

# NEBRASKA ADMINISTRATIVE CODE

## Title 129 – Air Quality Regulations

### Chapter 9 – OPERATING PERMIT MODIFICATIONS; REOPENING FOR CAUSE

#### 001 Administrative permit amendments.

001.01 An "administrative permit amendment" is a permit revision that:

001.01A Corrects typographical errors;

001.01B Identifies a change in the name, address, or telephone number of any person identified in the permit, provided that the owner or operator of the source is not changed;

001.01C Requires more frequent monitoring or reporting by the source;

001.01D Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, when the following conditions are met:

001.01D1 A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new source has been submitted to the Department; or

001.01D2 A written certification is provided to the Department from the new owner or operator which states acceptance of all active permits as issued in cases where the previous owner(s) cannot be located or are not in existence.

001.01E For PAL permits, corrects typographical and calculation errors.

001.02 A source may request the Department to make an administrative permit amendment in writing by specifying the section of the permit that is to be changed and the reason for the change.

001.03 The source may implement the changes addressed in the request immediately upon submittal of the request, subject to the Department's final action on the request under 001.04.

001.04 The Department will take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes into the permit without providing notice to the public, EPA, or affected States.

001.05 The Department will make available a copy of the revised permit to the Administrator of the EPA for Class I operating permits and PSD construction permits.

001.06 The Department will notify the source if the request does not qualify as an administrative permit amendment.

001.07 The permit shield described in Chapter 6 will not apply to administrative permit amendments.

002 Permit revisions to the acid rain portion of a Class I permit will be governed by Chapter 5.

003 Minor Permit Revisions.

003.01 For minor permit revisions of Class I and Class II operating permits, the requirements of 40 CFR § 70.7(e)(2)(i) will apply.

003.02 The minor permit revision procedures of this section may be used for construction permit revisions provided the following conditions are met:

003.02A No emission limit in the original construction permit is exceeded.

003.02B No applicable requirement included in an operating permit to which the source is subject is violated.

003.02C No emissions limit, equipment or operational standard applicable to the source will be exceeded.

003.02D No emissions limit, equipment or operational standard assumed to avoid a classification that would render the source subject to an otherwise applicable requirement will be exceeded; and

003.02E The nature of the constructed facility will be consistent with that described in the original public notice materials.

003.03 A source may request a minor permit revision by submitting a request to the Department in writing that includes the following:

003.03A A description of the change, the emissions resulting from the change, and any new applicable requirements or applicable requirements under the Act that will apply if the change occurs;

003.03B The source's suggested draft permit language.

003.03C Certification by a responsible official, in accordance with Chapter 6 for operating permits or Chapter 3 for construction permits, that the proposed revision meets the criteria in section 003.01 or 003.02 above for use of minor revision procedures and a request that such procedures be used;

003.03D For Class I operating permit revisions only, one (1) original and one (1) copy of the completed applications and information identified in 003.03A through 003.03C above for use by the Department to notify the Administrator of EPA, affected TAS, and affected States.

003.04 For Class I operating permit revisions only, within five working days of receipt of a complete minor permit revision application, the Department will notify the Administrator of EPA, affected TAS, and affected States of the requested permit revision pursuant to 40 CFR § 70.7(e)(2)(iii, iv, and vi). Administrator, as used in 40 CFR § 70.7(e)(2)(iii, iv, and vi), means Administrator of EPA.

003.05 For Class I and Class II operating permit revisions, a source may immediately make the proposed change upon the Department's receipt of the source's complete minor permit revision request. After the source makes the change, and until the Department takes action on the request, the source will comply with both the applicable requirements and applicable requirements under the Act governing the change and the proposed permit terms and conditions. If the source fails to comply with its proposed permit terms and conditions during this interim period, the existing permit terms and conditions the source seeks to revise may be enforced and such failure to comply will be cause for denial of the minor permit revision request.

003.05A For Class II operating permit minor revision requests, within 90 days of the Department's receipt of a complete application under the minor permit revision, the Department will:

003.05A1 Issue the permit revision;

003.05A2 Deny the permit revision application; or

003.05A3 Determine that the request revision does not meet the minor revision request criteria in Sections 003.01 and 003.02 above and should be reviewed under the significant permit revision procedures.

003.06 The permit shield described in Chapter 6 will not apply to a minor permit revision.

004 Group processing of minor operating permit revisions will occur pursuant to 40 CFR § 70.7(e)(3)(i, ii, iv, v, and vi).

004.01 For Class I permit revisions, the Department will require one original and one copy of completed forms for use in notifying the Administrator of EPA, affected States, and TAS.

005 Significant Permit Revisions.

005.01 A source may request a significant permit revision by submitting the application forms and information in accordance with Chapter 6 for operating permit revisions or Chapter 3 for construction permit revisions.

005.02 The Department will review an application for a significant permit revision following the applicable procedures for permit issuance, including public participation, EPA and affected States review.

005.03 For Class I operating permits, the permit shield described in Chapter 6 will apply to a significant permit revision only after the Director approves the permit revision, provided that the permit being revised contains a permit shield.

006 Reopening for cause; revocation and reissuance; and termination.

006.01 Any operating or construction permit issued by the Director will be reopened, revoked and reissued, or terminated pursuant to the standards in 40 CFR § 70.7(f)(1). Administrator, as used in 40 CFR § 70.7(f)(1)(ii) and 40 CFR § 70.7(f)(1)(iv), means Administrator of EPA.

006.02 A permit may be revoked during its term for cause, including but not limited to:

006.02A The existence at the source of unresolved noncompliance with applicable requirements or a term or condition of the permit, and refusal of the source to agree to an enforceable schedule of compliance to resolve the noncompliance;

006.02B The source has falsely certified or submitted false, incomplete, or misleading information to the Department or EPA;

006.02C The Director determines that the permitted source or activity endangers human health or the environment and that the danger cannot be removed by a revision of the permit; or

006.02D The source has failed to pay a penalty owed pursuant to a court order, stipulation and agreement, or an order issued by the Administrator of EPA.

006.03 The Department will initiate a reopening or revocation under 006.01 or 006.02 above pursuant to the procedures in 40 CFR § 70.7(f)(3).

006.04 If the Department receives a notification from the Administrator of EPA that a Class I operating permit should be reopened for cause, the Department will proceed pursuant to 40 CFR § 70.7(g). Administrator, as used in 40 CFR § 70.7(g), means Administrator of EPA.

007 Changes allowed for Class I and Class II operating permits only.

007.01 A source may make the following changes within a permitted facility without a permit revision pursuant to 40 CFR § 70.4(b)(12), provided the change is not a modification under Chapters 12 or 13, or the change does not require a construction permit under Chapters 3 or 4. Administrator, as used in 40 CFR § 70.4(b)(12), means Administrator of EPA.

007.01A For Class I sources, the written notifications above will also be submitted to the Administrator of EPA.

007.01B Notwithstanding any other part of this rule, the Director may, upon review of a notice submitted in accordance with 007.01, require a source to apply for an operating permit if the change does not meet the requirements of Section 007.01.

007.02 may make changes within a permitted facility without a permit revision pursuant to 40 CFR § 70.4(b)(14), if the change is not: a modification under Chapters 12 or 13, or if the change is not a change which would require a construction permit under Chapters 3 or 4. Administrator, as used in 40 CFR § 70.4(b)(14), means Administrator of EPA.

007.02A Notwithstanding any other part of this rule, the Director may, upon review of a notice submitted in accordance with 007.02 require a source to apply for an operating permit if the change does not meet the requirements of Section 007.02.

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

## Chapter 09

### 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 9 (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 15  
Operating Permit Modifications: Reopening for cause to Chapter 9.

---

#### 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) 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 15 (007) extends the process of "off-permit changes" to Class I and II operating permits as allowed under the federal program.

---

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. Updates to Chapter 15 add 001.01E; 003.03C & D; 003.05 A, B, C & D; and 003.07; and amend 003.01C; 003.01E; 003.01E3 003.02, 003.02A- 003.02D; 003.03; 003.03 A & B; 003.04, 003.04 A & B, 003.05; 003.06; 003.03; 004.04D; 004.06; 005; 005.02; 005.03; 005.04; 006.01; 006.01D; 006.01E; 006.02; 006.03; 007 and 007.01.

---

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.

---

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: As part of the overall recodification of the Nebraska rules, the EPA approved a new rule which establishes requirements for permit modifications and grounds for reopening for cause with respect to SIP-based operating permits. The EPA also approved the rule pursuant to section 112(l) of the Clean Air Act so that it would be enforceable with respect to hazardous air pollutants.

---