

NEBRASKA ADMINISTRATIVE CODE

Title 129 - Air Quality Regulations

Chapter 2 - NEBRASKA AIR QUALITY STANDARDS

001 Nebraska Ambient Air Quality Standards. The National Ambient Air Quality Standards (NAAQS) published at 40 CFR Part 50; as of July 1, 2020, unless otherwise indicated, are incorporated by reference and made applicable in the State of Nebraska. Administrator, as used in 40 CFR Part 50, means EPA Administrator.

002 Total reduced sulfur (TRS).

002.01 Except as provided in 002.01A and 002.01B these standards apply:

Level: 10.0 parts per million (10.0 ppm)
Averaging time: 1 minute
Form: Maximum average concentration

Level: 0.10 parts per million (0.10 ppm)
Averaging time: 30-minutes
Form: Maximum rolling average

002.01A Ambient air concentrations of TRS emissions occurring as a result of natural activities that have no associated economic benefits will not constitute a violation of the standards contained in Section 002.

002.01B The Department may allow any source causing or contributing to a violation of the standards in Section 002 to develop and implement a program to eliminate such emissions causing a violation.

002.02 Unless otherwise approved by the Director, TRS in the ambient air will be measured using a TRS thermal converter in conjunction with an SO₂ monitor. Only an SO₂ monitor that has been designated as an EPA reference method or equivalent method in accordance with 40 CFR Part 53 may be used. When used in combination with a thermal converter, the SO₂ monitor will meet or exceed the performance limit specifications for automated methods prescribed in 40 CFR Part 53 Subpart B.

002.03 A rolling average will be considered valid if there is data for at least 75 percent of the period in question. In the event that less than 100 percent of the data are available, the rolling average will be computed on the basis of the data available using the number of data available as the divisor.

002.04 The standards are attained when all of the following conditions are met:

002.04A The one-minute concentration is less than or equal to 10.0 ppm, rounded to one decimal place (fractional parts equal to or greater than 0.05 ppm will be rounded up);

002.04B The 30-minute rolling arithmetic mean concentration is less than or equal to 0.10 ppm, rounded to two decimal places (fractional parts equal to or greater than 0.005 ppm will be rounded up).

003 Visibility Protection.

003.01 For the purposes of this section, 40 CFR § 51.301 is incorporated by reference. Administrator, as used in 40 CFR § 51.301, means EPA Administrator. Appendix Y (Guidelines for BART Determinations Under the Regional Haze Rule) of 40 CFR 51, is incorporated by reference.

003.02 The owner or operator of a stationary source that is subject to a Best Available Retrofit Technology (BART) determination according to 40 CFR Part 51, Appendix Y will submit a BART determination in accordance with Appendix Y of 40 CFR Part 51 to the Department for review. The Department will issue a permit to the source, pursuant to Section 003.03, giving consideration to the source's BART determination.

003.03 The BART requirements for any BART stationary source that is subject to BART according to 40 CFR Part 51, Appendix Y will be incorporated into a construction permit in accordance with Chapter 3 of this Title.

004 Regions and Subregions: How Classified. The following Air Quality Control Regions are designated for Nebraska:

004.01 The Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region includes the counties of Lancaster, Gage, Jefferson, and Thayer and all subdivisions therein. Lancaster County is designated a subregion of the Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region.

004.02 The Metropolitan Sioux City Interstate Air Quality Control Region includes Dakota County in Nebraska; two counties in Iowa and one in South Dakota.

004.03 The Omaha-Council Bluffs Interstate Air Quality Control Region includes the counties of Douglas and Sarpy in Nebraska and Pottawattamie in Iowa.

004.04 The Columbus Intrastate Air Quality Control Region includes the counties of Platte, Colfax, Polk, and Butler and all subdivisions therein.

004.05 The Nebraska Intrastate Air Quality Control Region includes all counties (and subdivisions therein) within the boundaries of the state exclusive of those counties included in one of the other four Air Quality Control Regions. Cass

County and Dawson County are designated as subregions of the Nebraska Intrastate Air Quality Control Region for PM and PM₁₀.

005 Controls for Transferring, Conveying, Railcar, and Truck Loading at Rock Processing Operations in Cass County. The owner or operator of any rock processing operation located in Cass County shall install, operate and maintain a system to reduce potential emissions from conveying, transfer operations, and railcar and truck loading by 85 percent. Compliance with this Section may be demonstrated by the full-time use with any suitable combination of sprays, hoods, enclosures, or filters subject to Department approval.

006 Air Pollution Emergency Episodes.

006.01 40 CFR Part 51 Appendix L, except for the preamble contained therein, is hereby adopted and incorporated by reference.

006.02 Whenever the Director finds that an emergency exists requiring immediate action to protect the public health and welfare, the Director will issue an announcement to the general public.

006.03 Episode Criteria. In the event of an Emergency Episode the following procedures will be followed by the Department:

006.03A The Department will monitor forecasts of atmospheric stagnation and updates of current conditions as frequently as they are issued by the National Weather Service.

006.03B The Department may inspect sources to ascertain compliance with applicable Emission Reduction Plans.

006.03C The Department will establish a dedicated means for communication with public officials, major emission sources, public health and safety agencies, and news media for the duration of the Emergency Event.

Enabling Legislation: Neb. Rev. Stat. §81-1504(1)(2), 81-1505(1)(12)(16), 81-1507(4)

Chapter 02

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 02 (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 03 – Regions and Subregions: How Classified, Chapter 04 – Ambient Air Quality Standards, Chapter 21 – Controls for Transferring, Conveying, Railcar and Truck Loading at Rock Processing Operations in Cass County, Chapter 38 – Emergency Episodes; Occurrences and Control, Contingency Plans, and Chapter 43 – Visibility Protection, to Chapter 02 (single).

Difference Between the State and EPA-Approved Regulation

Section 002 total reduced sulfur (TRS) is not approved into the SIP.

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

Former Chapter 03

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 the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 2.

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 2 as part of an action to update the entire set of regulations in the Nebraska SIP.

CFR: 40 C.F.R. 52.1420(c)(8)
FRM: 40 FR 11778 (9/9/75); 41 FR 8956 (3/2/76)
PRM: 39 FR 24921 (7/8/74)
State Submission: 2/27/74
State Proposal: 12/14/73
State Final: 2/26/74
APDB File: NE-00
Description: The application of emission limitations was expanded to the entire state.

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 approved a revised rule. The revision involved the applicability of the rules to the air quality control regions.

CFR: 40 C.F.R. 52.1420(a)
FRM: 37 FR 10842 (5/31/72)
PRM: None
State Submission: 1/28/72; 2/16/72
State Proposal: Unknown
State Final: 6/6/72
APDB File: NE-00
Description: The EPA approved this as Rule 3 as part of the original SIP.

Former Chapter 04

CFR: 40 C.F.R. 52.1420(c)
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 005 amends the ozone standard and the reference to regulatory appendix. The standard was revised from 75 to 70 ppb in 2015.

CFR: 40 C.F.R. 52.1420(c)
FRM: 81 FR 70023 (10/11/2016)
PRM: 81 FR 70065 (10/11/2016)
State Submission: 3/6/2014 and 7/14/14
State Final: Title 129, Chapters 4 (7/14/2014), 19, and 22 (3/6/2014)
APDB File: NE-90; EPA-R07-OAR-2016-0556 effective 12/12/16.
Description: This revision to Chapter 4 amends the ambient air quality standards for PM10, PM2.5, SO2, NO2, CO, O3, and Pb making them consistent with National Ambient Air Quality Standards (NAAQS) found at 40 CFR part 50, as of the date of the state's submittal, July 14, 2014.

Note: NDEQ submitted two revisions to Chapter 4, one was submitted on 3/6/2014 and the other on 7/14/2014. The second revision submitted on 7/14/2014 contained the same revisions requested on 3/6/2014 with minor changes. The 7/14/2014 submittal is being approved into the SIP at this time.

CFR: 40 C.F.R. 52.1420(c)
FRM: 80 FR 51952 (08/27/2015)
PRM: 80 FR 30404 (05/28/2015)
State Submission: 4/29/2008
State Final: 8/18/2008
APDB File: NE-71, NE-73, NE-82
Description: This revision repeals the annual NAAQS for PM 10 and adopts the federal 24-hour NAAQS for PM2.5. The standard was reduced from 65 to 35 micrograms per cubic meter by EPA on December 18, 2006.

CFR: 40 C.F.R. 52.1420(c)
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: This revision approved the adoption of new standards for fine particulate matter (PM2.5) and ozone and also the data interpretation procedures of Appendix I and Appendix N of 40 CFR part 50 for ozone and particulate matter.

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 the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 3. The standards for total suspended particulate matter were deleted.

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. The state deleted the word "national" from the definition of air quality standards because the state still enforces a particulate matter standard.

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 approved this rule as Chapter 3 as part of an action to update the entire set of regulations in the Nebraska SIP. The state's revisions included the addition of a PM10 standard, lead standard, a method for ozone determination, and deletion of the hydrocarbon standard.

Former Chapter 21

CFR: 40 C.F.R. 52.1420(c)
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 deleted an obsolete date reference.

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 9.

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 9 as part of an action to update the entire set of regulations in the Nebraska SIP.

CFR: 40 C.F.R. 52.1420(c)(25)
FRM: 48 FR 12715 (3/28/83)
PRM: 46 FR 11312 (2/6/81)
State Submission: 9/22/80 (CFR refers to receipt date of 9/25/80)
State Proposal: 12/7/79
State Final: 5/20/80
APDB File: NE-01
Description: The EPA approved new Rule 5A as part of the Part D SIP to control particulates in Cass County.

Former Chapter 38

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 23.

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 23 as part of an action to update the entire set of regulations in the Nebraska SIP. Included in this action were changes to the rule to incorporate the PM10 requirements as well as other minor revisions.

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.

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 22 pertaining to emergency episodes in the original SIP.

Former Chapter 43

CFR: 40 C.F.R. 52.1420(c)(129-43)

FRM: 83 FR 30352(6/28/18)
PRM: 82 FR 46433 (10/5/17)
State Submission: rec'd 11/14/11 (dated 11/8/11)
State Proposal: 7/13/07
State Final: Adopted 8/17/07 effective 2/6/08
APDB File: NE-84; EPA-R07-OAR-2017-0386
Description: This action adds a new chapter titled "Visibility Protection" to Title 129 which provides Nebraska authority to comply with federal regulations relating to Regional Haze and Best Available Retrofit Technology (BART).

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: Chapter 43 was deleted. Amendment or repeal provisions previously contained in Chapter 43 are now contained in Chapter 41 "General Provisions."

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 the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 28. Slight modifications were made in referencing Title 115 of the state's regulations.

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 28 as part of an action to update the entire set of regulations in the Nebraska SIP.

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 27 pertaining to amendments and repeal of the regulations in the original SIP.
