

Title 129 - Nebraska Air Quality Regulations

Chapter 29 - OPERATING PERMIT EMISSION FEES

001 Applicability. The provisions of this Chapter shall apply to any person who owns or operates a major source as defined in Chapter 2, who is required to obtain a Class I permit in accordance with Chapter 5.

002 Calculation of Fee. Beginning July 1, 1995, owners or operators of major sources, identified in 001 above, shall pay an annual emission fee for each ton of a regulated pollutant for fee purposes emitted to the air by the facility. Any temporary source issued a Class I permit under Chapter 10 shall pay an annual emission fee for emissions during the time period the source was located and operated in the State. The fee shall be based on the actual emission tonnages and as established in the emission inventory for the previous calendar year, beginning with calendar year 1994. For purposes of this Chapter, a pollutant which may be regulated under more than one provision of this Title, need only be counted once.

002.01 The emission fee shall be determined by multiplying \$25 per ton of regulated pollutant for fee purposes reported in the annual emission inventory report required in Chapter 6. The emission fee shall be increased or decreased annually by the Department in each year, beginning after 1991, by the percentage difference between the Consumer Price Index (CPI) for the most recent year ending before the beginning of such year and the CPI for the year 1989 or as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit programs as identified in Neb. Rev. Stat. §81-1505.04.

002.02 Except as provided in 002.03 below, the emission fee is due and payable on actual emissions up to and including 4,000 tons per year for each regulated pollutant.

002.03 In the case of an electric generation facility with a nameplate generating capacity of between seventy and one-hundred fifteen megawatts, beginning with calendar year 2001 emissions, the emission fee is due and payable on actual emissions up to and including 400 tons per year for each regulated pollutant.

003 Any person subject to the requirements of this Chapter who fails to submit an annual emissions inventory report when required by Chapter 6 shall pay an annual emission fee based on the source's potential to emit as defined in Chapter 1.

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004 Payment of fees. Any person required to submit fees pursuant to this Chapter, shall submit the fees to the Director of the Department by check, or other authorized transfer, made payable to the Nebraska Department of Environmental Quality. The fees shall be due and payable on July 1 of each year, beginning with calendar year 1995, with submission of the annual emission inventory report form. All fees paid in accordance with this Chapter shall be non-refundable.

005 Failure to submit the fees required by this Chapter, in addition to other relief allowed by law, shall be cause for:

005.01 Revocation of the source's Class I operating permit; and

005.02 Assessment of a late payment fee of 20 percent of the payment due, which late payment fee shall be increased by an additional 10 percent of the original payment due for each additional 30 day period that the payment is late. Such late payment fee shall be payable to the Department as provided in 004.

006 If the Director determines that the annual emission inventory report form is incomplete or inaccurate for the purposes of calculation of fees under this Chapter, the Director may require the source to submit additional data or other information, as well as an explanation of the source's calculation. If such additional data or information changes the annual emission inventory report and results in the assessment of additional fees, such additional fees shall be payable within 30 days of notice of the assessment in accordance with 004 above.

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

Legal Citation: Title 129, Ch. 29, Nebraska Department of Environmental Quality

EPA Rulemakings

CFR: 40 C.F.R. Part 70, Appendix A, Nebraska; City of Omaha; Lincoln-Lancaster County Health Department, (f)
 FRM: 68 FR 40528 (07/08/2003)
 PRM: 68 FR 40617 (07/08/2003)
 State Submission: 05/10/2002
 State Final: 04/01/2002
 APDB File: NE-54
 Description: This revision removed a sunset provision subjecting certain electric generation units to a lower emission fee. These units will now pay emissions fees beginning with calendar year 2001 emissions.

CFR: 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: 9/7/97
 APDB File: NE-41
 Description: This revision adds subsection 002.03 regarding an electric generation facility exception.

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: 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(1), the state's program for accepting delegation of section 112 standards to enforce air toxics regulations.

Difference Between the State and EPA-Approved Regulation

None.