraska SIP.

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CFR: 40 C.F.R. 52.1420(a)  
FRM: 37 FR 10842 (5/31/72)  
PRM: None  
State Submission: 1/28/72  
State Proposal: Unknown  
State Final: 6/6/72  
APDB File: NE-00  
Description: EPA approved this as Rule 25 pertaining to severability in the original SIP.

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