

## NEBRASKA ADMINISTRATIVE CODE

### Title 129 - Air Quality Regulations

#### Chapter 4 – PREVENTION OF SIGNIFICANT DETERIORATION of AIR QUALITY (PSD)

001 The provisions of this chapter apply to the construction of any new major stationary source or the major modification of any existing major stationary source. The provisions of this chapter apply only to sources located in areas designated as attainment or unclassifiable. For purposes of this chapter the provisions of 40 CFR § 52.21 are hereby adopted and incorporated with the following exceptions.

001.01 “Administrator” means both the Director and the EPA Administrator as used in:

001.01A 40 CFR § 52.21(b)(3)(iii)(a).

001.01B 40 CFR § 52.21(b)(48)(ii).

001.02 “Administrator” means only the EPA Administrator as used in:

001.02A 40 CFR § 52.21(b)(12).

001.02B 40 CFR § 52.21(b)(15)(iii).

001.02C 40 CFR § 52.21(b)(17).

001.02D 40 CFR § 52.21(b)(37)(i).

001.02E 40 CFR § 52.21(b)(43).

001.02F 40 CFR § 52.21(b)(48)(ii)(c).

001.02G 40 CFR § 52.21(b)(50)(i)(b).

001.02H 40 CFR § 52.21(b)(51).

001.02I 40 CFR § 52.21(g).

001.02J 40 CFR § 52.21(i)(6-8).

001.02K 40 CFR § 52.21(l)(2).

001.02L 40 CFR § 52.21(m)(1)(vii - viii).

001.02M 40 CFR § 52.21(o)(3).

001.02N 40 CFR § 52.21(t).

001.02O 40 CFR § Part 52.21(u).

001.03 40 CFR § 52.21(a)(1), Plan Disapproval.

001.04 40 CFR § 52.21(b)(6)(i), Definition of building, structure, facility, or installation is not adopted and incorporated. Notwithstanding the provisions of paragraph 002.18A of Chapter 1, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that 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 adjacent if they are located on the same surface site; or if they are located on surface sites that are located within 1/4 mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in paragraph, has the same meaning as in 40 CFR 63.761.

001.05 40 CFR § 52.21(q), Public Participation.

002 Sources not subject to PSD review may still require a construction permit pursuant to provisions in Chapter 3.

003 Baseline Actual Emissions (BAE).

003.01 BAE will be calculated using the following methodologies in this order of preference where possible:

003.01A Continuous Emissions Monitors (CEMS) complying with requirements in Chapter 15.

003.01B Predictive Emissions Monitors (PEMS) complying with requirements in Chapter 15.

003.01C Source-specific valid stack test data, if such stack test occurred during the baseline period.

003.01D Emission factors as defined in Chapter 11.

003.01E Mass Balance.

003.02 Other methodologies or a different order of preference of methodologies than those listed in 003.01 may be used to calculate the BAE with prior concurrence of the Department.

004 Exclusions from increment consumption. The concentrations listed in 40 CFR § 51.166(f)(1)(iii) through (v) will be excluded in determining compliance with a maximum allowable increase.

005 Notification to permit applicants and public:

005.01 The Department will determine if a permit application is complete within 60 days after receipt of the application and so notify the applicant. If the Department determines that the application is incomplete and additional information is necessary to evaluate or take final action on the application, the Department may request such information in writing and set a reasonable deadline for a response. The Department may determine that an application is complete, but later determine that additional information is needed to evaluate or take final action on the application.

005.02 The Department will provide opportunity to the public to submit comments or request a public hearing on every PSD permit application approved in accordance with Chapter 10.

006 If any provisions of this section, or the application of such provision to any person or circumstance, is held invalid, the remainder of this section, or the application of such provision to persons or circumstances other than those as to which it is held invalid will not be affected thereby.

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

## Chapter 04

### 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 4 (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 revise and renumber Chapter 19 PSD rule to Chapter 4. This revision shows that the Chapter 4 PSD rules incorporate by reference 40 CFR Part 52.21, federal PSD regulations, with exceptions.

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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.**

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 19 is exclusively formatting changes only.

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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: 02/06/2008  
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. EPA approved numerous updates, revisions, and additions to Chapter 19.

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CFR: 40 C.F.R. 52.1420(c)  
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: The C.F.R. citation in 001 was updated to July 1, 1997.

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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: The EPA approved a revision which incorporated the Prevention of Significant Deterioration (PSD) regulations as found in 40 C.F.R. part 52 as amended through June 3, 1994.

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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 the renumbering of this rule as part of the overall recodification of the Nebraska rules. The rule was previously Chapter 7. The state also updated its incorporation by reference of the EPA's PSD regulation.

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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. The state updated references to the EPA regulations and guidance.

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CFR: 40 C.F.R. 52.1420(c)(38)  
FRM: 56 FR 30335 (7/2/91)  
PRM: None  
State Submission: 3/8/91  
State Proposal: 12/17/90  
State Final: 2/20/91  
APDB File: NE-29  
Description: The EPA approved an amendment to the rule to incorporate the NOx increments into the requirements for PSD.

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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 7 as part of an action to update the entire set of regulations in the Nebraska SIP. The state's revision included the addition of PM10 provisions.

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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: 5/23/83; 5/30/84

State Proposal: 3/25/83

State Final: 5/22/83

APDB File: NE-16

Description: The EPA approved a new Rule 4.01 which adopted the Federal PSD requirements by reference.

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