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## Nebraska's Low Emitter Rule

### Introduction

On September 7, 1997, the Low Emitter Rule went into effect in [Nebraska Administrative Code Title 129 - Nebraska Air Quality Regulations](#). The Low Emitter Rule shifts the focus of the operating permit program from potential-to-emit (PTE) to actual emissions for certain sources. Simply put, a source may be exempt from operating permit requirements if its PTE is over the Class I permitting thresholds, but its actual emissions are below the Class II thresholds.

### Operating Permit and Low Emitter Background Information

Title 129, Chapter 6 establishes when a source is required to obtain an operating permit. Sources with PTE above the Class I (major) source thresholds in Chapter 1 are required to obtain either a Class I or Class II-Synthetic Minor operating permit.

Title 129, Chapter 6 also establishes thresholds for Class II operating permits. Sources that have *actual* emissions above the Class II thresholds are required to obtain a Class II operating permit unless a Class I permit is required due to another applicable regulation.

As described above, the Class I (major) source operating permit program is based upon PTE, whereas the Class II operating permit program is based upon actual emissions from a source. Without the Low Emitter Rule, sources that have PTE that exceeds the Class I (major) source thresholds would be required to obtain an operating permit, regardless of actual emissions levels. Under the Low Emitter Rule, sources that exceed the Class I thresholds, but have actual emissions below the Class II thresholds, can apply for Low Emitter status and be exempted from the requirement to obtain an operating permit, subject to NDEE approval.

### Low Emitter Status Eligibility:

To determine if a source qualifies for Low Emitter status, complete the following steps:

- Calculate the PTE of the source for each regulated pollutant. PTE is the maximum quantity of air pollutant(s) an emission unit or source can emit in a year given its physical and operational design. PTE is generally calculated under the assumption that the source is operated continuously for one year (i.e., 8,760 hours per year). Additionally, the PTE calculation assumes that pollution from an emission unit is uncontrolled, unless the usage of emission control equipment is a federally enforceable requirement. If you have questions about calculating PTE for a specific process or source, please contact the NDEE Air Program.
- Calculate the actual emissions of the source for each regulated pollutant. Actual emissions are the actual rate of emissions of a pollutant from an emission unit.
- Compare the PTE and actual emissions of the source. If PTE exceeds the Class I (major) source thresholds, but actual emissions are less than the Class II thresholds, you may qualify for Low Emitter status provided that the source is not required to obtain an operating permit under another

applicable requirement. Examples of sources that are not eligible for Low Emitter status and must obtain an operating permit include, but are not limited to: acid rain sources, incinerators (including bake-off ovens), and landfills with design capacity equal to or exceeding 2.5 million megagrams (Mg).

If calculations show that the source has actual emissions that exceed the Class II thresholds, the source must obtain an operating permit.

If calculations show that the source has PTE below the Class I (major) source thresholds and actual emissions are below the Class II thresholds, your source may qualify for No Operating Permit Required status. For more information concerning No Operating Permit Required status, contact the NDEE Air Program.

### **Low Emitter Rule Requirements:**

If a source meets the eligibility criteria described above and wants to be classified under Low Emitter status, the source **must** meet the following requirements:

- The source must submit a demonstration of PTE and actual emissions for NDEE review of eligibility under the Low Emitter Rule. The NDEE recommends that this demonstration be submitted on the Low Emitter/No Operating Permit Required Application. The NDEE will verify Low Emitter Program eligibility through the information presented in the Low Emitter/No Operating Permit Required Worksheet, previously submitted permit applications, emission inventories, or other records of emissions from the source. NDEE may request additional information to be submitted to help determine Low Emitter eligibility. Please note that a source must have at least five (5) years of actual emissions data in order to be considered for low emitter status.
- The source must maintain records, including necessary calculations and supporting material, demonstrating that actual emissions remain below the Class II thresholds. All records must be updated at least monthly. If records are not available or cannot be supplied to the NDEE within a reasonable amount of time after request, the source does not qualify for Low Emitter status and an operating permit is required.
- If emission control devices are utilized at a source, the source must maintain records to demonstrate that control devices are continuously maintained and operated as specified by the manufacturer to achieve the level of efficiency for which emissions reduction credit is sought. If these records are not available or cannot be supplied to the NDEE within a reasonable amount of time after request, the source must assume actual emissions are uncontrolled when determining eligibility for Low Emitter status.

### **Cons of the Low Emitter Program**

A source that qualifies for Low Emitter status is not required to obtain an air quality operating permit. However, there are drawbacks to the Low Emitter Rule that a source should evaluate. It is a violation for a source under Low Emitter status to have actual emissions that exceed the Class II thresholds without first obtaining an operating permit. Therefore, a source that has plans for expansion or expects that actual emissions may exceed the Class II thresholds may not want to apply for Low Emitter status.

### **Questions**

For additional information on the Low Emitter Rule, please contact the NDEE Air Quality Program at: [NDEE.AirQuality@nebraska.gov](mailto:NDEE.AirQuality@nebraska.gov), or call us at (402) 471-2186.

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