

LINCOLN-LANCASTER COUNTY AIR POLLUTION CONTROL PROGRAM

ARTICLE 2. REGULATIONS AND STANDARDS

SECTION 1. DEFINITIONS

Unless otherwise defined, or a different meaning is clearly required by context, the following words and phrases, as used in these Regulations and Standards, and the related appendices shall have the following meanings:

"Act" means the Clean Air Act, as amended (42 U.S.C. 7401 et seq.).

"Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined below:

(1) In general, Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the preceding year and which is representative of normal source operation. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, existing control equipment, and types of materials processed, stored, or combusted during the selected time period.

(2) The Director may presume that the source-specific Allowable emissions for the unit are equivalent to the Actual emissions of the unit.

(3) For any emissions unit which has not begun normal operations on the particular date, Actual emissions shall equal the potential to emit of the unit on that date.

"Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designee.

"Affected facility" means, with reference to a stationary source, any apparatus to which a standard of performance is specifically applicable.

"Affected source" means a source that includes one or more Affected units.

"Affected States" means all States that:

(1) Are one of the following contiguous States: Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming, and in the judgement of the Director may be affected by emissions from a facility seeking a Title V permit, modification, or renewal; or

(2) Are a contiguous State within 50 miles of the permitted source.

"Affected unit" means a unit that is subject to emission reduction requirements or limitations under Chapter 26 of these Regulations and Standards.

"Air contaminant" or "Air contamination" means the presence in the outdoor atmosphere of any dust, fumes, mist, smoke, vapor, gas, or other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere.

"Air pollutant" or "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant or animal life.

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(1) The applicable standards set forth in 40 CFR Part 60 (Standards of Performance for New Stationary Sources) or 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants);

(2) Any applicable State Implementation Plan emissions limitation including those with a future compliance date; or

(3) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

"Ambient air" means the portion of the atmosphere, external to buildings, to which the general public has access.

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"Applicable requirement" means except as provided in section (12), all of the following as they apply to emissions units in a source required to obtain an operating permit, including requirements that have been promulgated and approved by the City of Lincoln and/or the Lancaster County Board of Commissioners through rulemaking at the time of issuance but have future effective compliance dates:

(1) Any standard or other requirement provided for in the applicable implementation plan that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR part 52;

(2) Any term or condition of any pre-construction permit;

(3) Any standard or other requirement under Section 18 of these Regulations and Standards relating to standards of performance for new stationary sources;

(4) Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted in Section 27 of these Regulations and Standards relating to hazardous air pollutants listed in Appendix II;

(5) Any standard or other requirement of the acid rain program under Section 26 of these Regulations and Standards;

(6) Any requirements established pursuant to Section 26 of these Regulations and Standards;

(7) Any standard or other requirement governing solid waste incineration, under Section 18 or of these Regulations and Standards or pursuant to Section 129 (e) of the Act;

(8) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;

(9) Any standard or other requirement for tank vessels under Section 183(f) of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners;

(10) Any standard or other requirement to protect stratospheric ozone as promulgated pursuant to Title VI of the Act and regulations adopted by the City of Lincoln or the Lancaster County Board of Commissioners; and

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(11) Any national ambient air quality standard or increment or visibility requirement under Section 18 of these Regulations and Standards but only as it would apply to temporary sources permitted pursuant to Section 10 of these Regulations and Standards.

(12) "Applicable requirements under the Act" means federal regulations promulgated pursuant to the Clean Air Act, as amended, which have not been considered and adopted by the City of Lincoln or the Lancaster County Board of Commissioners.

"Area source" means:

(1) For the purposes of Class I permits under Section 5, subparagraph (A)(1)(b) of these Regulations and Standards, any stationary source of hazardous air pollutants that is not a major source and as more particularly defined by National Emission Standards for Hazardous Air Pollutants promulgated under 40 C.F.R. Part 63 and adopted by the Lancaster County Board of Commissioners.

(2) For all other purposes, any small residential, governmental, institutional, commercial, or industrial fuel combustion operation; on-site waste disposal facility, vessels, or other transportation facilities; or other miscellaneous sources, as identified through inventory techniques approved by the Director.

(3) Area source shall not include motor vehicles or nonroad vehicles.

"Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures. With respect to a change in method of operating this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

"Best Available Control Technology" means an emission limitation or a design, equipment, work practice, operational standard or combination thereof, which results in the greatest degree of reduction of a pollutant, as determined by the Director to be achievable by a source, on a case-by-case basis, taking into account energy, public health, environmental and economic impacts and other costs.

"Board of Health" means the Lincoln-Lancaster County Board of Health.

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"Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, 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 as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

"Class I operating permit" means any permit or group of permits covering a Class I source that is issued, renewed, amended, or revised pursuant to these Regulations and Standards and meets the definition of a Title V permit for purposes of the Clean Air Act.

"Class I source" means any source subject to the Class I permitting requirements of Section 5 of these Regulations and Standards.

"Class II Operating Permit" means any permit or group of permits covering a Class II source that is issued, renewed, amended, or revised pursuant to these Regulations and Standards.

"Class II Source" means any source subject to the Class II permitting requirements of Section 5 of these Regulations and Standards.

"Commence" as applied to construction, reconstruction, or modification of a dispersion tech means that the owner or operator has all necessary preconstruction approvals and either has:

(1) Begun, or caused to begin, a continuous program of physical on-site construction of the source to be completed within a reasonable time;

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

"Complaint" means any charge, however informal, to or by the Department that any person or agency, private or public, is polluting the air or is violating the provisions of these Regulations and Standards.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

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"Consumer Price Index or CPI" means the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor at the close of the twelve-month period ending on August 31 of each year.

"Control and controlling" means prohibition of contaminants as related to air pollution.

"Control Equipment" means any equipment that functions to prevent the formation of or the emission to the atmosphere of air contaminants from any fuel burning equipment, incinerator, or process equipment.

"Control strategy" means a plan to attain National Ambient Air Quality Standards or to prevent exceeding those standards.

"Department" means the Lincoln-Lancaster County Health Department.

"Designated representative" means a responsible natural person authorized by the owners and operators of an Affected source and of all Affected units at the source, as evidenced by a certificate of representation submitted in accordance with subpart B of 40 CFR part 72, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the Acid Rain Program. Whenever the term "responsible person" is used in this Ordinance it shall be deemed to refer to the "designated representative" with regard to all matters under the Acid Rain Program.

"Director" means the Health Director of the Lincoln-Lancaster County Health Department, or any representatives, agents, or employees of the Director.

"Dioxin/furans" means total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

"Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by using that portion of a stack which exceeds good engineering practice stack height, varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant, or increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. The preceding sentence does not include:

(1) The re-heating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(2) The use of smoke management in agricultural or silvicultural prescribed burning;

(3) The merging of exhaust gas streams where:

(a) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;

(b) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the Allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(c) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Director shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Director shall deny credit for the effects of such merging in calculating the Allowable emissions for the source.

(4) Episodic restrictions on residential wood burning and open burning;

(5) Techniques such as manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack, or other selective handling of exhaust gas streams, which increase final exhaust gas plume rise where the resulting Allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

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"Draft permit" means the version of a permit for which the permitting authority offers public participation and, in the case of a Class I draft operating permit, Affected State review.

"Emission data" means chemical analysis of process fuel and the manufacturing or production process, as well as operational procedures and actual nature and amounts of emissions.

"Emission limitation" and "Emission standard" mean a requirement established by a State, local government, or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

"Emissions allowable under the permit" means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement or applicable requirement under the Act that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid any of the same to which the source would otherwise be subject.

"Emissions unit" means any part or activity of a stationary source which emits or would have the potential to emit any regulated air pollutant or any pollutant listed in Appendix II. subject to regulation under the Act. This term is not meant to alter or affect the definition of the "unit" for purposes of Title IV of the Act.

"Emissions" means releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof.

"Excessive concentrations" for the purpose of determining "good engineering practice stack height" defined elsewhere in this section means:

(1) For sources seeking credit for stack height exceeding that established paragraphs (1) and (2) of the definition "good engineering practice (GEP) stack height", a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater

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than an ambient air quality standard. For sources subject to the prevention of significant deterioration program (40 CFR 51.166 and 52.21), an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this part shall be prescribed by the new source performance standard that is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator.

(2) For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", either a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in paragraph (A) above, except that the emission rate specified by any applicable State implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or the actual presence of a local nuisance caused by the existing stack, as determined by the Director.

(3) For sources seeking credit after January 12, 1979 for a stack height determined in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", where the Director requires the use of a field study or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984 based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970 based on the aerodynamic influence of structures not adequately represented by the equations in paragraphs (1) and (2) of the definition of "good engineering practice (GEP) stack height", a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Existing source" means equipment, machines, devices, articles, contrivances, or installations which are in being on the effective date of these Regulations and Standards.

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"Federally enforceable" means all limitations, conditions, and requirements within any applicable State Implementation Plan, any permit requirements established in any permit issued pursuant to these Regulations and Standards, and any requirements in Section 18, Section 23, Section 27 and Section 28 of these Regulations and Standards which are enforceable by the Administrator.

"Final permit" means the version of a permit issued by the Department that has completed all review procedures required by Section 14 of these Regulations and Standards, and for a Class I permit, Section 13 of these Regulations and Standards.

"Fixed capital cost" means the capital needed to provide all the depreciable components of a source.

"Fuel burning equipment" means any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel.

"Fugitive dust" means solid airborne particulate matter emitted from any source other than a flue or stack.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all animal, fruit, or vegetable waste residue which is produced by preparation, dressing, use, cooking, dealing in, or storage of meats, fish, fowl, fruits, vegetable, cereals, or grains for human consumption, and coffee or tea grounds.

"General permit" means a Class I or Class II operating permit that meets the requirements of Section 9 of these Regulations and Standards.

"Good Engineering Practice (GEP) Stack Height" means the greater of:

(1) Sixty-five (65) meters;

(2) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required, $H_g = 2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limit, where:

Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

(3) For all other stacks, $H_g = H + 1.5L$, where:

Hg = good engineering practice stack height measured from the ground level elevation at the base of the stack; and
H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack; and
L = lesser dimension (height or projected width) of nearby structure(s).

provided that the Director may require the use of a field study or fluid model to verify GEP stack height for the source; or

(4) The height demonstrated by a fluid model or a field study approved by the Director, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

"Hazardous air pollutant" means any air pollutant:

(1) listed in Appendix II, or

(2) to which no ambient air quality standard is applicable and which in the judgment of the Director may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Implementation plan" means an implementation plan adopted by the Nebraska Department of Environmental Quality pursuant to Section 110 of the Act, to attain and maintain a national standard.

"Incinerator" means any article, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

"Installation" means an identifiable piece of process equipment.

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"Lowest Achievable Emission Rate (LAER)" means, for any source, the more stringent emission rate from either:

(1) The most stringent emission limitation contained in the implementation plan of any state for such class or category of sources (as adopted by the Lancaster County Board of Commissioners) unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(2) The most stringent emission limitation which is achieved in practice by such class or category of source and adopted by the Council. These limitations, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.

"Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.

(1) Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair and replacement;

(b) Use of an alternative fuel or raw material reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Energy Regulatory Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the Act;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

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(1) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166; or

(2) The source is approved to use under any permit issued under regulations approved pursuant to 40 CFR 51.165.

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, pursuant to 40 CFR 52.21 or regulations approved pursuant to 40 CFR Part 51, Subpart I; or

(g) Any change in ownership at a stationary source.

"Major stationary source or major source" means any source identified in Section 2 of these Regulations and Standards.

"Minor source" means any source which is not defined as a major source in Section 2 of these Regulations and Standards.

"Modification" means any physical change in, or change in method of operation of, an Affected facility which increases the amount of any air pollutant, except that:

(1) Routine maintenance, repair, and replacement (except as defined as reconstruction) shall not be considered physical changes; and

(2) An increase in the production rate or hours of operation shall not be considered a change in the method of operation, unless such change would violate a permit condition.

"National standard" means either a primary or a secondary standard established pursuant to the Act.

"Nearby" means, as pertains to Good Engineering Practice Stack Height:

(1) That distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (one-half mile), and

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(2) For conducting demonstrations under paragraph (4) of the definition for "Good Engineering Practice (GEP) Stack Height", that distance not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (HT) of the feature, not to exceed 2 miles if such feature achieves a height (HT) 0.8 km from the stack that is at least 40 percent of the GEP stack height determined by the formula provided in paragraph (3) of the definition for "Good Engineering Practice (GEP) Stack Height" or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the applicable State Implementation Plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero:

(1) Any increase in Actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(2) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. An increase or decrease in Actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs. An increase or decrease in actual emissions is creditable only if:

(a) It occurs within a reasonable period, not to exceed one year, to be specified by the Director; and

(b) The Director has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in Actual emissions from the particular change occurs.

(3) An increase in Actual emissions is creditable only to the extent that the new level of Actual emissions exceeds the old level.

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(4) A decrease in Actual emissions is creditable only to the extent that:

(a) The old level of Actual emissions or the old level of Allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(b) It is federally enforceable at and after the time that actual construction on the particular change begins;

(c) The Director has not relied on it in issuing any permit under regulations approved pursuant to 40 CFR Part 51, Subpart I or in demonstrating attainment or reasonable further progress; and

(d) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(5) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New source" means any stationary source, the construction, modification, or reconstruction of which is commenced after the publication of regulations by the Lincoln-Lancaster County Health Department or the United States Environmental Protection Agency prescribing a standard of performance which will be applicable to such source.

"Non-attainment area" means any area designated by the Department or the U.S. Environmental Protection Agency pursuant to Section 107(d) of the Act as an area exceeding any National Ambient Air Quality Standard.

"Odor" means that property of an air contaminant detectable by the Department, beyond the boundary line of the property on which the source is located.

"Opacity" means a state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

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"Open burning" means the burning of any matter in such a manner that the products of combustion resulting from such fires are emitted directly into the ambient air without passing through an adequate stack, duct, or chimney.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J at 40 CFR Part 50 or equivalent methods.

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than un-combined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method, specified by the U.S. Environmental Protection Agency, or by a test method specified in an approved State Implementation Plan.

"PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified by the U.S. Environmental Protection Agency or by a test method specified in an approved State Implementation Plan.

"Permit modification" means a revision to a Class I or Class II operating permit that meets the requirements of Section 15 of these Regulations and Standards.

"Permit revision" means any Class I or Class II operating permit modification or administrative permit amendment.

"Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof or any legal successor, representative, agent, or agency of the foregoing.

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"Performance test" means measurements of emissions or other procedures used for the purpose of determining compliance with a standard of performance conducted in accordance with approved test procedures.

"Implementation Plan" means an implementation plan adopted by the Nebraska Department of Environmental Quality pursuant to Section 110 of the Act, to attain and maintain a national standard.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Section 2 of these Regulations and Standards.

"Primary standard" means a national primary ambient air quality standard identified in Section 4 of these Regulations and Standards.

"Process" means any action, operation or treatment, and all methods and forms of manufacturing or processing, that may emit smoke, particulate matter, gaseous matter, or other air contaminant.

"Process equipment" means any equipment, device, or contrivance for changing any materials whatsoever or for storage or handling of any materials, the use or existence of which may cause any discharge of air contaminants.

"Process weight" means the total weight of all materials introduced into any source operation. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not.

"Process weight rate" means for continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof. For a cyclical or batch source operation, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the number of hours of actual process operation during such a period. Where the nature of any process or operation, or the design

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of any equipment, is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

"Proposed Class I operating permit" means the version of a permit that the Department proposes to issue and forwards to the Administrator for review.

"Reasonable further progress" means such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D of the Act or may reasonably be required by the Director for the purpose of ensuring attainment of the applicable ambient air quality standard by the applicable date.

"Reconstruction" means a situation where the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall be made in accordance with the provisions of 40 CFR 60.15(f)(1)-(3). A reconstructed source will be treated as a new stationary source. In determining best available control technology or lowest achievable emission rate for a reconstructed source, the provisions of 40 CFR 60.15(f)(4) shall be taken into account in assessing whether a standard of performance under 40 CFR Part 60 is applicable to such source.

"Refuse" means and include garbage, rubbish, ashes, street refuse, dead animals, vehicles and parts thereof, industrial wastes, construction wastes, sewage treatment residue, leaves and grass, and any other waste matter or material which accumulates in the conduct of a household, business establishment, shop, or factory of any kind or nature, and any other combustible waste material containing carbon in a free or combined state.

"Region" means:

- (1) An air quality control region designated by the Secretary of Health, Education and Welfare or the Administrator; or
- (2) Any area designated by the State as an air quality control region.

"Regional administrator" means the Regional designee appointed by the Administrator.

"Regulated air pollutant" means the following:

(1) Nitrogen oxides or any volatile organic compounds as defined in this section;

(2) Any pollutant for which a national ambient air quality standard has been promulgated;

(3) Any pollutant that is subject to any standard in Section 18 of these Regulations and Standards; and

(4) Any pollutant subject to a standard or other requirements established in Section 23 of these Regulations and Standards relating to hazardous air pollutants, including the following:

(a) Any pollutant subject to requirements under Section 112(j) of the Act; and

(b) Any pollutant for which the requirements relating to construction, reconstruction, and modification in Section 112(g) of the Act have been met, but only with respect to the individual source subject to these requirements.

"Regulated pollutant for fee purposes" means any regulated air pollutant identified in the previous section, except for the following:

(1) Carbon monoxide;

(2) Particulate matter, excluding PM₁₀;

(3) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; and

(4) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation promulgated under Section 112(r) of the Act.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(a) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(b) The delegation of authority to such representatives is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, State, Federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(4) For affected sources:

(a) The designated representative in so far as actions, standards, requirements, or prohibitions under Section 2 of these Regulations and Standards are concerned; and

(b) The designated representative for any other purposes under the Title V of the Act.

"Rule, regulation or standard" means any rule or regulation of the City of Lincoln or the Lancaster County Board of Commissioners.

"Salvage Operation" means any operations conducted in whole or in part for the salvaging or reclaiming of any product or material.

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"Significant" means, as pertains to a modification in a non-attainment area, a net increase in Actual emissions by a rate that would equal or exceed the following:

Pollutant and Emission Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter: 25 tpy

PM₁₀ : 15 tpy

Ozone: 40 tpy of volatile organic compounds

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H₂S): 10 tpy

Total reduced sulfur (including H₂S): 10 tpy

Reduced sulfur compounds ((including H₂S): 10 tpy

Municipal waste combustor organics

(measured as total tetra- through octa-chlorinated dibenzo-p- dioxins and dibenzo furans): 3.2x10⁻⁶ tons per year)

Municipal waste combustor metals

(measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases

(measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(1) Emissions from ships or trains coming to or from the new or modified stationary source; and

(2) Emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

"Secondary standard" means a national secondary ambient air quality standard identified in Section 4 of these Regulations and Standards.

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"Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or applicable requirements under the act, or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), record keeping, reporting, or compliance certification requirements.

"Source" means any factory, grain elevator, machine, industrial plant, real or personal property, or person contributing to air pollution.

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Stack in existence" means that the owner or operator had (1) begun, or caused to begin, a continuous program of physical on-site construction of the stack or (2) entered into binding agreements or contractual obligations which could not be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard of performance" means a standard for emission of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Director determines has been adequately demonstrated.

"Startup of operation" means the beginning of routine operation of an affected facility.

"State" means the State of Nebraska.

"Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation by this Ordinance or these Regulations and Standards.

"Title V Program" means a program approved by the Administrator for purposes of Title V of the Act.

"Type 4 Waste" means human and animal remains consisting of carcasses, organs, and solid tissue waste from medical and other facilities with a heat value of 1000 BTU/pound.

"Type 5 Waste" means medical facilities waste including sharps, pathological, surgical, and associated infectious waste materials with heat value of 8,500 BTU/pound.

"Volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

Acetone;

- 1-chloro-1fluoroethane (HCFC-151a)
- chlorofluoromethane (HFC-31)
- 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a)
- difluoromethane (hfc-31)
- 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3,-heptafluoropropane ((CF₃)₂CF₂OCH₃)

Methane;

- 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄FH₉OCH₃)
- 1,1,1,3,3-pentafluorobutane (HFC-365mfc)
- 1,1,1,2,3-pentafluoropropane (HFC-245eb)
- 1,1,1,3,3-pentafluoropropane (HFC-245ca)
- 1,1,1,3,3-pentafluoropropane (HFC-245ea)
- 1,1,1,3,3-pentafluoropropane (HFC-245fa)

Ethane;

- 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3,-heptafluoropropane ((CF₃)₂CF₂OC₂H₅)
- 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅)
- ethylfluoride (HFC-161)
- 1,1,1,3,3-hexafluoropropane (HFC-236ea)
- 1,1,1,3,3-hexafluoropropane (HFC-236fa)

Methylene chloride (dichloromethane);

1,1,1-trichloroethane (methyl chloroform);

1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);

Trichlorofluoromethane (CFC-11);

Dichlorodifluoromethane (CFC-12);

Chlorodifluoromethane (HCFC-22);

Trifluoromethane (HFC-23);

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1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);

Chloropentafluoroethane (CFC-115);

1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);

1,1,1,2-tetrafluoroethane (HFC-134a);

1,1-dichloro 1-fluoroethane (HCFC-141b);

1-chloro 1,1-difluoroethane (HCFC-142b);

2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124);

Pentafluoroethane (HCFC-125);

Tetrachloroethylene (PERC);⁹

1,1,2,2-tetrafluoroethane (HFC-134);

1,1,1-trifluoroethane (HFC-143a);

1,1-difluoroethane (HFC-152a)

parachlorobenzotrifluoride (PCBTF);

methylated siloxanes (cyclic, branched, or linear completely);
and

perfluorocarbon compounds which fall into the following
classes:

(a) Cyclic, branched, or linear, completely fluorinated
alkanes;

(b) Cyclic, branched, or linear, completely fluorinated
ethers with no saturations;

(c) Cyclic, branched, or linear, completely fluorinated
tertiary amines with no saturations; and

(d) Sulfur containing perfluorocarbons with no
unsaturations and with sulfur bonds only to carbon and fluorine.

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EPA Rulemakings

CFR: 40 C.F.R. 52.1420(c) and Part 70, Appendix A, Nebraska; City of Omaha; Lincoln-Lancaster County Health Department, (d)
FRM: 65 FR 3130 (1/20/00)
PRM: 65 FR 3168 (1/20/00)
State Submission: 2/5/99
State Final: 8/11/98
APDB File: NE-41
Description: These revisions update the definitions of "Volatile Organic Compounds" and "building structure or facility" and add 16 compounds to the list of exempt VOCs.

CFR: 40 C.F.R. 52.1420(c)(44)(i)(A)
FRM: 61 FR 5701 (2/14/96)
PRM: 61 FR 5725 (2/14/96)
State Submission: 5/31/95
State Proposal: 2/28/95
State Final: 5/16/95 (effective date locally)
APDB File: NE-37
Description: EPA approved a revision to the SIP that updated the local ordinances of the Lincoln-Lancaster County Health Department and created a Federally enforceable Class II operating permit program. The Lincoln-Lancaster County Air Pollution Control Program rules replaced Chapter 8.64 regulations of the city of Lincoln and Resolution No. 3155 of Lancaster County in their entirety.

CFR: 40 C.F.R. 70, Appendix A, Lincoln-Lancaster County (c)
FRM: 60 FR 53872 (10/18/95), Correction Notice 61 FR 7073 (2/26/96)
PRM: 60 FR 5883 (1/31/95)
State Submission: 11/12/93
State Proposal: 2/28/95
State Final: 5/16/95 (effective date locally)
APDB File: NE-32b
Description: EPA fully approved the operating permits program submitted by Lincoln-Lancaster County for the purpose of complying with Federal requirements for an approvable program to issue operating permits to all major stationary sources and certain other sources. The EPA also approved, under 112(l), the county's program for accepting delegation of section 112 standards to enforce air toxics regulations.

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)(24)
FRM: 47 FR 22954 (5/26/82)
PRM: 42 FR 46371 (9/15/77)
State Submission: 12/27/76
State Proposal: 12/10/76
State Final: 3/16/76; 6/21/76 (effective dates locally)
APDB File: NE-08
Description: EPA approved the revised ordinance and regulations for the city of Lincoln. The state withdrew Section 051 of the ordinance and Sections 4, 15, and 17 of the regulations.

CFR: 40 C.F.R. 52.1420(c)(23)
FRM: 47 FR 22954 (5/26/82)
PRM: 42 FR 46371
State Submission: 4/4/77; 2/18/82
State Proposal: 3/18/77
State Final: 2/4/77 (effective date locally)
APDB File: NE-08
Description: EPA approved the Lancaster County regulations into the SIP. Sections 6, 9, and 23 were withdrawn by the state prior to final rulemaking by the EPA.

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CFR: 40 C.F.R. 52.1420(a)
FRM: 37 FR 10842 (5/31/72)
PRM: None
State Submission: 1/28/72
State Proposal: Unknown
State Final: 2/28/67 (effective date locally)
APDB File: NE-00
Description: EPA approved the city of Lincoln's ordinance for air pollution control as part of
the original SIP.

Difference Between the State and EPA-Approved Regulation

None.