

NEBRASKA ADMINISTRATIVE CODE

Title 129 – Air Quality Regulations

Chapter 8 - PERMITS-BY-RULE

001 General Provisions. This chapter applies to any source approved by the Department for coverage under a permit-by-rule before January 1, 2022. A permit-by-rule as described in this chapter will not be available to any source that has not been approved for coverage by the Department prior to January 1, 2022.

001.01 The permit-by-rule provisions do not supersede any applicable federal regulations such as New Source Performance Standards.

001.02 Records will be collected and maintained as described for each applicable permit-by-rule and retained for a period of not less than five years and will be made available to the Department upon request.

002 Construction Permits. Any source approved for coverage under a permit-by-rule will be considered to have fulfilled the owner or operator's duty to obtain a construction permit under this Title, unless required to do so elsewhere under this Title or the Act. Compliance with the permit-by-rule, will take precedence over requirements of previously issued construction permits applicable solely to the approved source, except for provisions in Sections 002.01 and 002.02.

002.01 The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued construction permits, unless, subject to Department approval, a site specific technical demonstration is submitted which shows that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

002.02 The permit-by-rule provisions of this chapter may not supersede requirements to limit a source's potential to emit which are contained in previously issued construction permits, unless the owner or operator can demonstrate that there was no applicable regulation in effect or condition to limit the source's potential to emit in the previously issued construction permits.

003 Operating Permits. Any source approved for coverage under a permit-by-rule will be considered to have fulfilled the duty to obtain an operating permit under this Title, unless required to do so elsewhere under this Title, the State Act, or the Act, except for provisions in Sections 003.01 and 003.02.

003.01 The permit-by-rule provisions of this chapter may not supersede more stringent requirements which are contained in previously issued operating permits, unless a site specific technical demonstration is submitted which shows

that these more stringent requirements are unnecessary to protect the NAAQS or PSD increment.

003.02 The permit-by-rule provisions of this chapter may not supersede conditions to limit a source's potential to emit which are contained in previously issued operating permits, unless the owner or operator can demonstrate that there was no regulation or condition to limit the source's potential to emit in the previously issued operating permits.

004 Temporary Sources. Temporary sources approved to construct and operate under a permit-by-rule will:

004.01 Notify the Director at least 20 calendar days in advance of each change in location by providing the information required by Chapter 6, Section 004.02B.

004.01A If the proposed location is in Lancaster County, the source will also notify the Air Quality Program of the Lincoln-Lancaster County Health Department at least 20 days in advance of the proposed change. A separate permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

004.01B If the proposed location is in the jurisdictional area of the City of Omaha, the source will also notify the Omaha Air Quality Control Agency at least 20 days in advance of the proposed change. A separate permit from the local air quality agency may be required pursuant to the regulations in effect in the local agency jurisdiction prior to relocation.

004.02 The Director may disapprove a new proposed location for a temporary source if operation in the new location would cause or contribute to a violation of state or local standards or adversely affect human health or the environment. Local air quality agencies may have more stringent regulations than the Department.

005 Duty to Comply. Each source approved for coverage under a permit-by-rule will comply with all the sections of this chapter applicable to the source. Any non-compliance with the permit-by-rule constitutes a violation of the State Act and the Act, and is grounds for enforcement action; for requiring permits under Chapters 3 and/or 6; or for disapproving of the Notice of Intent to construct and/or operate under the permit-by-rule.

006 Compliance with Other Applicable Requirements. Compliance with the provisions of this chapter does not shield the owner or operator from the duty to comply with any other applicable requirement under this Title, the State Act, or the Act not specifically addressed in this chapter.

007 Duty to Provide Requested Information. Additional information, such as an annual emissions inventory as specified in Chapter 11, or information necessary to determine applicability or to determine that emissions from the source in conjunction with all other sources will not prevent attainment or maintenance of the ambient air quality standards specified in Chapter 2, will be provided upon Department request.

008 Annual Certifications of Compliance. Sources approved for coverage under a permit-by-rule will complete and submit to the Department an annual certification of compliance on forms acceptable to the Department by March 31.

009 Certifications. Each Notice of Intent Form, copy of records, annual emissions inventory, annual certification of compliance statements or other information submitted to the Department pursuant to this chapter will contain a certification signed by a responsible official, stating that, based on information and belief formed after reasonable inquiry, the information provided is true, accurate, and complete.

010 Permit-by-Rule for Hot Mix Asphalt Plants. For purposes of this regulation, a hot mix asphalt plant is a facility that is comprised of any combination of the following: generators; heaters; dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing aggregate materials; systems for mixing hot mix asphalt; and associated emission control systems. Hot mix asphalt plants approved to be constructed or operated pursuant to the provisions of this chapter will comply with Sections 001 through 009 above and each of the following:

010.01 The owner or operator will use an air emissions computation program provided by the Department to establish hourly production limits and hourly generator combustion limits as described in Sections 010.03C and 010.05. Upon receipt of these files, the Department will use the submitted data to run an ambient air quality dispersion model to determine hourly limits that comply with the NAAQS. The source will comply with these limits.

010.02 Upon relocation of a temporary source, the owner or operator will use the parameters of the new site as input for an air emissions computation program provided by the Department. A responsible official for the source will certify the output files generated by the air emissions computation program and submit them to the Department for establishment of hourly limits as described in Section 010.01.

010.03 Production Limits.

010.03A For batch mix asphalt plants, the production of asphalt will not exceed a maximum rate of 250,000 tons per calendar month and 400,000 tons per consecutive 12 calendar months.

010.03B For drum mix asphalt plants, the production of asphalt will not exceed a maximum rate of 500,000 tons per calendar month and 850,000 tons per consecutive 12 calendar months.

010.03C The owner or operator will use an air emissions computation program provided by the Department to establish the plant capacity on a ton-per-hour basis. The Department will use the data provided by the owner or operator in a dispersion model to establish production limits that are in compliance with the NAAQS.

010.04 The generators will not combust more than 75,000 gallons of diesel fuel per calendar month and 250,000 gallons of diesel fuel per consecutive 12 calendar months; or if it is more practical for the source to keep track of hours of generator operation, and the generator is equipped with an hour meter, the following equation may be used to determine the maximum hours of generator operation per calendar month and consecutive 12 calendar months:

$$\frac{75,000 \text{ gallons}}{\text{month}} \times \frac{1}{(\text{Generator Capacity}) \text{ gallons/hour}} = \text{Operating Hours/month}$$

$$\frac{250,000 \text{ gallons}}{12 \text{ months}} \times \frac{1}{(\text{Generator Capacity}) \text{ gallons/hour}} = \text{Operating Hours/12mos}$$

010.05 The owner or operator will use an air emissions computation program provided by the Department to establish the plant capacity pound-per-hour limitations. The Department will use the data provided by the owner or operator in an ambient air quality dispersion model to establish generator operating limits that are in compliance with the NAAQS.

010.06 Moisture and Fuel Content Requirements.

010.06A Storage pile and haul road moisture content must be maintained at a level that assures compliance with Section 003 of Chapter 15.

010.06B The sulfur content of diesel fuel must not exceed 0.5% and the sulfur content of non-diesel fuel must not exceed 1.0%.

010.07 The source will not exceed a particulate emissions rate of 0.04 grains per dry standard cubic foot of exhaust gas.

010.08 Control Technology. Appropriate emission control technology will be properly installed, maintained and operated whenever associated equipment is in operation. Manufacturer's instructions will be kept accessible on site or electronically and readily available to Department representatives.

010.08A Fabric Dust Collectors (Baghouses).

010.08A1 Each fabric dust collector will be equipped with an operational pressure differential indicator.

010.08A2 Fabric dust collector filter bags are to be inspected and/or replaced according to the manufacturer's recommendations or more frequently as indicated by pressure differential readings. To determine whether each fabric dust collector is functioning properly, routine observations (at least once each day of dust collector operation) will be conducted to determine whether there are visible emissions from the stack, leaks or noise, atypical pressure differential readings, or other indications that may necessitate corrective action. Corrective action will be taken immediately if necessary.

010.09 The opacity of visible emissions will not equal or exceed 20 percent as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and by Chapter 15, Section 001.

010.10 The source will not allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air.

010.10A Routine observations (at least once each day of operation) will be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, necessitating corrective action. Corrective action will be taken immediately if necessary.

010.11 Facilities constructed, reconstructed or modified after June 11, 1973 will comply with the provisions of Section 001.14 of Chapter 12 for Hot Mix Asphalt Facilities (asphalt concrete plants) - Subpart I.

010.12 Record keeping. The owner or operator of the facility will maintain on-site records, to demonstrate compliance, as follows:

010.12A Records will be updated at least monthly no later than 15 days after the end of the month.

010.12B Storage pile moisture content and haul road moisture content.

010.12C The quantity of diesel fuel combusted in the generators or the hours of generator operation.

010.12D Records demonstrating that the source has complied with the hourly limits established in Section 010.05.

010.12E The sulfur content of fuel used in the generator and main burner.

010.12F Inspection and maintenance records to ensure control equipment is operated and well maintained. Such records will at a minimum, include the following:

010.12F1 Routine visual inspections of control equipment were performed with a description including pressure differential readings and any atypical observations;

010.12F2 Routine maintenance performed, including bag replacement, preventive actions taken, and a description of actions taken;

010.12F3 Equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and the date and time when any corrections were made.

010.12F4 Records and notifications required under Chapter 12, Section 001.01 – General Provisions Subpart A.

010.12G Records documenting routine observations conducted and any corrective action taken to assure compliance with 010.10A.

010.13 Upon request, the owner or operator will provide Department personnel access to, or copies of, the records required under this chapter.

010.14 Startup notification. The owner or operator of a source approved to construct, reconstruct or modify and operate a hot mix asphalt plant under the provisions of this chapter will notify the Department of the actual date of startup within 15 calendar days after such date.

010.15 Performance Testing. The owner or operator of a source must conduct performance testing to demonstrate compliance with Sections 010.07 and 010.09 and as required under 010.11.

011 Permit-by-Rule for Small Animal Incinerators. For purposes of this regulation, a small animal incinerator has a maximum design burning capacity of 200 lbs/hr, is used to burn animal remains and is comprised of a dual-chamber design, consisting of a primary charging chamber and a secondary chamber (or afterburner) with burners located in each chamber. The minimum stack height is seven feet above ground. Small animal incinerators approved to be constructed or operated pursuant to the provisions of this chapter will comply with Sections 001 through 009 above, Chapter 14, Sections 001 through 006, and each of the following.

011.01 Production Limits. Limits on incineration may not exceed the incineration rate, in lbs/hr, specified by the manufacturer, as measured by using the following:

011.01A Where the weight of the load is estimated, the incineration period will last for the maximum duration in hours specified by the manufacturer for a full load.

011.01B Where the weight of the load is known, the incineration period will be at least an amount of time equivalent to the weight of the load, in pounds, divided by the manufacturer's design incineration rate in lbs/hr.

011.02 Heat will be provided by the combustion of natural gas, liquefied petroleum gas, or distillate oil. The sulfur content of distillate oil may not exceed 0.05% by weight.

011.03 Materials Incinerated. Incineration will be limited to deceased animals and medical/infectious waste. Medical/infectious waste may not exceed 10% by weight of all waste incinerated in any single load. Medical/infectious wastes that may be incinerated include sharps that have been used in animal care or treatment, unused sharps, and carcasses, parts, or bedding of animals known to have been exposed to infectious agents.

011.04 Opacity. The opacity of visible emissions from the stack will not equal or exceed 20% as evaluated by Method 9 in Appendix A of 40 CFR Part 60 in accordance with 40 CFR 60.92(a)(2) and Chapter 15, Section 001.04.

011.05 Temperature. The temperature of the secondary chamber, as indicated by a temperature measuring device, will not be less than 1400° Fahrenheit with a minimum residence time of 0.5 seconds in which waste gases are released from the charged primary chamber.

011.06 Particulate matter caused by the combustion of fuel will not be emitted in excess of the hourly rate of 0.60 pounds of particulate matter per million British thermal units total heat input, in accordance with Chapter 15, Section 001.02.

011.07 Particulate matter will not be allowed to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates, in accordance with Chapter 15, Section 003.01.

011.07A Routine observations (at least once each day of operation) will be conducted to determine whether particulate matter is becoming airborne in such quantities and concentrations that it remains visible in ambient air. Corrective action will be taken immediately if necessary.

011.08 Maintenance. The incinerator will be properly maintained at all times, in accordance with manufacturer's instructions.

011.09 Record keeping. The owner or operator of the facility will maintain on-site records as follows, for a minimum of five years:

011.09A Inspection and maintenance records to ensure equipment is properly operated and well maintained. Such records will , at a minimum, include the following:

011.09A1 Records documenting the type of materials incinerated during each charge, the weight of medical/infectious waste included in each charge, the total weight of each charge (estimated or actual), and the duration of each main burner operating cycle. The duration of an operating cycle is defined as the period of time starting at the initial charge after the preheat period and ending after all material in the final charge of the operating cycle is combusted; and, when the incineration period is less than the maximum period specified by the manufacturer, calculation of the incineration rate for each charge. The incineration rate is calculated by dividing the weight of each charge by the duration of each main burner operating cycle.

011.09A2 Records documenting the sulfur content of distillate fuel, if used.

011.09A3 Records documenting when routine maintenance and preventive actions were performed with a description of the maintenance and/or preventive action performed;

011.09A4 Records documenting equipment failures, malfunctions, or other variations, including time of occurrence, remedial action taken, and the time and date when corrections were made.

011.09B Records documenting routine observations conducted and any corrective action taken to determine compliance with 011.07A.

011.10 Records Availability. Upon request, the owner or operator will provide Department personnel access to, or copies of, the records required under this chapter.

011.11 Startup Notification. The owner or operator of a source approved to construct, reconstruct or modify and operate a small animal incinerator under the provisions of this chapter will notify the Department of the actual date of startup within 15 calendar days after such date.

011.12 Performance Testing. The owner or operator of a source must conduct performance testing to demonstrate compliance with Sections 011.04 and 011.06

and with Chapter 14, Section 002, except the Director may waive performance testing provided that the owner or operator submits adequate documentation and emission test results of an animal incinerator identical or similar to the one proposed.

Enabling Legislation: Neb. Rev. Stat. §81-1504(1)(2)(11); 81-1505(12)(16)

Chapter 08

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 8 (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 42 Permit-By-Rule to Chapter 8.

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: 71 FR 38776 (07/10/2006)
PRM: 71 FR 38831 (07/10/2006)
State Submission: 10/20/2005
State Final: 05/07/2005
APDB File: NE-58; EPA-R07-OAR-2006-0476
Description: This new rule pertains to Permits-By-Rule provisions providing a streamlined approach for issuing permits to various categories of sources (minor sources in these source categories).
