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Operating Permits

Introduction

The Federal Clean Air Act Amendments of 1990 and the passage of LB1257 (1992) by the Nebraska Legislature required that the Nebraska Department of Environment and Energy (NDEE) establish and implement a comprehensive operating permit program for sources of certain air pollutants. The Federal operating permit program is referred to as the “Title V” operating permit program. The State of Nebraska’s Title V operating permit program is referred to as the Class I operating permit program. Although the Federal Title V program only regulates major sources of air pollution, the Nebraska program also regulates certain minor sources using Class II operating permits. The following is intended to provide a brief overview of air quality operating permits in Nebraska.

Major vs Minor Source

A source’s Major or Minor status is determined by its potential emissions, with the larger emitting sources being considered Major and the smaller emitting sources being considered Minor. These source types are defined in the [Nebraska Administrative Code Title 129 – Nebraska Air Quality Regulations](#):

- *Major Source*: as defined in [Title 129, Chapter 1](#), those sources that emit or have the potential to emit any air pollutant in quantities greater than 100 tons per year (tpy). Lower thresholds exist for lead (5 tpy) and for other hazardous air pollutants: 10 tpy of any single hazardous air pollutant (HAP) or 25 tpy of a combination of HAPs.
- *Minor Source*: any source that is not defined as a major source in Chapter 1.

Class I and Class II Permits

In accordance with Title 129, Chapter 6:

- A Class I permit is required to operate a major source. A Class I permit is also required for any source, including an area source, subject to a standard or other requirement under Title 129, Chapters 12 or 13.
- A Class II permit is required for minor sources that have actual emissions more than 50 tpy of PM₁₀, NO_x, SO_x, volatile organic compounds (VOC), or CO; 5 tpy of any single HAP or 12.5 tpy of a combination of HAPs; or 2.5 tpy of lead.

Types of Operating Permits

The Department provides sources with a choice of two types of operating permits: a *general* permit or an *individual* permit. A general permit has the same requirements for, and covers, all sources in that category, provided that the source meets the applicability criteria and applies for and obtains coverage. Once a general permit is issued, a source can be covered without going through the individual public notice process. General permits offer a streamlined process for eligible applicants and a significant resource savings for the Department.

An individual permit is issued to a specific source at a specific location and addresses the particular needs and issues at the source in question. Because it is “tailor made” for the source, developing an individual permit requires much more time and labor than for general permits. All individual permits also must go through a public notice (30-day comment period), which further increases the time required to issue the permit.

Why Not Issue Only General Permits?

You may be wondering why the Department doesn't issue general permits for all sources, since it has advantages for both sources and the Department. Just like people, all sources are unique. Although certain types of sources can be grouped together for permitting purposes, most sources don't fit a specific mold. For these sources, the Department issues individual permits.

Because the Department establishes criteria for coverage under general permits and the requirements are uniform, an individual source doesn't have very much flexibility in certain areas. Consequently, some sources prefer to have an individual permit instead of a general permit.

In Nebraska, permits-by-rule were previously available for asphalt plants and small animal incinerators. Any new businesses in these sectors can now apply for coverage under the appropriate general permit. Contact the Department for more information.

Low Emitters

Revisions to the operating permit regulations in September 1997 relieved a considerable number of sources from the permit requirements. This change shifted the focus of the permit program from Potential-to-Emit to actual emissions and created the Low Emitter Rule. In general, if a source can document actual emissions below the threshold levels established in the regulations, then it is not required to obtain an operating permit. The result has been a significant reduction in the number of sources that must be covered by a permit, with no identifiable degradation of air quality in Nebraska. See the Fact Sheet titled “[Nebraska's Low Emitter Rule](#),” document number 00-001, for more information.

Frequently Asked Questions

The Air Quality Program receives many questions regarding operating permits for air contaminant sources. Many of these questions arise from the uncertainty of who exactly is required to obtain one. Some of the most frequently asked questions are listed below, along with answers to help you determine if this applies to your source.

Q. What is the difference between an operating permit and a construction permit?

- A. A construction permit must be obtained prior to constructing an air contaminant source and is valid for the life of the covered emission units. An operating permit must be applied for within 12 months of startup of an air contaminant source, is valid up to five (5) years for a Class I source and must be renewed. A Class II operating permit is valid for five (5) to ten (10) years and must be renewed or some Class II permits can be valid for the lifetime of the source. Operating

permits contain all applicable requirements for all emission points at a facility. This includes incorporating conditions from any construction permits issued to that source.

Q. How do I know if I need an operating permit?

A. An operating permit is required for all sources that have **actual emissions** that are equal to or greater than the Class II thresholds defined in the “Major vs Minor Source” and “Class I and Class II Permits” sections above. The type of permit that is required is as follows:

- A Class I Operating Permit is required if **actual emissions** are at or above the Class I thresholds;
- Either a Class I or Class II Permit is required if **actual emissions** are greater than the Class II thresholds, and **potential emissions** are greater than the Class I thresholds;
- A Class II Operating Permit is required if **potential and actual emissions** are between the thresholds.

A source has No Operating Permit Required Status if **actual emissions** are less than the Class II thresholds and **potential emissions** are less than the Class I thresholds.

Q. What is an “emission unit”?

A. An “emission unit” is any part or activity of a stationary source that emits or would have the potential to emit any regulated air pollutant.

Q. What is the difference between potential emissions and actual emissions?

A. Generally, potential emissions are the maximum emissions that would result from operating the facility at full capacity 24 hours a day, seven (7) days a week, 52 weeks a year taking into consideration federally enforceable requirements. Actual emissions are emissions produced by a facility as a result of actual operating times and actual operating conditions.

Q. How do I determine if my facility’s emissions meet or exceed those requiring an operating permit?

A. Generally, emissions need to be estimated using emission factors for the relevant equipment and pollutants. However, emissions data from testing on a similar unit may be acceptable. For estimations, the Department generally uses emission factors from the Compilation of Air Pollutants Emission Factors (AP-42) or from Factor Information Retrieval Data System (FIRE). These and other emission factor sources may be found on the internet at <https://www.epa.gov/chief>. Most emission factors are based on fuel usage, throughput, or other quantifiable process information.

Q. How do I obtain a permit application?

A. An operating permit application can be obtained from the Department’s Air Operating Permit Program Publications webpage at http://dee.ne.gov/publica.nsf/Pubs_Air_OP.xsp. You may also contact the Air Quality Program of the Nebraska Department of Environment and Energy by e-mail at NDEE.AirQuality@nebraska.gov, by calling (402) 471-2186, or by mail at P.O. Box 98922, Lincoln, NE 68509-8922.

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