Program Review

of

NDEE's Air Permitting Programs

Conducted: June – July and September 2022

U.S. EPA, Region 7

Air Permitting and Standards Branch
Air and Radiation Division

Nebraska Department of Environment and Energy Program Review Report Contents

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NDEE

AIR PERMITTING PROGRAMS

PROGRAM REVIEW REPORT

A. INTRODUCTION

The comprehensive review of Nebraska Department of Environment and Energy's (NDEE's) air permitting programs was part of the Environmental Protection Agency (EPA) Region 7's efforts to fulfill the EPA's oversight responsibility to ensure adequate implementation of the Clean Air Act. The overall scope of this review included assessment of the state agency's performance regarding: 1) Prevention of Significant Deterioration (PSD)/New Source Review (NSR) construction permitting, 2) Title V operating permitting, 3) synthetic minor permitting [construction and/or operating], 4) New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) determinations, 5) the establishment of enforceable permit conditions and 6) the use of Title V operating permit fees.

The review was initiated by a letter to the department dated April 25, 2022, with a request for separate lists of state NSR construction and Class II operating permits issued over the previous three years and a request that questionnaires be completed and returned to the regional office prior to the remote site review of files. We also requested that the NDEE fill out Attachment C from the March 27, 2018 guidance "Program and Fee Evaluation Strategy and Guidance for 40 CFR Part 70." The decision was made to conduct the program review from remote work locations due to the on-going COVID 19 pandemic. Therefore, this review was accomplished using video meetings and reviewing electronic versions of files.

The program review entrance meeting was held virtually on June 8, 2022. Attachment E lists the attendees of the meeting. A file review exit meeting was held virtually on August 10, 2022. At this meeting we discussed our initial findings and discussed the next steps for the review. Attachment F list the attendees of the exit meeting.

The following Region 7 staff participated in the review of files: Ward Burns, Bob Cheever, Keith Johnson, David Peter, Pat Scott, and Bob Webber. A total of 92 sources and 133 permit files were reviewed regarding the above-mentioned actions (see Appendix A).

The review team appreciated the assistance of the NDEE staff in providing records and financial information, and answering questions related to the program review.

B. SUMMARY of FINDINGS and CONCLUSIONS

The NDEE runs adequate construction and operating permit programs. In general, we found that all the projects we reviewed completed the proper level of permitting with the significant area of concern for permitting being, the use of simply standards incorporation by reference in both construction and operating permits which does not meet the guidelines as recommended by EPA. For fees, there was a concern that NDEE did not provide a documented allocation methodology for the allocation of certain expenses funded by Title V fees. The following observations are in no particular order and most are discussed in more detail later in the report.

Observations

In summary, EPA has determined that NDEE's fee schedule meets the requirements of Part 70 and is therefore presumptively adequate. Further, EPA did not identify any significant concerns with NDEE's management of the Title V program in relation to the use of Title V fees and the ability for the state to adequately fund the Title V permit program at the current time. EPA did note that NDEE is allocating certain expenses, captured by activity codes, to multiple funding sources. NDEE did not provide a documented allocation methodology for the historical allocation. It is recommended that NDEE document and support the allocation methodology being used to ensure the rational is defensible.

Most permit limits appeared to be practically enforceable. However, NDEE's use of simple incorporation by reference in both construction and operating permits is concerning and not considered practically enforceable. Vague high-level citations to an entire NESHAP or NSPS subpart should not be used. We recommend the permit cite to the level necessary to identify the applicable requirements that apply to each emissions unit and to identify how the unit will comply with the requirements. The permit needs to be specific enough that it is clear and is not reasonably subject to misinterpretation. The permit must include specific regulatory citations in each applicable requirement identifying the emission limitations and standards; and the monitoring, recordkeeping, reporting, and testing requirements associated with the emission limitations and standards need to be specific enough to ensure compliance with the permit. The EPA has objected to operating permit which incorporated by reference NESHAP or NSPS requirements without providing sufficient detail to determine the specific requirements that apply to emission units at the source.

The NDEE uses air dispersion modeling or other means to assure that new sources or modifications will not interfere with the attainment or maintenance of any ambient air quality standard when PSD applies. During the file review, we found several permitting actions where NDEE has conducted air modeling for non-PSD sources.

The NDEE uses an electronic records system, Enterprise Content Management Portal (ECMP), for records storage. This system can be accessed and is available for the general public. The EPA was able to find most of the files needed for the file review in the system.

We did not observe any incorrect NSPS/NESHAP applicability/non-applicability determinations in the files we reviewed. However, more specificity should be used when standards are incorporated into permits by reference. Especially incorporating standards at the subpart level is problematic since often various parts of standards apply or do not apply depending on the specifics at the particular facility. The EPA Administrator has objected to Title V permits for not adequately incorporating the specific applicable requirements that apply to the facility when incorporating at the Subpart level.[1] Being more specific would ensure that the permittee and the public are made aware of the applicable requirements in a clear and consistent manner.

NDEE Title 129, Chapter 14 requires construction permits and Class I and Class II operating permits to have the opportunity for the public to participate in the permit development or modification process prior to issuance. The regulation appears to require public notice for all major and minor permits with the exception of permit modifications qualifying for administrative or minor permit revision. It appears that both construction and operating permits are being issued in accordance with EPA recommendations and NDEE regulations. The file review discovered that the public is given at least 30 days notice via newspapers to submit comments. The draft permits are also posted on the NDEE website during the public comment period and documents related to the permit are available to the public using ECMP. We commend NDEE for this good practice and encourage them to continue it.

NDEE posts their final major and minor construction permits and Class I and Class II operating permits in the ECMP. This is not a requirement, but in the interest of open public information sharing, this practice is to be commended. During the file review, we found supporting documents such as email communications and telephone conversation records in most of the files; however, some files were missing this documentation. When these types of documents are preserved in the ECMP, it provides a stronger permitting record.

NDEE has two local agencies, Lincoln Lancaster County Health Department and Omaha Air Quality Control, that issues major and minor construction permits on behalf of the state and the local agency.

All permits reviewed had a fact sheet/statement of basis included in the file. The Fact Sheets have been streamlined over the past years, but still contain essential information.

The NDEE has a very low permit backlog, and for the most part, issued both operating and construction permits timely. However, variances were found to be issued on a regular basis.

The NDEE does a good job of early engagement with the EPA on controversial permits, both Prevention of Significant Deterioration (PSD) and Title V. The NDEE provides EPA with the

[1] For example, see the March 18, 2022, order responding to the ExxonMobil Corp., Baytown Chemical Plant petition available at https://www.epa.gov/system/files/documents/2022-04/exxonmobil-baytown-order_3-18-22.pdf.

modeling protocols and invites the EPA to meetings between the two agencies to discuss concerns prior to final drafting of the permit.

C. CATEGORIZED COMMENTS

1. General

a. Staffing

The NDEE air permitting program is divided into two groups – the Construction Permit Section which includes the modeling staff and the Operating Permit Section. The air permitting program has a total of 20 staff positions with 16 of the positions currently filled. This includes one Administrator, two Section Supervisors, 14 permit writers, two air modelers, and one clerical. The average length of NSR permit writing experience is less than 5 years excluding the Administrator.

The NDEE expressed an interest in the EPA providing additional training opportunities.

b. Incorporation by Reference:

Most permit limits appeared to be practically enforceable. However, NDEE's use of incorporation by reference in both construction and operating permits is concerning. In many of the permits we reviewed, NDEE includes "Specific Conditions For Affected Emission Points" like the following:

- "The source shall comply with the applicable emission limitations and testing requirements as specified in 40 CFR Part 60 Subpart (----) and 40 CFR Part 63 Subpart (----)"; or
- "The source shall comply with the applicable notifications, record keeping, and reporting as required by 40 CFR Part 63, Subpart A and (----); or
- "The permittee shall comply with all applicable operational and monitoring requirements from NSPS Subpart ---- for emission unit (xxxx)"; or
- "The source shall demonstrate compliance with all applicable NSPS Subpart A and (-----) requirements";

This approach to incorporation by reference does not meet the guidelines as recommended in EPA's *White Paper #2 for Improved Implementation of the Part 70 Operating Permits Program (March 5, 1996).* The guidance in White Paper #2 states:

> "Incorporation by reference in permits may be appropriate and useful under several circumstances. Appropriate use of incorporation by reference in permits includes referencing of test method procedures, inspection and maintenance plans and calculation methods

> for determining compliance. One of the key objectives Congress hoped to achieve in creating title V, however, was the issuance of comprehensive permits that clarify how sources must comply with applicable requirements. Permitting authorities should therefore balance the streamlining benefits achieved through incorporation by reference with the need to issue comprehensive, unambiguous permits useful to all affected parties including those engaged in field inspections."

The white paper further states:

> "Section 504(a) states that each permit "shall include enforceable emission limitations and standards" and "Such other conditions as are necessary to ensure compliance with applicable requirements."

In addition, section 504(c) requires each permit to "set forth inspection, entry, monitoring, compliance certification and reporting requirements to assure compliance with the permit terms and conditions." Analogous provisions are contained in Sections 70.6(a)(1) and (3).

The EPA interprets these provisions to place limits on the type of information that may be referenced in permits.

We suggest that NDEE strongly consider including the EPA suggested specificity around enforceable emission limitations, compliance verification methodology, monitoring and record keeping and reporting requirements.

c. Other General Observations

We did not notice any documentation on Environmental Justice (EJ) in the files we reviewed. From the Questionnaires we learned that NDEE does not have legislation or a formal policy or guidance expressly addressing environmental justice in permitting. However, NDEE stated that in the administration of its programs and activities, they seek to ensure fair treatment of all people regardless of race, color, national origin, disability, age, and meaningful involvement of the public with respect to their environmental programs. NDEE has placed a non-discrimination statement prominently on its webpage and designated a deputy director as the point of contact for any questions. Other examples include (1) extensive stakeholder outreach in the regulation development process, (2) public information sessions associated with draft permits in addition to public hearings, (3) a robust citizen complaint system and an online "report a problem", (4) compliance assistance on NESHAPs and NSPS, (5) an enforcement goal to protect and reduce risk to human health and the environment, (6) grant programs, and (7) the ability to utilize limited language translation services. During the file review, we observed that after a permit was issued, there was a citizen complaint to which NDEE responded. The telephone conversation record outlined the NDEE's response to the citizen complaint. NDEE's response is to be commented in addressing citizens' concerns. We understand that NDEE is not required by the Clean Air Act or their State Implementation Plan to address EJ in permitting actions. However, people

can file complaints for violating Title VI of the Civil Rights Act of 1964 against the NDEE. This has happened in another state in Region 7 related to an air permit. Therefore, we encourage the NDEE to consider additional EJ issues and engage with communities.

The NDEE's electronic records system, Enterprise Content Management Portal (ECMP), seems to work well and is extremely useful with employees working remotely and when access is desired by EPA, other states, or the general public. The EPA was able to access records using the ECMP for the file reviews. The system seems easy to use, and we had no issues accessing the records stored in the system. We did notice a few documents had not been added to the system, and when we reported the omissions to the Section Supervisor, the documents were added. If the ECMP is the official file repository, we suggest that each permit writer check the ECMP after the final permit has been issued to ensure that all the files were uploaded to the ECMP. This process would provide a quality assurance check of the completeness of the final permit record.

2. Construction Permitting

a. Assuring Healthy Air Quality

We reviewed the construction permitting records for evidence that the NDEE was considering the impact to air quality when issuing permits. 40 CFR §51.160(a) states: *"Each plan must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation, or combination of these will result in—(1) A violation of applicable portions of the control strategy; or (2) Interference with attainment or maintenance of a national standard in the State in which the proposed source (or modification) is located or in a neighboring State."*

In the NSR Questionnaire, NDEE stated that preconstruction monitoring requirements are specified in NDEE's PSD and Minor Source Modeling Guidance available on the NDEE's website at: http://dee.ne.gov/publica.nsf/PubsForm.xsp?documetId=84D0237BF48270708625819400 67B0CA&action=openDocument

NDEE responded that they routinely provide representative ambient monitoring data in lieu of requiring applicants to perform preconstruction monitoring. They stated the basis for the monitoring value selected included data from the agency's ambient air monitoring stations. The basis for the monitoring value is selected in accordance with the National Ambient Air Quality Standards (NAAQS) and other relevant regulations. Ambient air concentrations (monitored values) are directly measured and use the applicable NAAQS averaging period (i.e., 3-year average for 24-hour $PM_{2.5}$) as per regulation. Modeled impacts are predicted based on emissions, and use a 5-year met data set to capture the worst possible meteorological conditions. Background concentrations determined by monitored NAAQS averaging period are added to the predicted modeled impacts to capture concentrations attributable to natural sources, unidentified sources in the vicinity of the project, and regional transport contributions from distant sources.

The NDEE reported that they follow EPA's modeling guidelines in 40 CFR Part 51 Appendix W. Minor NSR sources modeling procedures follows Appendix W as much as practical, however, minor sources do not perform secondary pollutant analysis for PM2.5 and ozone (i.e., a Tier 1 Modeled Emission Rates for Precursors (MERPs) demonstration), model haul roads, or model PSD Class II Increments. Only a few of the files we review indicated that minor source modeling had been done. For Major NSR modeling, every attempt is made to conform to Appendix W guidelines. The Department does submit to EPA Region 7 request for approval of any non-regulatory modeling options.

The NDEE stated that they ask applicants to submit a modeling protocol for approval prior to submitting modeling. The NDEE asks applicants to conform its modeling demonstration to guidance issued by both EPA and NDEE. When an applicant's air quality modeling reveals NAAQS and/or PSD increment violations, NDEE requires a culpability analysis to demonstrate that the facility is not contributing to the violation at a level equal to or greater than the SIL. Failing that analysis, the facility can add additional control technology or possibly modify source characteristics (e.g., increase the stack height in accordance with GEP regulations) to resolve the violations.

The NDEE stated that in the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalize increment consumption/expansion inventory for the State.

The NDEE modeling staff does really well in engaging with EPA Region 7 modeling staff. The NDEE provides ample time to review modeling protocols. NDEE often reaches out to Region 7 staff to discuss modeling topics and issues that are needed to produce a modeling demonstration than conforms to EPA regulations and guidance.

Upon review of the RACT/BACT/LEAR Clearinghouse (RBLC) database, we found that NDEE needs to enter some Best Available Control Technology (BACT) decisions into the database. We have learned that they currently have a new staff member who is in the process of entering data, learning the program and has asked assistance from EPA recently.

b. Other Construction Permitting Observations

The Lincoln Lancaster County Health Department and Omaha Air Quality Control issue NSR

permits on behalf of the NDEE. In the NSR Questionnaire, the NDEE stated that they review NSR permits and have regular communication with the two local agencies; collaborates with the local agencies on questions in regard to facilities; aids with modeling for the local agencies, shares training opportunities as they become available, and the NDEE has opportunity to comment during public notice on draft permits. This program review did not reveal any record of these local permit reviews. The EPA did not find any report or record of these reviews occurring or if they are documented. If they are not documented, we recommend that NDEE developing a method of preserving any permit comments and a record of the reviews. The information collected indicates that there is no longer a formalized auditing program that NDEE conducts for the local agencies.

c. Variances

During the file review, we discovered several variances for construction permits that were being drafted. The NDEE stated in the NSR Questionnaire that during 2019 through 2021, they did not issue any variances for projects that were issued a PSD permit. However, 15 variances were issued for synthetic minor projects allowing construction prior to receiving a permit, and there were 14 variances for true minor projects allowing construction prior to receiving a permit. The EPA does not agree with NDEQ's use of variances in their PSD and synthetic minor permitting program. A project that has the potential to emit criteria pollutants at or above the major source thresholds should be considered a PSD project until a permit is issued limiting emissions below those thresholds. We encourage NDEQ to continue providing notice of all variances to EPA when they are issued and to refrain from issuing variances for projects that have not received a permit limiting the emissions below PSD thresholds prior to a permit being issued that limits the project emissions to synthetic minor limits.

3. NSPS / NESHAP

We did not observe any incorrect NSPS/NESHAP applicability/non-applicability determinations in the files we reviewed. The permit application forms seemed well designed to collect information needed to determine NSPS/NESHAP applicability. However, we found that some files do not contain much documentation which support the NSPS/NESHAP decisions. In some cases, the description in the permit provided explanations for determinations and referenced guidance documents relied upon. However, there were records where we did not see any documentation in the file explaining the rationale of the determination.

4. Operating Permits

a. Title V Fees

Section 502(b)(3)(A) of the Clean Air Act (Act) requires Title V operating permit programs to fund all "reasonable direct and indirect costs" of the permit programs through fees collected from Title V sources and requires the fees to be sufficient to cover all reasonable Title V permit program costs. 40 CFR §70.9(a) requires state Title V programs to collect fees sufficient to cover

the permit program costs and "ensure that any fee required by this section will be used solely for permit program costs."

In response to an EPA Office of Inspector General 2014 report, regarding the importance of enhanced EPA oversight of state, local, and tribal fee practices under Title V of the Act, the EPA issued a March 27, 2018 guidance titled "Program and Fee Evaluation Strategy Guidance for 40 CFR Part 70." This guidance recommends the EPA seek internal assistance for fee evaluations from staff with governmental accounting, financial, or economics expertise, who work outside the Part 70 program. For this review, Kathy Finazzo from the EPA Region 7's Resources and Financial Management Branch in the Mission Support Division provided assistance.

The following is a summary of the fee requirements that guide EPA's review of air agency programs.

- Title V permit fees must be paid by "part 70 sources", and the permit fees must cover all "reasonable (direct and indirect) costs" of the permit program. If the permit fees at least cover the total permit program costs, the fees are deemed to be sufficient.

- Any fee required by part 70 must "be used solely for permit program costs" – in other words, required permit fees may not be diverted for non-part 70 purposes. Nothing in part 70 restricts air agencies from collecting additional fees beyond the minimum amount needed to cover part 70 program costs; however, all fees (including surplus) must be used for part 70 purposes.

In compliance with federal regulations, the provisions of Neb. Rev. Stat. 81-1505.34, as amended, state that NDEE is required to collect an annual fee on the emissions from major sources of air pollution in an amount sufficient to cover the costs of the implementation of the permit program. This statute provides flexibility to develop and adjust the fee according to federal regulations or "as required to pay all reasonably direct and indirect costs of developing and administrating the air quality permit program."

NDEE's Title V operating permit program is principally funded by annual emission fees charged to Title V (Class I) sources. The program also generates interest income from carry over emission fee revenue and may receive an occasional fee related to drafting a significant modification to an existing permit.

The NDEE air quality permit program issues predominantly Title V permits, though also issues Class II operating permits for synthetic minors, Class II operating permits for natural minors and construction permits. Only Class I permits pay an annual emission fee. NDEE does collect application fees for construction permits but does not collect any fees for Class II operating permits.

The state of Nebraska fiscal year runs from July 1 to June 30. Emission fees collected based on the 2021 emission inventory are used to fund the 2023 fiscal year. EPA's presumptive Title V fee in effect during Nebraska's 2021 fiscal year was $52.79 per ton. Total emissions reported

from Nebraska Title V sources during the 2020 calendar year used for the presumptive minimum calculation were 37,521 ton of regulated pollutants. Therefore, the presumptive minimum fee collection amount calculates to be $1,980,733.59 (37,521 tons x $52.79/ton). Nebraska reported emission fees collected as $2,526,339.92. Therefore, Nebraska collected an amount greater than or equal to the presumptive fee required by EPA and is therefore presumed to have adequate fees to fund the Title V program.

For the 2021 emission inventory, NDEE's emission fee charged was $50 per ton of regulated pollutant. Emission inventories are reported by sources and tracked in the State and Local Emissions Inventory System (SLEIS). A cap of 4,000 tons per regulated pollutant applied to all major sources. Further, Nebraska spent $2,165,213.09 to fund the Title V program in fiscal 2021, which is also less than the amount collected for fiscal 2021. NDEE's operating result for the 2021 fiscal year was $361,126.83, and its fund balance including retained earnings was $3,687,030.10. NDEE does plan to minimize future emission fee rates by applying past surplus funds toward future rate calculations.

Fees collected from major sources are used to implement Nebraska's Class I program. As previously stated, Nebraska statute requires that emission fees can only be used for purposes of the direct and indirect costs associated with the Class I permit program. (Neb. Rev. Stat. 81-1505.05).

Nebraska's Payroll and Financial Center System is utilized to document time and resources spent on the air quality permit programs. The Air Quality Permit Program Emission Fee Appropriations Report notes that program activities are either charged to the:

1. Title V program,
2. the "state" program (the 105 grant program - federal and state funds),
3. the federal 103 program (maintains the ambient monitoring network (federal funds) or
4. construction permit application fee program.

All time spent by staff on the Title V program is recorded as program activity on timesheets in the Payroll and Financial Center System. The Title V program includes activities associated with major sources and synthetic minor sources. Each Title V and Class II synthetic minor facility has a unique project number code that is used on employee timesheets that tracks all hours of activity for that facility. NDEE defines a Class II synthetic minor source as a source that has a potential to emit to be a major source, but through enforceable limits has lowered its potential to emit to below the major source thresholds.

The largest expense of NDEE's permit program is personnel costs comprising 72% of total costs incurred. Personnel costs plus indirect costs comprise 95% of total costs incurred. NDEE operating permit writers do not work exclusively on Title V permits. The operating permit team reviews and drafts both Class I and Class II operating permits. All time spent by staff on the Title V program is recorded as program activity on timesheets. All permit staff code every 0.25 hour

of work time to a specific activity code on their timesheet. Permit, planning, and compliance program staff may also work on Title V related issues and they too document time by primary activity and by specific source or non-source specific activities.

There are an additional 5 primary activity codes used by NDEE staff to capture expenses that benefit both the Air 105 program and the Title V program. These 5 activity codes are classified as: Compliance Office Activities, Planning Office, Operating Permit Office, Construction Permit Office, and NO FID/Permit. NDEE staff did not provide documented support for the allocation methodology being used, though believed that historically, costs charged to these activity codes were funded 30% by the Air 105 program and 70% by the Title V program. The current allocation methodology being applied when these activity codes are used splits the costs charged to 3 different funding sources, with 82% being charged to the Title V program. As NDEE has been using an historical allocation for these jointly benefitting expenses, it is recommended that NDEE document and support the allocation methodology being used to ensure the rational is defensible.

Regarding the use of Title V emission fees to fund activities associated with synthetic minor sources, EPA has issued guidance which could be interpreted in different ways. As previously noted, EPA issued guidance that states any fee required by part 70 must "be used solely for permit program costs", in other words, required permit fees may not be diverted for non-part 70 purposes. Alternatively, EPA issued a memorandum on August 28, 1994, titled "Additional Guidance on Funding Support for State and Local Air Programs" which states that depending upon how a state has designed its Title V program, permitting expenses associated with the costs of synthetic minor sources may be either Title V or grant eligible.

Synthetic minor sources are those which have the capacity to emit pollutants in excess of threshold quantities for major sources but, through federally enforceable restrictions, are required to emit less. If a state chooses to establish limits on potential to emit using its approved Title V program, then the costs related to creating these limits are Title V costs.

In summary, EPA has determined that NDEE's fee schedule meets the requirements of Part 70 and is therefore presumptively adequate. Further, EPA did not identify any significant concerns with NDEE's management of the Title V program in relation to the use of Title V fees and the ability for the state to adequately fund the Title V permit program at the current time.

b. Other Title V Observations

The EPA tracks Title V timely permit issuance with semiannual reports called the Title V Operating Permits System (TOPS). The TOPS report from the NDEE for the period of January 1, 2022 through June 30, 2022 demonstrated that the NDEE is issuing Title V permits in a timely manner. NDEE reported four initial Part 70 applications older than 18 months.

The NDEE sends reminders to facilities approximately 12 months prior to the renewal of their operating permit. Providing these reminders is not a requirement of the Title V program. We believe NDEE should continue this practice since it likely reduces the number of late renewal applications, is a nice compliance assistance service to the facilities, and puts NDEE in a better enforcement position if facilities fail to submit their renewal application timely.

The NDEE makes their final Title V permits available on the internet through the ECMP. Likewise, NDEE posts a notice of draft permits on the internet during the public comment period with a link to the related documents. They also send email notifications to EPA, affected states, locals and tribes of draft Title V permits on public notice.

ATTACHMENT A: List of Sources Reviewed

FID#	Facility Name	Location
39525	ADM Animal Nutrition	Columbus
39285	ADM Corn Processing	Columbus
72698	Ag Processing Inc.	Hastings
114697	Alliance Animal Clinic	Alliance
84069	AltEn, LLC	Mead
114917	American Butchers, LLC	Beaver City
40343	AmesTrue Temper	Falls City
7083	Ansley Light Plant	Ansley
4129	Ash Grove Cement Co	Louisville
111979	AT&T Chadron	Chadron
36919	Auburn Generating Plant	Auburn
87072	Aurora West LLC	Aurora
111281	Blue Valley Crematory LLC	Milford
104962	Blueprint Engines	Kearney
87464	Bridgeport Ethanol	Bridgport
55093	Broken Bow Pwer Plant	Broken Bow
59060	Calloway MPP	Calloway
83871	Cambridge Interconnector Substation	Cambridge
58355	Chappell MPP	Chappell
61713	City Of Neligh	Neligh
111584	Columbus Hydraulics Company, LLC	Columbus
100535	Consolidated Grain and Barge Co.	Falls City
112636	Cross Creek Animal Health Cntr	Staplehurst
58332	Curtis MPP	Curtis
115525	Dakota City Renewable Energy, LLC	Dakota City
41253	Darling Ingredients	Bellevue
2374	Eaton Corporation, LLC	Kearney
86751	Eco-Energy Distribution - Beatrice, LLC	Beatrice
84534	Elkhorn Valley Ethanol, LLC	Norfolk
65024	Evonik	

106518	Fireball Group	Papillion
58429	FlexCON	Columbus
86026	Flint Hills Resources	Fairmont
107214	Fortigen Geneva	Geneva
62575	Gavilon Fertilizer - Hastings	Hastings
112122	Gehrig-Stitt Chapel & Cremation Service, LLC	Sidney
86416	Green Plains Atkinson	Atkinson
82836	Green Plains Central City LLC	Central City
86000	Green Plains Wood River, LLC	Wood River
86876	Hansen Hog West LLC	Hartington
51621	Harman Wright Morturary	Beatrice
77861	Heartwell Renewables LLC	Hastings
75073	KAAPA Ethanol, LLC	Minden
2409	KAAPA Grains, LLC	Elm Creek
106013	Keystone Veterinary Services	Humphrey
58348	Kimball MPP	Kimball
76680	Lincoln Premium Poultry	Fremont
57640	Lincoln Water Systems - Ashland	Ashland
53676	Lindsay Manufacturing, LLC	Lindsay
84157	MBA Broilers - East	Tecumseh
57979	Merck Animal Health	Elkhorn
73092	Metal-Tech Partners	Geneva
112462	Midwest Machine & Tool	Columbus
89693	Monsanto	Waco
37388	Nebraska City PP #1	Nebraska City
64753	Nebraska City Utilities PP #3	Nebraska City
84221	Nebraska Corn Processing	Cambridge
98441	Nebraska Vault Company	Columbus
35605	Nebraska Wilbert Vault Co.	Norfolk
35157	Northeast Community College	Norfolk
23382	Northern Natural Gas Company	Beatrice
62420	NPPD 1000kW Mobile Generator	York
84283	Nucor Cold Finish	Norfolk
35677	Nucor Steel	Norfolk
58737	Nustar North Platte Terminal (formerly owned by Kaneb Pipeline)	North Platte

58390	Offutt AFB	Offutt AFB
48716	Omaha Steel Castings Co	Wahoo
58343	OPPD NE City	Nebraska City
62593	Pheasant Point Recycling & Disposal (Douglas Co. RDF)	Bennington
116135	Pioneer Animal Clinic	Scottsbluff
86905	Preferred Sands	Genoa
108432	Raven Northbrook	Papillion
108432	Raven Northbrook LLC	Springfield
86963	Rockies Express Pipeline	Odell
92461	Scoular Grain Co North Grant	Ogallala
113269	Scribner Diesel Generation Station	Scribner
65775	South Sioux City WWTF	South Sioux City
26807	Stuart MPP	Stuart
24352	Swift Beef Company	Grand Island
27522	Tecumseh MPP	Tecumseh
56628	TIGT - Big Springs Compressor Station	Big Springs
58735	TIGT North Platte Compressor	North Platte
78323	Trenton Agri Products, LLC	Trenton
7339	Tyson Fresh Meats	Dakota City
8744	Tyson Fresh Meats Incorporated	Lexington
85814	Valero	Albion
57476	Valmont Industries	Valley
22872	Village of Oxford Light Plant	Oxford
107024	Viridis Chemical	Columbus
43328	Wahoo Power Plant	Wahoo
103925	West Plains, LLC	Chadron
44141	Western Sugar	Scottsbluff

List of Files Reviewed

FID#	Facility Name	Decision date	Location
39525	ADM Animal Nutrition	07/11/19	Columbus
39285	ADM Corn Processing	01/03/19	Columbus
39285	ADM Corn Processing	04/03/19	Columbus
39285	ADM Corn Processing	1/2/2020	Columbus
39285	ADM Corn Processing	1/22/2020	Columbus
39285	ADM Corn Processing	2/11/2020	Columbus
39285	ADM Corn Processing	2/11/2020	Columbus
72698	Ag Processing Inc.	3/26/2021	Hastings
72698	AGP	2/22/2021	Hasting
114697	Alliance Animal Clinic	8/14/2020	Alliance
84069	AltEn, LLC	5/23/2019	Mead
114917	American Butchers, LLC	5/17/2021	Beaver City
40343	AmesTrue Temper	2/7/2019	Falls City
7083	Ansley Light Plant	6/3/2021	Ansley
4129	Ash Grove Cement	7/12/2021	Louisville
4129	Ash Grove Cement Co	05/22/19	Louisville
4129	Ash Grove Cement Co	3/18/2020	Louisville
111979	AT&T Chadron	02/04/19	Chadron
36919	Auburn Generating Plant	8/4/2021	Auburn
87072	Aurora West LLC	6/24/2020	Aurora
111281	Blue Valley Crematory LLC	4/6/2021	Milford
104962	Blueprint Engines	4/19/2021	Kearney
87464	Bridgeport Ethanol	2/1/2021	Bridgport
55093	Broken Bow Pwer Plant	2/22/2021	Broken Bow
59060	Calloway MPP	11/12/2021	Calloway
83871	Cambridge Interconnector Substation	11/30/2021	Cambridge
58355	Chappell MPP	5/20/2020	Chappell
61713	City Of Neligh	1/2/2020	Neligh
111584	Columbus Hydraulics Company, LLC	02/15/19	Columbus
100535	Consolidated Grain and Barge Co	6/30/2021	Fall City
100535	Consolidated Grain and Barge Co	10/15/2021	Falls City
100535	Consolidated Grain and Barge Co.	12/03/19	Falls City
112636	Cross Creek Animal Health Cntr	6/18/2020	Staplehurst

58332	Curtis MPP	8/18/2021	Curtis
115525	Dakota City Renewable Energy, LLC	6/3/2021	Dakota City
41253	Darling Ingredients	7/2/2019	Bellevue
41253	Darling Ingredients	12/21/2021	Bellevue
2374	Eaton Corporation	4/7/2020	Kearney
2374	Eaton Corporation	9/21/2021	Kearney
2374	Eaton Corporation, LLC	4/28/2021	Kearney
86751	Eco-Energy Distribution - Beatrice, LLC	12/29/2021	Beatrice
84534	Elkhorn Valley Ethanol	7/23/2019	Norfolk
84534	Elkhorn Valley Ethanol, LLC	1/30/2020	Norfolk
65024	Evonik	07/18/19	
106518	Fireball Group	2/19/2020	Papillion
58429	FLEXcon	02/28/19	Columbus
58429	FLEXcon	08/29/19	Columbus
58429	FlexCON	3/4/2021	Columbus
86026	Flint Hills Resources	05/16/19	Fairmont
86026	Flint Hills Resources Fairmont	6/17/2021	Fairmont
107214	Fortigen	7/30/2020	Geneva
107214	Fortigen Geneva	11/14/19	Geneva
62575	Gavilon Fertilizer - Hastings	06/20/19	Hastings
112122	Gehrig Stitt Chapel	1/21/2020	Sidney
112122	Gehrig-Stitt Chapel & Cremation Service, LLC	02/27/19	Sidney
86416	Green Plains Atkinson	5/29/2019	Atkinson
82836	Green Plains Central City LLC	11/16/2021	Central City
86000	Green Plains Wood River	7/12/2021	Wood River
86000	Green Plains Wood River LLC	8/19/2021	Wood River
86000	Green Plains Wood River LLC	7/28/2020	Wood River
86000	Green Plains Wood River, LLC	2/6/2020	Wood River
86876	Hansen Hog West LLC	3/29/2021	Hartington
51621	Harman Wright Morturary	6/18/2020	Beatrice
77861	Heartwell Renewables LLC	9/15/2020	Hastings
75073	KAAPA Ethanol, LLC	05/03/19	Minden
75073	KAAPA Ethanol, LLC	9/18/2020	Minden
75073	KAAPA Ethanol, LLC - Minden	3/3/2020	Minden
2409	KAAPA Grains, LLC	07/10/19	Elm Creek
106013	Keystone Veterinary Services	3/4/2019	Humphrey

58348	Kimball MPP	11/12/2021	Kimball
76680	Lincoln Premium Poultry	4/29/2020	Fremont
57640	Lincoln Water Systems - Ashland	9/29/2021	Ashland
53676	Lindsay Manufacturing, LLC	09/09/19	Lindsay
84157	MBA Broilers - East	2/11/2019	Tecumseh
57979	Merck Animal	1/30/2020	Elkhorn
57979	Merck Animal Health	6/16/2020	Elkhorn
73092	Metal-Tech Partners	3/8/2021	Geneva
112462	Midwest Machine & Tool	08/02/19	Columbus
89693	Monsanto	07/25/19	Waco
37388	Nebraska City PP #1	10/23/2019	Nebraska City
64753	Nebraska City Utilities PP #3	9/30/2021	Nebraska City
84221	Nebraska Corn Processing	1/16/2020	Cambridge
84221	Nebraska Corn Processing	2/3/2020	Cambridge
98441	Nebraska Vault Company	5/13/2021	Columbus
35605	Nebraska Wilbert Vault Co.	3/4/2019	Norfolk
35157	Northeast Community College	2/18/2020	Norfolk
23382	Northern Natural Gas Company	10/29/2020	Beatrice
62420	NPPD 1000kW Mobile Generator	12/31/2020	York
84283	Nucor Cold Finish	3/28/2019	Norfolk
35677	Nucor Steel	3/11/2020	Norfolk
35677	Nucor Steel	8/20/2020	Norfolk
58737	Nustar North Platte Terminal (formerly owned by Kaneb Pipeline)	7/1/2020	North Platte
58390	Offutt AFB	1/30/2019	Offutt AFB
48716	Omaha Steel	01/22/19	Wahoo
48716	Omaha Steel	03/20/19	Wahoo
48716	Omaha Steel	11/12/2021	Wahoo
48716	Omaha Steel Castings Co	10/29/2020	Wahoo
58343	OPPD NE City	12/02/19	NE City
58343	OPPD NE City	12/02/19	NE City
58343	OPPD NE City	3/6/2020	Nebraska City
62593	Pheasant Point Recycling & Disposal (Douglas Co. RDF)	01/22/19	Bennington
116135	Pioneer Animal Clinic	8/16/2021	Scottsbluff
86905	Preferred Sands	7/9/2019	Genoa
86905	Preferred Sands	7/9/2019	Genoa

108432	Raven Northbrook	3/31/2020	Papillion
108432	Raven Northbrook	10/26/2021	Papillion
108432	Raven Northbrook LLC	11/21/2019	Springfield
86963	REX - Steele City	8/13/2020	Odell
86963	Rockies Express Pipeline	3/10/2020	Odell
92461	Scoular Grain Co North Grant	10/5/2020	Ogallala
113269	Scribner Diesel Generation Station	4/7/2020	Scribner
65775	South Sioux City WWTF	3/15/2021	South Sioux City
26807	Stuart MPP	1/24/2019	Stuart
24352	Swift Beef Company	11/18/19	Grand Island
27522	Tecumseh MPP	6/3/2021	Tecumseh
56628	TIGT - Big Springs Compressor Station	3/15/2021	Big Springs
58735	TIGT North Platte Compressor	10/20/2020	North Platte
78323	Trenton Agri Products	1/22/2020	Trenton
78323	Trenton Agri Products	4/9/2020	Trenton
78323	Trenton Agri Products	4/9/2020	Trenton
78323	Trenton Agri Products, LLC	11/26/19	Trenton
7339	Tyson Fresh Meats	5/19/2021	Dakota City
8744	Tyson Fresh Meats Incorporated	6/10/2020	Lexington
85814	Valero	10/07/19	Albion
85814	Valero	10/07/19	Albion
57476	Valmont Industries	3/12/2019	Valley
22872	Village of Oxford Light Plant	12/3/2019	Oxford
107024	Viridis Chemical	9/8/2020	Columbus
107024	Viridis Chemical	7/15/2021	Columbus
43328	Wahoo Power Plant	7/27/2021	Wahoo
103925	West Plains, LLC	9/21/2021	Chadron
44141	Western Sugar	06/07/19	Scottsbluff
44141	Western Sugar	1/6/2021	Scottsbluff

ATTACHMENT B: Completed NSR Questionnaire and Appendix A

Returned by NDEE prior to Audit.

[see the attached copy]

NSR Program
Self-Evaluation Questionnaire
NDEE - 2022

Last Updated: December 5, 2006

Instructions for completing the New Source Review (NSR) Permit Program Self-Evaluation Questionnaire

- When answering Yes or No questions, please add explanation as appropriate to clarify your response.

- This self-evaluation questionnaire does not address implementation of changes made to the federal major NSR rules in EPA's rulemaking on December 31, 2002 (as amended November 7, 2003)

- Please skip any sections of the self-evaluation questionnaire that do not apply within your permitting jurisdiction rather than answering hypothetically. For example, skip the nonattainment major NSR sections if you do not have any nonattainment areas.

- If you have a written policy or guidance document that substantially answers any question in this self-evaluation questionnaire, please so indicate and either attach a hardcopy to your response or point to a specific URL on your public web server where the document may be found.

- This self-evaluation questionnaire was developed by EPA Headquarters and Regions to assist in the agency's NSR oversight program. As part of its peer review process, EPA sought review and comment from STAPPA-ALAPCO. While this questionnaire has undergone a make-over from the original, the scope and detail of the questions asked remains the same for all agencies.

Table of Contents

I. *Overview of New Source Review (NSR) Permitting Program*

A. NSR Permits

1. Permit Tracking

1. Do you have an established procedure for tracking major NSR permits?

If yes, please describe how your permits are being tracked (*e.g.,* in an electronic database)

Response: NDEE has an internal tracking system (Excel Spreadsheet) that tracks all applications received. This system tracks the process of the application from receipt to issuance.

2. Do you have an established procedure for tracking synthetic minor permits?

If yes, please describe how your permits are being tracked (*e.g.,* in an electronic database)

Response: NDEE has an internal tracking system (Excel Spreadsheet) that tracks all applications received. This system tracks the process of the application from receipt to issuance.

2. Permit Issuance Rates

1. How many PSD permits did you issue last year?

    a. If none, when was the last PSD permit issued?

Response: NDEE has not issued any major NSR permits or major modifications of major NSR facility permits last calendar year. The major modification under the NSR program permit was issued on 12/28/18 (CP18-033).

2. How many nonattainment major NSR permits did you issue last year?

    a. If none, when was the last nonattainment Major NSR permit issued?

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

3. How many synthetic minor NSR permits did you issue last year?

Response: For the calendar year 2021, there were 11 synthetic minor NSR permits issued.

4. How many true minor NSR permits did you issue last year?

Response: For the calendar year 2021, there were 31 true minor NSR permits issued.

5. How many “as built” NSR permits did you issue last year?

Response: For the calendar year 2021, there were no “as built” NSR permits issued.

6. Did you issue any waivers or variances allowing a source to commence construction prior to receiving a permit?

a. For any PSD projects? If so, how many?

Response: For the past three calendar years (2019, 2020, and 2021) there were no variances for PSD projects allowing construction prior to receiving a permit.

To note, NDEE did issue a variance for Western Sugar which is a major source under the NSR program; the project itself was not considered a major modification (replacement of coal fired boilers with natural gas fired boilers)

b. For any major source non-attainment projects? If so, how many?

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

c. For any synthetic minor NSR projects? If so, how many?

Response: For the past three calendar years (2019, 2020, and 2021) there were 15 variances for synthetic minor projects allowing construction prior to receiving a permit.

d. For any true minor NSR projects? If so, how many?

Response: For the past three calendar years (2019, 2020, and 2021) there were 14 variances for true minor projects allowing construction prior to receiving a permit.

7. What is the average time, in months, it takes you to issue the following types of permits, starting from the time the application was determined complete?

a. PSD permits?

Response: The PSD permits are issued within 12 months of receipt of application as prescribed in Title 129 Chapter 19.

b. Nonattainment major NSR permits?

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

c. Non-major/synthetic and minor permits?

Response: The non-major/synthetic and minor permits are typically issued within 120-150 days after deemed technically complete.

d. "As built" permits?

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

8. Please provide an Excel spreadsheet listing all of the NSR projects permitted in the three calendar years preceding the program review. For example, if the review takes place in 2007, include data for calendar years 2004, 2005, and 2006. To the extent available, include 1) the source name, 2) general location, 3) general description of project, 4) standard industrial classification code (SIC), 5) date application received, 6) date permit issued, 7) the type of permit issued, 8) any identification codes (e.g. AFS source number, project number, permit number) that facilitate retrieval of the permit record, and 9) any NSPS, NESHAP, or MACT subparts triggered by the project. Also identify all projects where the permit was issued after the project had already commenced construction.

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

3. Effective Permit Writing

Do your NSR permits:

Y **X** N ☐ 1. Identify each emissions unit regulated?

Y **X** N ☐ 2. Establish emissions standards or other operational limits that must be met, including appropriate averaging times for numeric limits?

Y **X** N ☐ 3. Include specific methods for determining compliance and excess emissions, including reporting, record keeping, monitoring, and testing requirements?

Y **X** N ☐ 4. Outline procedures necessary to maintain continuous compliance with emission limits?

Y **X** N ☐ 5. Establish specific, clear, concise, and enforceable permit conditions?

Y **X** N ☐ 6. Include conditions necessary for a source to avoid otherwise applicable requirements (*e.g.,* keeping a modification "minor")?

7. Describe the consequences, if any, for failing to meet any permit limit taken to avoid a substantive requirement (e.g. an emission cap taken to avoid PSD, a number-of-hours restriction to avoid more stringent BACT)?

If so, describe the nature of the permit condition and what those consequences might be.

Response: The consequences of failing to meet any permit limit taken is determined by our Air Compliance Team in accordance with the 2014 High Priority Violation and Federally Reportable Violations policies for reportable violations.

Y **X** N ☐ 8. Establish the "enabling legislative" and "legal" basis to issue and enforce the conditions of the permit?

4. Project Discovery System

As a permitting program matures, it should have a comprehensive system in place for informing potential applicants about the NSR permitting process and for assuring that the bulk of applicants obtain permits prior to construction. "As built" permits, for example, are an indicator of gaps in this discovery system.

1. What steps does your program take to inform sources of the need to obtain permits prior to commencing construction?

Response: Members of the Small Business Environmental Assistance Program (SBEAP) based in the agency's PIO office publishes and updates the permit matrix, a comprehensive excel file of permits, resource and guidance documents, and regulations adopted by the NDEE. This reference provides supporting information and documents to assist new permittees in understanding which permits are needed prior to construction, including Air.

The Small Business Public Assistance Program staff host scoping (initial project interviews) and one stop permit meetings which include discussions with potential permittees, consultants, outside agencies and organizations that have state level requirements or permits separate from NDEE. Through these meetings we educate and inform others to increase awareness of the pre-requisites required prior to permit application submittals including those related to air programs.

The Air program has published guidance documents such as "Air Quality Construction Permits", "What is Potential to Emit", etc.
The Air program has participated in and individually hosted stakeholder meetings, presented at conferences, conducted webinars, and answers individual emails and phone calls during the project development phase; from site selection to equipment selection and construction

commencement. The staff that respond to these requests for information are aware of the need for sources to obtain a permit prior to the start of a construction, modification or reconstruction project.

Targeted stakeholder meetings with industry professionals, consultants, engineers, contractors, and regulated facilities have occurred that continue to "get the word out" about needing an Air permit prior to construction.

2. Do you work with other agencies, for example economic development, zoning, or code departments to learn about the potential for new projects?

If so, please describe.

Response: The NDEE has a "Grow Nebraska Team" that specifically focuses on processes for new project permittees. We host one-stop meetings within 10-days of a request.

The Nebraska Department of Economic Development is a member of the Grow Nebraska Team with set meetings that occur quarterly. During project scoping, coordination occurs between NDEE and NDED and includes local municipalities when relevant. We have reached out to additional organizations at the local (Boards of supervisors, city council's, economic development districts, and other state level agencies and organizations to support and communicate needs for meeting regulatory requirements.

3. Do you act on other information you might gather through newspaper articles or other trade press announcements?

If so, please describe.

Response: The Public Information Office within the agency receives daily news updates through a news subscriber service. There have been several instances where these news articles and press announcements have generated communications, follow up discussions and meetings with new or prospective businesses or activities involving agency related environmental regulations and permits.

B. Staff and Training

1. What is the total number of staff dedicated to permitting for your NSR program? *Please provide an organizational chart.*

Response: As of May 18, 2022, there are 10 NDEE staff members dedicated to Air Construction Permitting. Please refer to Appendix A.

2. For your NSR permitting program, please show a breakdown of staff by different job functions (*e.g.,* number of modelers, review engineers, technicians, environmental scientists, clerical, supervisory, enforcement).

Response: The breakdown of staff by different job function as follows:

Supervisory (2 staff):
- 1- Division Administrator
- 1- Section Supervisor

Engineers (6 staff)
Modelers (2 staff)
Clerical (1 staff)

3. Using the organizational chart provided above, please indicate the number of years of experience for each person involved with the NSR permitting program and summarize the total years of experience for your program.

Response: Supervisory (2 staff):
- Division Administrator: 29 years
- Section Supervisor: 1 year 2 months (in the role --- previous permit writing and private sector experience)

Engineers (5 staff)
- Engineer no. 1: 3.5 years
- Engineer no. 2: 3 years
- Engineer no. 3: 3 years
- Engineer no. 4: 9 months
- Engineer no. 5: 1 month
- Engineer no. 6: 2 weeks

Modelers (2 staff)
- Modeler no. 1: 14 years
- Modeler no. 2: 2 months

Clerical (1 staff)
- Administrative Assistant: 10 years

Y ☐ N **X** 4. Does the department hire consultants or use other non-departmental staff to assist in permitting activities?

If yes, explain the scope of these activities including the types of projects reviewed, the fraction of time spent as a percentage of total resources dedicated to the state NSR program, the approximate cost to the department and whether these costs are recovered through permit fees.

Y **X** N ☐ 5. Does staff turnover affect the ability of the department to issue timely permits?

If so, does the department have any initiatives underway to reduce the level of turnover?

Response: Offering Tuition assistance, flexible schedules, competitive benefits package.

Y ☐ N **X** 6. Is the NSR program fully funded and staffed?

If not, please indicate the current level of staffing (e.g. 80% staffed with 16 of 20 positions filled).

Response: The program is fully funded**;** there is currently 1 vacant position within the Air Construction Permit Section (85% staffed with 6 out 7 positions filled).

7. Please describe your training program for new and existing staff that work on NSR permitting and issues. List any materials you use or training courses you try to attend.

Response: **New Staff:**
NDEE has training divided into 3 progressive sections until the engineer assigned a project including a 12-week Air 101 training that contains many permitting elements.

New and Existing Staff:
NDEE new and existing staff participate in available Central States Air Resource Agencies (CenSARA) training and use customized and standard permit formats as well as standardized permit conditions whenever possible.

Permitting staff also meet on a routine basis to give presentations on specific subjects that will help improve permitting practices as well as discuss permitting challenges. NDEE is completed process improvement activities to help improve our applications, factsheets and permits. These processes have resulted in streamlining our work to be able to complete and issue permits quicker and has improved our final product.

NDEE encourages staff to make facility visits while working on their projects if to help them better understand their projects. Both new and existing staff is required to complete a minimum of 30 hours of training per calendar year relevant to their position.

Each new and existing staff has a dedicated 1:1 with Section Supervisor on a weekly basis to discuss projects aside from any other time needed. Existing staff is paired on a rotating monthly basis with team members from the Operating Permit Section to respond to hotline email/phone calls; this promotes cross training between the two programs.

8. Describe any additional training that you believe would be beneficial.

Y **X** N ☐ a. Would it be helpful if EPA provided more NSR training?

Response: Yes, training that could be provided by EPA at a rotating basis at the four states in Region VII would be helpful for staff; state specific topics could be discussed (e.g.: different types of industry permitting, etc). Such training sessions could be recorded and be accessible to others to participate that could not attend.

Y **X** N □ 9. Do you provide NSR program training opportunities for the public, including the regulated community?

If yes, please describe.

Response: NDEE provides training to the public on a number of topics based on needs, this includes the NSR program. NDEE recently conducted webinars that included the regulated community on the NSR Minor program and General Construction Permits.

C. NSR Implementation

Y **X** N □ 1. Do you implement EPA issued program guidance and policy for NSR?

If not, please explain.

Y **X** N □ 2. Are you familiar with EPA's web-based NSR Policy & Guidance Database < http://www.epa.gov/region07/programs/artd/air/policy/search.htm > and do you use it?

Y □ N **X** 3. Does the department implement any NSR-related policies or guidance that deviate substantially from EPA's?

a. If yes, do you seek peer review from staff, applicants, EPA and the public when developing the policy or guidance document?

b. How do you make these documents available to staff, applicants, EPA, and the public?

4. In general, how do you learn about rule changes in the Federal NSR program?

Y **X** N □ a. Do you use EPA's website at http://www.epa.gov/nsr/ to monitor NSR program changes and implementation issues?

Response: NDEE uses a myriad of resources to keep current on rule changes for the NSR program such as: Region VII Nebraska Coordinator, monthly Nebraska and Region VII calls, quarterly four states and Region VII calls, Federal Register update emails, CenSARA and National Association of Clean Air Agency (NACCA) committee calls.

D. Public Participation

1. What criteria are used to determine if a permit is public noticed?

Response: NDEE utilizes criteria prescribed in Title 129, Chapter 14 to determine if a permit is public noticed.

2. Identify which of the following types of permits are noticed:

Y **X** N ☐ a. PSD permits

Y ☐ N ☐ b. major nonattainment NSR permits

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

Y **X** N ☐ c. synthetic minor permits

Y **X** N ☐ d. minor permits

Y **X** N ☐ 3. Do you publish notices on draft NSR permits in a newspaper of general circulation?

Y **X** N ☐ 4. Do you use a state or other publication designed to give general public notice?

If yes, please describe.

Response: Yes, all public notices are posted on NDEE's website. The website address is http://dee.ne.gov/Press.nsf/PNall.xsp.

Y ☐ N **X** 5. Do you have procedures for notifying the public when major NSR permit applications are received?

Response: Permit applications are filed in our electronic system and available to the public via our public portal.

All public records for each permitted facility in Nebraska can be obtained by accessing their electronic file by going to NDEE's website. The instructions are below:

Facility-related documents have been imaged into the State of Nebraska's Enterprise Content Management system (ECM) since April 2011. The ECM is the repository of official facility records that are created or received by the agency. Documents that have been scanned into the ECM are available to review from our Public Records Search.

To use this option, you will need to know the facility number and program. You can call 402-471-3557 or email ndee.records@nebraska.gov to obtain a facility number for a records search. The search will return a maximum of up to 500 of the most recent documents. The date fields are

optional for a records search, unless a message appears stating you need to narrow your search to view additional documents, then dates will be required to view older documents.

Y **X** N □ 6. Do you develop a mailing list of interested parties for NSR permit actions (*e.g.,* public officials, concerned environmentalists, citizens)?

If yes, how does someone get on the list?

Response: The list includes the affected states and tribes within 50 miles of the source that is being permitted.

Y **X** N □ 7. Aside from methods described above, do you use other means for public notification?

If yes, what are they (*e.g.,* post notices on your webpage, email)?

Response: All public notices are posted on NDEE's website. The website address is http://dee.ne.gov/Press.nsf/PNall.xsp.

Y **X** N □ 8. Do your public notices clearly state when the public comment period begins and ends?

9. What is your opinion on the most effective ways to provide public notice?

Response: NDEE's website

Y □ N **X** 10. Do you provide notices in languages besides English?

If yes, in which languages?

Y □ N **X** 11. Have you ever been asked by the public to extend a public comment period?

If yes, did you grant the extension?

If not, please explain why you didn't grant the extension?

12. What percentage (approximately) of your major NSR permits are revised due to public comments?

Response: In general, NDEE does not receive public comments on proposed permit actions. The last permit subject to PSD review (major modification) was issued on 12/28/18 and no comments were received.

13. If a draft permit is revised, what criteria do you use to determine if a permit should be re-issued in draft?

Response: A significant change such a permitted limit relaxation or decrease in monitoring would result in re-public noticing the permit documents.

14. What type of comments or other concerns trigger a public hearing?

Response: If requested by the public, a public hearing is triggered.

15. How are public hearings noticed?

a. How much notice is given?

Response: Public hearings are noticed in accordance with Title 129, Chapter 14 (30-day notice is given).

16. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, monitoring reports) especially during the public comment period?

Response: All public notice draft permit documents are available electronically through the NDEE's electronic records system that can be accessed at http://dee.ne.gov/Press.nsf/PNall.xsp. If paper copies are requested, NDEE would charge for them.

Y **X** N ☐ 17. Do you have a website for the public to get permit-related documents?

If yes, please answer the following:

a. What is available online? Received application, all correspondence between the source and NDEE while drafting the permit, draft documents, etc.

b. How often is the website updated? Continuously, the records are usually available to the public after seven days of receipt.

c. Is there information on how the public can be involved? The public notice documents will give information on how the public can be involved in the permitting process.

Y ☐ N **X** 18. Do you provide training to citizens on public participation in NSR?

If yes, approximately how many training opportunities have been provided in the last five years?

19. How do you notify affected States (including tribes) of draft major source permits? Affected States (including tribes) are notified via email.

Y ☐ N **X** 20. Do public notices for PSD permits specifically state the amount of increment consumed?

Y X N □ 21. Are public notices for PSD permits sent to each party identified in 40 CFR 51.166(q)(2)(iv)?

E. Program Benefits

Y X N □ 1. In your opinion, is the NSR program (both PSD and nonattainment Major NSR) an incentive to reduce emissions below major source levels?

Y X N □ 2. In your opinion, have NSR permits been used as the authority to implement other priorities such as toxic emission reductions and improved monitoring and reporting?

Y X N □ 3. In your opinion, does the case-by-case nature of a NSR permit allow you to implement emission reducing programs or controls more quickly than rulemaking?

Y X N □ 4. In your opinion, does the NSR program provide communities a mechanism to be involved in improving their own air quality?

Y X N □ 5. In your opinion, has the PSD program contributed to sustaining good air quality?

Y X N □ 6. In your opinion, have the nonattainment Major NSR requirements contributed to reducing emissions or avoiding emissions increases in nonattainment areas?

II. *Major NSR Permitting*

A. Applicability

1. Stationary Source Determinations

Y □ N X 1. Do your SIP-approved rules define stationary source differently than 40 CFR 51.165 or 51.166?

If yes, please explain.

Y □ N X 2. When determining if emissions units are contiguous or adjacent, do you assess whether emissions units under common ownership or control may be a single stationary source regardless of the distance between the emissions units?

If yes, please explain.

Response: NDEE follows the EPA guidance on criteria to determine sites are contiguous or adjacent.

Y **X** N ☐ 3. Do you assess facilities' financial, personnel, and contractual relationships to determine common ownership or control?

Y **X** N ☐ 4. Do you assess whether sources with different first two-digit SIC codes (*i.e.,* emissions units not in the same industrial grouping) may qualify as separate stationary sources?

2. PTE Calculations

1. How do you determine if emissions factors (*e.g.,* AP-42) are acceptable for NSR applicability purposes?

Response: Emission factors are reviewed by the permit writer to determine if it is acceptable for NSR applicability purposes. Emission factors are rated in accordance with accuracy; in general, they are rated most accurate to least accurate as follows:

1. Source-specific emissions:
    a. Any test method or procedure identified in Chapter 15
    b. Continuous emission monitor (CEM) data, provided that: the CEM operation is in compliance with all applicable requirements and applicable requirements under the Act;
2. Where source-specific emission data are not available, the following may be used:
    a. Any applicable method identified in the Compilation of Air Pollutant Emission Factors, Volume I, Stationary Point and Area Sources, Fifth Edition.
    b. Any applicable method identified in Factor Information Retrieval System Version 5.0 Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA-454/R-95-012, August 1995; or
    c. Material mass balance.

Y **X** N ☐ 2. Does the department routinely require sources to document whether emissions factors are appropriate and representative of emissions from the actual emission unit being permitted?

If yes, how is this information documented in the permit record.
If no, please explain why such documentation is not made.

Response: Emission factors are evaluated for appropriateness and being representative of emissions from the actual emission unit being permitted for each project. The information is documented in the calculation sheets and the narratives that are a part of the fact sheet that accompany each permit.

Y **X** N ☐ 3. Do you include PM_{10} condensible emissions in the total amount of PM_{10} emissions when determining NSR applicability, BACT/LAER evaluations, PSD increment consumption, and compliance with the NAAQS?

Y **X** N ☐ a. When PM_{10} testing is required do you include a permit condition that requires testing and specifies testing methods for PM_{10} condensibles?"

Response: The permit condition specifies PM_{10} condensable to be tested if applicable to the emissions profile. The permit establishes testing conditions that the facility must follow, which include submittal of testing protocol that evaluates the acceptable testing methods for the pollutant being tested.

3. Fugitive Emissions

1. Please provide your regulatory definition of "fugitive" emissions for major NSR applicability purposes.

Response: In accordance with Title 129, Chapter 1, Section 062 "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Y **X** N ☐ 2. Do you make a distinction between "fugitive" emissions and "uncontrolled" emissions?

If yes, please explain.

Response: Uncontrolled emissions can include fugitives if they come from an emission unit that does have controls associated with it. Uncontrolled emissions are emitted while a unit is operating without any practical enforceable limitations.

Y **X** N ☐ 3. Do you include fugitive emissions in major NSR applicability determinations for new sources?

Response: Fugitive emissions are included if the new source is under the source categories prescribed in Title 129, Chapter 2, Section 002.

Y **X** N ☐ a. For modified sources?

If yes, please explain.

Response: Fugitive emissions are included if the new source is under the source categories prescribed in Title 129, Chapter 2, Section 002.

Y **X** N ☐ 4. Do you allow major sources to use reductions in fugitive emissions for netting purposes?

If yes, please describe how you determine the fugitive emissions "baseline" used for netting.

Response: Fugitive emissions reductions are taking into consideration based on the

information provided by the facility in the application, an example of this is silt loading testing results for haul roads, etc.

5. Please provide a description of your guidelines or calculation methodology used to quantify fugitive emissions.

Response: Fugitive emissions calculations follow AP-42 methods (e.g.: haul road equations, pile erosion, tanks, etc), EPA's protocol for equipment leak emission estimates (EPA-453/R95017), etc.

Y **X** N ☐ 6. Do your permits contain conditions for fugitive emissions consistent with requirements for BACT/LAER (*i.e.,* specific emission limits, control methods, and/or work practice standards)?

4. Debottlenecking/Increased Utilization

Y **X** N ☐ 1. When determining if proposed modifications are subject to major NSR, do you include emissions increases from existing emissions units that are not physically modified (*i.e.,* units that will be debottlenecked or have increased utilization such as boilers)?

2. What method is used to determine the emissions increase from these emissions units?

a. What EPA guidance do you consider for this issue?

Response: NDEE evaluates emission increases that are associated with a project regardless of if a unit is not physically modified. For sources that are considered a single source under the NSR program, NDEE evaluates the changes in emissions from the project at all the facilities that fall under the single source to determine project impacts. NDEE uses the 1990 draft NSR workshop manual as well as other NSR EPA publications (debottlenecking) in these determinations.

Y **X** N ☐ 3. Do you train your permitting staff to include such emissions increases when determining if a modification is major for NSR?

5. Netting

Y **X** N ☐ 1. Is netting approved in your NSR SIP for determining whether modifications at major stationary sources are subject to major NSR (PSD or nonattainment Major NSR, as applicable)?

If not, please explain.

Y **X** N □ 2. What is the contemporaneous time period for netting in your SIP?

Response: As prescribed in Title 129,Chapter 19, Section 009.01:
"009.01 An increase or decrease in actual emissions is contemporaneous with the increase from the project for which an emissions increase has been calculated in section 008 only if it occurs between the date five years before the source begins actual construction (as defined in Chapter 1, Section 023) of the project and the date that the increase from the project occurs."

Y **X** N □ 3. For determining the baseline from which emission reductions are calculated, do you require the applicant to submit the actual emissions from the units along with any permit limits that apply?

Y □ N **X** 4. Do you allow an applicant to receive emission reduction netting credit for reducing allowable emissions instead of actual emissions?

If yes, please explain.

Y □ N **X** 5. Do you allow an applicant to receive emission reduction credit for reducing any portion of actual emissions that resulted because the source was operating out of compliance?

If yes, please explain.

Y □ N **X** 6. Do you allow an applicant to receive emission reduction credit for an emissions unit that has not been constructed or operated?

If yes, please explain.

Y □ N **X** 7. Are emissions reductions to meet MACT requirements eligible for netting credits?

If yes, under what conditions? *(See EPA's November 12, 1997 memo from John Seitz entitled "Crediting of Maximum Achievable Control Technology (MACT) Emission Reductions for New Source Review (NSR) Netting and Offsets".)*

Y **X** N □ 8. When any emissions decreases are claimed as part of a proposed modification, do you require that all stationary, source-wide, creditable and contemporaneous emissions increases and decreases of the pollutant be included in the major NSR applicability determination?

If not, please explain.

9. To avoid "double counting" of emissions reductions, what process do you use to determine if emissions reductions considered for netting have already been relied upon in issuing a major NSR permit for the source?

Response: NDEE evaluates the facility's permitting history (including no permit required projects) to determine if reductions have been relied upon in issuing a major NSR permit.

Y ☐ N **X** 10. Do you have a process to track projects that use credits to net out of major NSR?

If yes, please explain.

Y **X** N ☐ 11. Do you require that emissions reductions (*e.g.,* reductions from unit shutdowns) must be enforceable to be creditable for netting?

If not, please explain.

Y ☐ N **X** 12. Have you had public concerns regarding the netting analysis and procedures used for any issued permits that avoided major NSR?

If yes, please describe.

Y ☐ N **X** 13. Do you allow inter-pollutant trading when netting (*e.g.,* allow a source to use NO_X or PM credits for netting out of VOC increases)?

If yes, please explain.

14. What process do you have to verify that a source's emissions reductions considered for netting, including emissions reductions that may have been "banked," are not already used by the source, or another source, as nonattainment Major NSR offsets?

Response: NDEE evaluates the facility's permitting history (including no permit required projects) to determine if reductions have been relied upon in issuing a major NSR permit.

B. Prevention of Significant Deterioration (PSD) Permitting

1. BACT Determinations

Y **X** N ☐ 1. Do you require permit applicants to use the "top-down" method for determining BACT?

If no, what approach do you require?

Y **X** N ☐ 2. Do you commonly use information resources other than the RACT/BACT/LAER Clearinghouse to identify control options, costs, etc.?

If yes, what resources do you commonly use and rate the usefulness of each one?

Response: Depending on the project and readily available resources in the Clearinghouse publications, NDEE evaluates similar projects permitted within the State, other states within EPA Region VII as well as other states if there are no similar projects withing the Region. NDEE utilizes vendor information specific to the project, utilizes EPA Region VII resources to ask questions, etc.

Y **X** N ☐ 3. Do you provide a detailed documentation/explanation of draft BACT determinations in the public record?

Y **X** N ☐ 4. In your public record for draft BACT determinations, do you provide an economic rationale if a BACT option is rejected as being prohibitively expensive?

5. What procedures do you use to calculate baseline emission rates for calculation of cost effectiveness values?

Response: NDEE evaluates the baseline emissions based on EPA's October 1990 NSR Workshop Manual (Section IV.D.2.b Cost Effectiveness). The NDEE evaluates emission rates based on the following:

1. Source-specific emissions:
    a. Any test method or procedure identified in Chapter 15
    b. Continuous emission monitor (CEM) data, provided that: the CEM operation is in compliance with all applicable requirements and applicable requirements under the Act;
2. Where source-specific emission data are not available, the following may be used:
    a. Any applicable method identified in the Compilation of Air Pollutant Emission Factors, Volume I, Stationary Point and Area Sources, Fifth Edition;
    b. Any applicable method identified in Factor Information Retrieval System Version 5.0 Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA-454/R-95-012, August 1995; or
    c. Material mass balance.

a. What do you view as "uncontrolled" emissions?

Response: NDEE evaluates the baseline emissions based on EPA's October 1990 NSR Workshop Manual (Section IV.D.2.b Cost Effectiveness). Uncontrolled emissions for BACT purposes are emissions that do not have control devices associated with them, or other control equipment required by a State and Federal regulations. Controls which are inherent to the process could be considered in calculating uncontrolled emissions.

Y **X** N ☐ 6. Do you consider combinations of controls when identifying and ranking BACT options (*e.g.,* low organic solvent coatings plus thermal oxidation)?

7. Do you ever re-group the emissions units included in a cost evaluation in either of the following ways?

Y **X** N ☐ a. If an applicant's approach is to evaluate the cost of controlling each unit separately, do you ever consider combining units for control by one control device?

Y **X** N ☐ b. If an applicant combines all units for control by one control device and concludes this approach is too expensive, do you ever consider controlling individual units or a small group of units that have the greatest percentage of total emissions?

Y **X** N ☐ 8. Do your PSD permits specify emissions limits and control methods consistent with the basis (and capabilities) of the selected BACT options?

9. How do you establish the compliance averaging times for BACT emissions limits?

Response: Compliance averaging times are consistent with how the emission limitations are measured in test methods. Annual rolling averages versus shorter term averages are evaluated on a case-by-case basis depending on the project. NDEE utilizes EPA's and internal guidance when determining appropriateness of a compliance averaging times for emission limitations.

Y **X** N ☐ 10. Do you make sure that permit conditions impose restrictions consistent with BACT evaluation assumptions? (*e.g.,* if the annual emissions used in a BACT cost evaluation are based on an assumption of less than continuous operation and/or operation at less than maximum capacity, do permit conditions contain limits based on the assumption used?)

2. BACT Cost Evaluations

Y ☐ N **X** 1. Do you allow deviation from EPA's recommended cost evaluation procedures?

If yes, please explain.

2. Do you place primary reliance on total or incremental cost effectiveness values?

Response: Total cost effectiveness values (cost per ton of pollutant).

a. If you give greatest (or equal) weight to incremental costs, what is your basis for doing so?

3. Do you place primary reliance on a comparative cost approach or a "bright line" test?

Response: Comparative cost approach.

Y ☐ N **X** 4. If you place greatest importance on a comparative cost approach, do you try to obtain cost data for projects outside your permitting jurisdiction?

5. If you use what can be described as a "bright line" test, what is the basis of your "bright line" cost effectiveness value and do you change the value over time to account for inflation?

Y ☐ N **X** 6. Do you use a different cost approach for different pollutants?

If yes, please explain.

7. Under what circumstances do you conduct a BACT cost evaluation independent of the cost evaluation provided by the applicant? (An independent evaluation could entail obtaining additional vendor quotes.)

Response: NDEE does not generally conduct a BACT cost evaluation independent of the cost evaluation provided by the applicant. The NDEE may request information from the vendor on cost if that is not explicit on the analysis; another circumstance is if the figures are not consistent with BACT cost evaluations that were conducted for similar controls for pollutants that were analyzed within the same time frame.

Y ☐ N **X** 8. Are cost estimates required to be referenced to a common base year (*e.g.,* 1998) so that cost estimates can be easily compared?

Y ☐ N **X** 9. Are other agencies contacted to determine if their cost estimates need to be normalized before comparisons can be made?

Y **X** N ☐ 10. Do you perform a BACT assessment for all new/modified emissions units or activities emitting a pollutant subject to PSD review, no matter how small the emissions from an affected unit or activity?

Y **X** N ☐ 11. Do you consider increases or decreases in corollary toxic/hazardous air pollutants as part of a BACT evaluation? [This question addresses implementation of EPA's "North County Resource Recovery Remand" memo dated September 22, 1987.]

If yes, please give a specific example.

Response: No specific examples as NDEE did not have any applications that deal with corollary toxics and HAPs as part of a BACT evaluation.

Y **X** N □ 12. Do you provide BACT evaluation training to new (or newly-assigned) new source review (NSR) permitting staff (other than on-the-job training)?

If yes, describe the nature of the training provided.

Response: Staff has attended NSR training provided by CenSARA, other forms of training including reviewing EPA October's 1990 Draft NSR Workshop Manual, looking into other permitting actions that contained BACT analysis, 12-week Air 101 training that contains NSR permitting elements, etc.

Y **X** N □ 13. Do you provide BACT evaluation refresher training to experienced NSR permitting staff?

If yes, how frequently do you provide this training and what is the nature of the training provided?

Response: Staff has attended NSR training provided by CenSARA, other forms of training including reviewing EPA October's 1990 Draft NSR Workshop Manual, looking into other permitting actions that contained BACT analysis, 12-week Air 101 training that contains NSR permitting elements etc. Management regularly assesses training opportunities and staff is encouraged to attend training as it becomes available.

Y □ N **X** 14. Do you provide an information outreach program on BACT evaluations for owners of regulated sources?

If yes, how frequently do you provide such information and how do you provide it?

Y □ N **X** 15. Do you provide an information outreach program on BACT evaluations to the public?

If yes, how frequently do you provide such information and how do you provide it?

Y **X** N □ 16. Do you enter each BACT determination in the RACT/BACT/LAER Clearinghouse?

Y **X** N □ 17. Before establishing BACT as work practice, design, or operational standards, do you determine that emissions limits (*e.g.,* lbs/mmBTU, lbs/hr) are not feasible?

If no, please explain.

Y **X** N □ 18. Do you apply BACT to fugitive emissions?

If no, please explain.

3. Additional Impacts (soils, vegetation, visibility, growth)

Y □ N **X** 1. Do your PSD application forms specifically require information regarding additional impacts?

If yes, include a copy of the forms.

Y **X** N □ 2. If no, do you require applicants to submit sufficient information necessary to complete an additional impact analysis?

3. What resources do you use for researching additional impacts?

Response: The permit applicant is expected to provide data in regard to additional impact analysis for a project as outline in "NDEE's PSD and Minor Source Modeling Guidance" available at http://dee.ne.gov/publica.nsf/PubsForm.xsp?documentId=84D0237BF4827070862581940067B0CA&action=openDocument.

Some of the tools that are used for researching additional impacts are (i) Federal Land Manager's Air Quality Related Values Work Group (FLAG) Phase I Report and (ii) Screening procedure for the impacts of air pollution sources on plants, soils, and animals: Final Report

Y □ N **X** 4. Do you include environmental justice issues in your analysis?

Y □ N **X** 5. Has an additional impact analysis in the last 5 years been a cause for concern in an issuance of a PSD permit?

If yes, please explain.

Y □ N **X** 6. Do you generally allow arguments that the protection of the NAAQS will assure protection of vegetation?

If yes, please explain.

Y □ N **X** 7. Do you require that predicted short-term impacts (*e.g.,* one hour NOx impacts) be used to assess impacts on vegetation for pollutants which do not have short term ambient standards?

If no, please explain.

Response: NDEE's understanding is that if there are no short-term ambient standards for a particular pollutant, such pollutant will not be required to demonstrate short term impacts on vegetation.

Y **X** N ☐ 8. Regarding visibility impacts, do you require assessments for vistas (*e.g.,* parks, airports) near the proposed source or modification?

If no, please explain.

4. Preconstruction Monitoring

Y **X** N ☐ 1. Do you have formal preconstruction monitoring requirements?

Response: Preconstruction monitoring requirements are specified in NDEE's PSD and Minor Source Modeling Guidance available on the NDEE's website at: http://dee.ne.gov/publica.nsf/PubsForm.xsp?documentId=84D0237BF4827070862581940067B0CA&action=openDocument

Y ☐ N **X** 2. Do you have a formal public participation process regarding requirements for preconstruction monitoring for specific proposed projects?

Y ☐ N **X** 3. Have you ever consulted with the Federal Land Manager (FLM) regarding preconstruction monitoring requirements for a proposed source or modification?

Y ☐ N **X** 4. In the last five years have you ever required an applicant applying for a PSD permit to conduct preconstruction ambient monitoring or meteorological monitoring?

Y ☐ N **X** 5. Do you have a formal approval/denial process at the conclusion of preconstruction monitoring?

Y ☐ N **X** 6. Do you have a formal process during preconstruction monitoring for resolving conflicts between the FLM and the applicant?

If yes, please explain.

Y **X** N ☐ 7. Do you routinely provide ambient monitoring data in lieu of requiring applicants to perform preconstruction monitoring?

If yes, please briefly describe the monitoring network used and the basis for the monitoring value selected.

Response: NDEE utilizes data from the agency's ambient air monitoring stations; the basis for the monitoring value selected is with accordance with the NAAQs and other relevant regulations. Ambient air concentrations (monitored values) are directly measured and use 3-year averages as per regulation. Modeled impacts are forecasted, predicted values, and use a 5-year met data set to capture the worst possible meteorological conditions.

Background concentrations determined by monitored 3-year averages are added to the predicted modeled impacts to capture concentrations attributable to natural sources, unidentified sources in the vicinity of the project, and regional transport contributions from distant sources.

Y **X** N ☐ 8. Do you follow EPA guidance (*e.g.,* siting, equipment, data validation, audits) regarding collection of preconstruction monitoring data?

9. Under what circumstances would you require post construction ambient monitoring as a condition of a PSD permit?

Response: NDEE would consider requiring post construction ambient monitoring as a condition of a PSD permit on a case-by-case basis; this would be determined while drafting the permit based on compliance margins, location of the facility, citizen's concerns, etc. NDEE follows the EPA's Ambient Monitoring Guidelines for Prevention of Significant Deterioration (May 1987)

C. Nonattainment Major NSR Permitting

Response: NDEE has been and is currently in attainment and with the NAAQS. NDEE has never issued nonattainment major NSR permits; therefore sections II.B.C.1 through C.4 are not applicable at this time.

1. Offsets

Y ☐ N ☐ 1. Do you have an emissions "bank" for offsets?

If no, go directly to 10.

Y ☐ N ☐ 2. Is the bank a database used for emissions trading?

If yes, please explain how the trading works.

Y ☐ N ☐ 3. Do you, as the reviewing authority, control the trading of credits in the "bank"?

If no, who controls the trading?

Y ☐ N ☐ 4. Are the credits certified "creditable" (including surplus for attainment planning purposes and other Clean Air Act requirements) by you at time of entry into the bank?

Y ☐ N ☐ 5. Are the credits evaluated and certified "creditable" (including currently surplus) at the time of withdrawal and use?

If not, please explain.

6. How long are the “offsets” valid from time of reduction?

Y □ N □ 7. Are the banked credits included in the attainment demonstration and inventory as “real emissions” (*i.e.,* emissions being emitted into the air)?

Y □ N □ 8. Are the banked credits used for NSR offsets only?

If not, what are the other uses?

Y □ N □ 9. Are the banked credits discounted with time?

If yes, please explain the discounting procedures.

10. How do you determine that the reductions being used are properly included in the attainment demonstration?

Y □ N □ 11. Are the emissions reductions available for NSR offsets only allowed from the same nonattainment area as the proposed source or modification?

If not, please explain.

12. What procedures do you use to determine the baseline to quantify the reductions?

a. How do you quantify the amount of creditable reduction?

Y □ N □ 13. Are the records for determining actual emissions available for review by you?

Y □ N □ 14. Are copies of permits required as part of the permit application to determine if the reductions from other sources being proposed as NSR offsets are federally enforceable?

15. How do you verify that the reductions proposed for NSR offsets are “surplus” to other Clean Air Act requirements and are “real,” (*i.e.,* reductions in emissions that were actually emitted into the air)?

16. What process do you use to verify that the reductions were not used in a previously issued permit?

Y □ N □ 17. Do you allow inter-pollutant trading for NSR offsets?

If yes, please describe this trading procedure (*e.g.,* pollutants allowed, ratio of reductions required, eligibility criteria, etc.).

Y □ N □ 18. For serious and severe ozone nonattainment areas do you allow "internal offsets" instead of lowest achievable emissions rate (LAER)?

If yes, what is the offset ratio?

Y □ N □ 19. Do you allow credits used for netting to be used as nonattainment Major NSR offsets?

Y □ N □ 20. Do your nonattainment Major NSR rules require the offset ratios prescribed in the Clean Air Act?

If no, please explain what other ratios are used?

Y □ N □ 21. Do you require that applicants proposing to use NSR offsets include a "net air quality benefit" modeling analysis as part of their permit application?

If yes, please describe what information is required.

2. LAER Determinations

Y □ N □ 1. Do you require permit applicants to use a top-down approach to determine the most stringent control option available for LAER?

If not, what approach do you require?

Y □ N □ 2. Do you require a permit applicant to identify all available control options?

If yes, do you require the applicant to identify control options as being:

Y □ N □ a. Achieved in practice?

Y □ N □ b. Contained within the SIP of any other state or local reviewing authority?

Y □ N □ c. Technologically feasible?

Y □ N □ d. Cost effective?

Y □ N □ 3. Do you use information sources other than the RACT/BACT/LAER Clearinghouse to identify control options?

If yes, please describe what information sources you commonly use and the usefulness of each?

4. Please describe under what circumstances you would conduct a LAER analysis independent of the analysis conducted by the permit applicant.

Y □ N □ 5. Do you submit your LAER determinations to the EPA's RACT/BACT/LAER Clearinghouse?

Y □ N □ 6. Do you consider technology transfer in your LAER determinations?

7. If you consider cost effectiveness in LAER determinations, please describe the procedures used. (For example, describe the procedures used to calculate the baseline emission rate in the cost effectiveness determination.) For each criteria pollutant, provide the dollar/ton threshold used to determine whether a control option is cost effective (and state whether this is total or incremental cost).

Y □ N □ 8. Do you use a different cost approach for different pollutants?

If yes, please explain.

Y □ N □ 9. Do you provide detailed documentation or explanations of proposed LAER determinations in the technical support document (TSD) or public record?

Y □ N □ 10. Do you provide an economic rationale in the TSD or public record if a LAER option is rejected as being prohibitively expensive?

Y □ N □ 11. Do you consider combinations of controls when identifying and ranking LAER options?

Y □ N □ 12. Do you perform a LAER assessment for all new/modified emission units or activities emitting a nonattainment pollutant subject to major NSR review no matter how small the emissions from an affected unit or activity?

13. Please describe how your LAER analysis includes "time of" considerations? (For example, if a new or modified source had constructed without a permit and at a later time went through nonattainment Major NSR review, would you consider LAER at the time of permit issuance or at the time of emission unit construction/ modification?)

Y □ N □ 14. Do your permits contain conditions requiring specific emission limits/ control method conditions/work practice standards consistent with the basis (and capabilities) of the selected LAER option?

15. Please describe how you establish compliance averaging times for LAER emission limits.

Y □ N □ 16. Do your permits contain conditions requiring emissions testing, monitoring, recordkeeping, and reporting so that inspectors and enforcement personnel can easily determine compliance with LAER requirements?

If not, please explain.

Y □ N □ 17. Do you ensure that permit conditions impose restrictions consistent with the LAER determination? (For example, if emissions used in the LAER determination are based on an assumption of less than continuous operation and/or operation at less than maximum capacity, do permit conditions contain limits/restrictions based on the assumptions used?)

18. Please describe how you incorporate public comments into your LAER determinations.

Y □ N □ 19. Do you provide LAER evaluation training to new (or newly-assigned) NSR permitting staff other than on-the-job training?

If yes, please describe the nature of the training provided.

Y □ N □ 20. Do you provide LAER evaluation refresher training to experienced NSR permitting staff?

If yes, how frequently do you provide this training and what is the nature of the training provided?

Y □ N □ 21. Do you provide an information outreach program on LAER evaluations for owners or operators of regulated sources?

If yes, how frequently do you provide such information and how do you provide it?

Y □ N □ 22. Do you provide an information outreach program on LAER evaluations to the general public?

If yes, how frequently do you provide such information and how do you provide it?

3. Alternatives Analysis

Y □ N □ 1. Does each nonattainment Major NSR permit action address the alternatives analysis as required by section 173(a)(5) of the Clean Air Act?

Y □ N □ If yes, is this alternatives analysis a specific requirement of your nonattainment Major NSR rules?

Y □ N □ 2. Do you have criteria that would address the depth of analysis required for a specific project?

Y □ N □ 3. Do you include project-specific environmental justice issues that are raised as part of this analysis?

Y □ N □ 4. Do you know of any projects where this analysis resulted in changes to proposed projects?

If yes, what changes resulted?

4. Compliance

Y □ N □ 1. Do you require the permit applicant to demonstrate that all major stationary sources owned or operated by the applicant in your State are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards?

2. Please describe the following:

a. the criteria used by an applicant in a statewide compliance demonstration

b. when in the permitting process you require the applicant to make the statewide compliance demonstration.

III. *NSR Avoidance*

A. RMRR (Routine Maintenance, Repair and Replacement) exemption

Y **X** N □ 1. Do you have knowledge of (a) the EPA letter dated May 23, 2000, to Henry Nickel of Hunton & Williams concerning Detroit Edison and (b) the Wisconsin Electric Power Company (WEPCO) case RMRR documents?

2. What other documents do you rely upon when making RMRR exemption determinations?

Response: NDEE utilizes documents published in EPA's New Source Review Policy and Guidance Documents (https://www.epa.gov/nsr/routine-maintenance-repair-and-replacement), similar RMRR determinations from different agencies within and outside of EPA Region VII, etc.

Y □ N **X** 3. Do you have a formal protocol for making RMRR exemption determinations?

If yes, describe the protocol.

Response: NDEE evaluates formal RMRR exemption request on a case-by-case basis. A permit writer would be assigned to review determinations if formally submitted to the agency.

4. Approximately how many formal RMRR exemption determinations have you made in the last five years?

Response: None

a. Using any one such determination as an example, describe the example, state the conclusion you reached, and discuss how you reached the conclusion.

Response: Not applicable

Y **X** N ☐ 5. Do you keep documentation of formal RMRR exemption determinations?

Response: This determination would be kept in the electronic data base under the facility's ID and classified as such.

Y **X** N ☐ 6. Do you restrict the RMRR exemption to units being modified and exclude replacement of entire units from RMRR exemption consideration?

Y **X** N ☐ 7. Regarding the "purpose" evaluation factor in an RMRR exemption evaluation, do you exclude projects from the RMRR exemption that result in an increase in production capacity?

8. Regarding the "frequency" evaluation factor in an RMRR exemption evaluation, which of the following do you consider:

Y **X** N ☐ a. the history of the specific unit(s) in question.

Y **X** N ☐ b. the history of other similar units at the same facility.

Y **X** N ☐ c. the history of similar units at other facilities in the same industry.

Y **X** N ☐ d. some combination of these histories.

9. Regarding the "cost" evaluation factor in an RMRR exemption evaluation, what procedure do you follow to take cost into account?

Response: This determination would be kept in the electronic data base under the facility's ID and classified as such.

Y **X** N ☐ 10. Do you provide RMRR exemption evaluation training to NSR permitting staff employees (other than on-the-job training)?

If yes, describe the nature of the training provided.

Response: Staff has attended NSR training provided by CenSARA, other forms of training including reviewing EPA October's 1990 Draft NSR Workshop Manual and a 12-week Air 101 training that contains NSR permitting elements. Management regularly assesses training opportunities and staff is encouraged to attend training as it becomes available.

Y □ N **X** 11. Do you provide an information outreach program on RMRR exemption evaluations for owners of regulated sources?

If yes, how frequently do you provide such information and how do you provide it?

B. PCP (Pollution Control Projects) Exemption

NOTE: Federal pollution control project (PCP) exemption rules and policies were vacated by the U.S. Court of Appeals for the District of Columbia as of June 24, 2005. Please address the following questions for projects approved prior to this decision.

Response: There are no projects approved prior to June 24, 2005, therefore Section III.B is not applicable.

Y □ N □ 1. Do you have standard permitting procedures or rules that allow for certain changes at non-utility emissions units to be designated as PCP, which are excluded from major NSR?

2. How many PCP exclusions have been granted for "feed" or "fuel" switches?

3. What process do you use to determine if the project is "environmentally beneficial" and not just "economically efficient"?

4. How are the collateral emission increases evaluated? Do you require a modeling analysis to demonstrate insignificant impacts from emissions increases?

5. How do you handle collateral increases in hazardous air pollutants (HAP)?

Y □ N □ 6. Are the emission reduction credits from PCP available for netting or NSR offsets? Please explain.

7. Which add-on control devices are most frequently involved in PCP exclusion requests?

8. Which types of industrial sources typically request PCP exclusions from major NSR?

Y ☐ N ☐ 9. Does your NSR SIP include the PCP exclusion for electric utility steam generating units (often referred to as the WEPCO exclusion)?

C. Circumvention/Aggregation

Y **X** N ☐ 1. When you review a modification to determine if it is major for NSR, do you consider aggregating prior minor emissions increases at the stationary source?

2. Please provide any criteria you may use to determine if a series of minor modifications or projects needs to be aggregated for NSR applicability purposes?

Response: NDEE utilizes EPA's guidance criteria of timing, technical dependence and economic dependence to evaluate aggregation of projects in accordance with rule making published in the Federal Registry on 11/15/18 (Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Aggregation; Reconsideration).

Y **X** N ☐ 3. When requests are made to permit new or modified emissions units as separate minor changes over time, do you evaluate whether the permitting process is purposely staged as minor when the changes are really one permitting action subject to major NSR?

D. Synthetic Minor Permit Limits

Y ☐ N **X** 1. Do you keep a list of synthetic minor sources (*i.e.,* sources that would otherwise be major for NSR but are considered minor because of emissions limits or other limiting conditions in their permits) that is available for review by the public and EPA?

If yes, please explain how.

2. Describe your formal process for establishing or designating a synthetic minor source.

Response: NDEE evaluates construction permit applications including PTE calculations and the limitations proposed by the facility. Once evaluated for technical accuracy and appropriateness with the regulations, the limitations are prescribed as practical enforceable permit conditions that ensures a source is synthetic minor for NSR purposes.

Y **X** N □ 3. For synthetic minor sources, do your permits include enforceable limits to keep the sources minor?

If not, please explain why.

4. Please describe how compliance with the synthetic minor limits is tracked over time?

Response: Compliance with emission limitations to ensure synthetic minor status are tracked in different ways depending on how the limitation was structured, methods of tracking compliance with limitations are: CEMs, stack testing, daily, monthly, 12-month rolling tracking, record keeping requirements, material balances, etc. In addition, Air Compliance inspections are conducted on a regular basis that verify if the facility is in compliance with the limitations proposed in its synthetic minor permits.

Y **X** N □ 5. Are you satisfied that your tracking activities are sufficient to ensure that sources getting synthetic minor permits to avoid major NSR review are not actually operating above the applicable major source threshold?

Y **X** N □ 6. Do you include in your synthetic minor permits conditions requiring sources to notify you if and when the major source threshold is reached?

Y □ N **X** 7. Do you perform (or require) modeling for sources seeking synthetic minor permits to determine impacts on PSD increments?

Y □ N **X** 8. Do you consider visibility issues in Class I areas, if applicable, when reviewing synthetic minor applications?

Y □ N □ 9. Do you include “prompt deviation” reporting requirements in synthetic minor source permits?

If yes, how do you define “prompt deviation”?

Response: Any emissions due to malfunctions, unplanned shutdowns, and ensuing start-ups that are, or may be, in excess of applicable emission limits shall be reported to the NDEE in accordance with Title 129, Chapter 35, Section 005. Reporting must be submitted within 48 of beginning of each excess period.

Y **X** N □ 10. Do permit applications reviewed by your agency and permits issued identify the requirements (*e.g.,* PSD, nonattainment Major NSR, Title V, NESHAP) being avoided by keeping the source minor?

E. Relaxation

1. Describe your knowledge of the "relaxation" regulatory provisions of 40 CFR 51.165(a)(5)(ii), 51.166(r)(2), and 52.21(r)(4).

Response: NDEE understands from the above referenced regulatory citations that if there are relaxation of any limitations, that the project needs to be evaluated as a new construction. If relaxation of limitations causes a source to become major for NSR or a major modification as defined under NSR the project needs to go through PSD review.

Relaxation of BACT requirements could also be considered pending review and public participation.

2. What types of changes do you consider potentially subject to relaxation assessments?

Response: Changes in production limitations, production capacity, hours of operations, emission limitations, etc. Relaxation of BACT requirements could also be considered pending review and public participation.

Y □ N **X** 3. Do you have a written policy on relaxation assessments?

4. Approximately how many relaxation assessments have you made in the last five years?

Response: NDEE does not track relaxation assessments.

Y □ N **X** 5. Do you include specific permit conditions to make potential future relaxation possibilities more identifiable?

6. What is your understanding of the appropriate circumstances under which an existing minor source is allowed a 100/250-tons-per-year emissions increase without triggering relaxation provisions?

Response: A facility is allowed a one time-doubling of 100/250TPY for its site without going through PSD review for the project. After the one time doubling, the source would be a major NSR source and evaluated as such.

Y □ N **X** 7. Do you provide relaxation evaluation training to NSR permitting staff employees (other than on-the-job training)?

If yes, describe the nature of the training provided.

Response: Staff has attended NSR training provided by CenSARA, other forms of training including reviewing EPA October's 1990 Draft NSR Workshop Manual. Management regularly assesses training opportunities and staff is encouraged to attend training as it becomes available.

IV. *Minor Source Construction Permitting Program*

Y **X** N ☐ 1. Do you require monitoring or reporting requirements for minor sources?

a. If so, do you establish these requirements based on a rule or a general policy of effective permit writing?

Response: Effective permit writing prescribes that for any limitation there needs to be a monitoring and record keeping requirement to make the limitation practically enforceable.

Y **X** N ☐ 2. Does the application or permitting process require modeling for minor sources?

Response: As indicated in NDEE's current Modeling Guidance located at: http://dee.ne.gov/publica.nsf/PubsForm.xsp?documentId=84D0237BF4827070862581940067B0CA&action=openDocument

Y **X** N ☐ 3. Does your minor source permit program include a technology component similar to BACT in the PSD program?

Response: The State has a Toxics BACT program (Title 129 Chapter 27), although it only applies for HAPs. If thresholds (10 TPY comb. HAP/2.5 individual HAPs) are triggered for a project, T-BACT must be conducted for the project; the analysis is similar to BACT in the NSR program.

Y **X** N ☐ 4. Do you require minor sources with Federally applicable permit limits for MACT, NSPS, or NESHAP to report compliance?

Response: NDEE's reporting requirements in minor NSR permits prescribe that reporting must be in accordance with the applicable federal requirements.

V. *Modeling*

A. PSD Modeling

1. General

Y **X** N ☐ 1. Do you follow EPA's modeling guidelines in 40 CFR Part 51 Appendix W?

Y **X** N □ 2. Are deviations from the modeling guidelines in Appendix W subjected to public comment and submitted to the regional EPA office for approval?

Response: The Department generally does not seek public comment when deviating from Appendix W. Minor NSR sources modeling procedures follows App W as much as practical, however, minor sources do not perform MERP analyses, model haul roads, or model PSD Class II Increments. For Major NSR modeling, every attempt is made to conform to Appendix W guidelines. The Department does submit to EPA Region 7 for approval for any non-regulatory modeling options as per 3.2.2 Requirements, e (i-v).

Y **X** N □ 3. Do you ask applicants to submit a modeling protocol for approval prior to submitting modeling?

Y **X** N □ 4. Is the protocol provided to other interested organizations (*e.g.,* EPA, Federal Land Manager)?

Response: Please note that Nebraska does not contain any Class I areas. The closest Class I areas outside of Nebraska are the Badlands and Wind Cave, approximately 54-km and 55-km respectively, due north from the Nebraska/South Dakota State border.

Y **X** N □ 5. Is the effect of downwash modeled if stacks are less than good engineering practice (GEP) height?

Response: BPIP-Prime is run for all modeling demonstrations, regardless of stack heights.

Y **X** N □ 6. Are modeling analyses available for public review?

Response: Modeling analyses are accessible from Nebraska Enterprise Content Management Portal. The modeled impacts with a very brief discussion is included the CP Fact Sheet. Beginning in early 2022, the CP Fact Sheet expanded the modeled impact discussion by including more details on the choice of background concentration, met data, any irregularities, such as using the 2013 through 2017 Omaha area met date because both one-minute and five-minute windspeed data are missing at least one-month of records in both 2018 and 2019.

Y **X** N □ 7. Do you review modeling submittals to determine if option switches are correct?

8. When off-site meteorological data are used, what years are typically used?

Response: Most current; meteorological data is updated typically every 5 years.

9. How do you train/re-train your modeling staff?

Response: Training includes attending AERMOD training classes offered by Trinity, Oris BEEST, or Lakes Environmental, as well as attendance at R/L/S Modeling Workshops, modeling conferences such as the EPA Conference on Air Quality Modeling or the AWMA Air Modeling Conferences. Other training opportunities include courses provided by CenSARA.

Y **X** N ☐ 10. Do you follow The Air Quality Analysis, Additional Impacts Analysis, and Class I Area Impact Analysis guidance provided in the New Source Review Workshop Manual (Draft October 1990)?

11. For cumulative national ambient air quality standards (NAAQS) and PSD increment compliance assessment:

a. How are the appropriate emission inventories of other sources developed?

Response: Generally, the modeling inventory procedures include:
(1) Using NDEE's Interactive Mapping App on our website to identify the facilities with Clean Air Construction permits that are within 50-km of the facility.
(2) Determine the distance from the facility to the nearby and delete everything greater than 50-km on the list, then delete minor sources greater than 30-km on the list.
(3) Identify on a facility basis the average of the most recent 2-years of total actual emissions from Emission Inventory.
(4) Utilizing the "Screening Threshold" Method for PSD Modeling from North Carolina Air Quality Section to determine which nearby facilities should be included in the model.

NAAQS nearbys: $Q \geq 20D$
PSD nearbys: $Q \geq 5D$

(5) Once the facilities that need to be included are identified, go through CP Applications, OP Applications, and old modeling projects to determine the modeling parameters.

Please not that Nebraska's SLEIS Emissions Inventory does contain modeling parameters, but they're in a format that can't be easily retrieved. The Department is currently working on solutions to streamline obtaining modeling parameter information from applications and existing inventory systems.

b. What are the reasons used to identify and/or eliminate emission sources?

Response: Please refer to steps 1 through 5 above.

c. How are PSD increment consuming/expanding sources identified and tracked?

Response: In the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalized increment consumption/expansion inventory for the State.

12. What is the basis (*e.g.,* allowable, maximum or average actual short-term emissions, last two year period, etc.) of the emission rates provided in the NAAQS and PSD increment consuming inventories of other sources?

Response: NDEE calculates a two-year average, actual emissions, in tons/year, from the most recent two years in Emission Inventory. Care is taken to ensure these values are representative of normal operating conditions by comparing three, four, or even five years of Emission Inventory values. For short-term averaging periods, the emission rate is generally divided by 8760 hours.

13. How do you ensure that the controlling concentrations reported by the applicant for each pollutant and averaging period were appropriately determined?

Response: NDEE evaluates calculations received along with the sources of information utilized to conduct calculations. NDEE reviews operating design parameters on emission units, basis for emission factors used, etc.

Y **X** N ☐ 14. Are the impact modeling analyses reviewed to ensure that they are accurate and complete, and that appropriate modeling procedures (*e.g.,* modeled to 100-m resolution, fence line and not property line, nearest modeled receptors, etc.) were followed?

Response: All modeling demonstrations use to show compliance with the NAAQS and PSD Increments are thoroughly reviewed for accuracy and completeness. AERMOD regulatory options, BPIP-Prime processing, receptor placement, met data as provided by the Department, average actual emission rates from nearby facilities as provided by the Department, allowable emission rates in the Federally enforceable construction permit are all checked for the final modeling run and a report containing the Department's predicted modeled impact is supplied to the Permit Writers for inclusion in the Fact Sheet.

Y ☐ N **X** 15. Is complex terrain an issue in your region?

If yes, what modeling procedures are used to address impacts in complex terrain?

Y **X** N ☐ 16. Are pollutants without NAAQS and/or PSD increments addressed in the air quality impact assessments?

If yes, what threshold concentrations (*e.g.,* acceptable ambient concentrations) are used to evaluate impacts?

Response: The Department models CO if the net emission increase is greater than 100 tons/year, Pb if the net emission increase is greater than 0.6 tons/year, and Total Reduced Sulfur (including H_2S) if the net increase in emission is greater than 10 tons/year.

Y **X** N ☐ 17. Do you have written agency-specific air quality modeling guidance for use by applicants?

Y **X** N ☐ If yes, has the guidance been provided to other concerned organizations (*e.g.,* regional EPA, appropriate FLM, etc.) for review and comment?

Response: The document was last revised in 2017 (located at: http://dee.ne.gov/publica.nsf/PubsForm.xsp?documentId=84D0237BF4827070862581940067B0CA&action=openDocument.), NDEE is currently working on updating the guidance document. The document was reviewed by EPA Region VII in 2017 and once draft is completed for 2022, it will undergo EPA Region VII review.

Y **X** N ☐ If yes, is your guidance available on the internet?

18. How do you determine the appropriateness of proposed meteorological data for an application?

Response: The Department provides 5-years of meteorological data for NSR permit modeling. It is the policy of the Department to be the sole provider of these datasets to ensure consistency of the met data used from project to project. The data is processed and made available on request. In general, there are only about five to six ASOS met stations out of a possible ten stations that are used in air dispersion modeling, since most facilities that emit air pollutants in Nebraska are located in the Eastern half of the State.

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a. When are “on-site” meteorological data required for an application?

Response: In practice, on-site data is never required.

Y ☐ N **X** b. Are “on-site” meteorological data validated and accepted if recovery is less than 90 percent?

19. When an applicant's air quality modeling reveals NAAQS and/or PSD increment violations, what is required to grant the permit and how are the violations resolved?

Response: A culpability analysis is required to demonstrate that the facility is not contributing to the violation at a level equal to or greater than the SIL. Failing that analysis, the facility can add additional control technology or possibly increase the stack height.

Y **X** N ☐ 20. Do your regulations include the federal definition of ambient air?

If no, what is your definition of ambient air?

Response: As prescribed in Title 129 Chapter 1, Section 016: "Ambient air" means the portion of the atmosphere, external building, to which the general public has access.

21. Discuss your procedures for modeling "hot spots," including minimum receptor spacing?

Response: We require modeling "hot Spots" but only by inference in the August 2021 Modeling Protocol template, and without an explicit minimum spacing requirement:

> "In all cases, it is the applicant's responsibility to ensure the spatial coverage of the receptor grid is adequate enough to determine the worst case predicted ground level concentrations."

NDEE is currently working on updating the modeling guidance and plans to add a more explicit statement for this matter.

22. How do you determine if background air quality data are representative?

Response: NDEE takes steps in ensuring that background air quality data is representative such as:
(1) Reviewing information to avoid the possibility of double counting nearby impacts at the monitor while explicitly including nearby source in the model that is a similar source type and has approximately the same proximity to the facility;
(2) Considering the pollutant's residence time;
(3) Matching the land use, terrain, and population as much as possible.

Y **X** N ☐ 23. Do you use the same NAD for stack, receptor, and building UTM coordinates?

Response: NDEE uses NAD 83 and WGS84 interchangeably. Some older models in NDEE's Records, models from 2013 and earlier, have mixed NAD 27 and NAD 83 coordinates.

2. Class I Areas

Response: Please note that Nebraska does not contain any Class I areas. The closest Class I areas outside of Nebraska are the Badlands and Wind Cave, approximately 54-km and 55-km respectively, due north from the Nebraska/South Dakota State border. Therefore, this section is currently not applicable for projects in Nebraska.

1. How do you determine which proposed projects need a Class I impacts analysis, including consideration of distance of the source from Class I areas (*e.g.,* maximum distance criteria)?

Y □ N □ 2. For new or modified sources within 10 kilometers of Class I areas, do you require sources to submit an impact analysis for all pollutants to determine if any have impacts greater than 1 ug/m^3?

Y □ N □ 3. Do you require applicants to submit a Class I increment analysis for each pollutant subject to PSD review for which an increment exists?

Y □ N □ 4. Do you require applicants to identify and provide a cumulative impacts analysis (maximum impact within Class I areas) for all Class I areas impacted by the source?

Y □ N □ 5. Do you have a formal procedure for notifying Federal Land Managers (FLMs)?

If yes, please explain.

Y □ N □ 6. Do your permitting procedures require the applicants to notify Federal Land Managers?

If yes, please explain.

Y □ N □ 7. Is there communication, consultation, and discussion between you and FLMs?

If yes, to what extent (*e.g.,* high, moderate, minimal).

Y □ N □ 8. Is there communication, consultation, and discussion between the applicant and FLMs?

If yes, to what extent (*e.g.,* high, moderate, minimal)?

Y □ N □ 9. Do you actively seek input from FLMs during the permitting process?

Y □ N □ 10. Is the applicant required to address potential adverse impacts on air quality related values (AQRVs) that are identified by the FLM during the notification process?

Y □ N □ 11. Do you require prior approval of Class I area impact analysis procedures that applicants plan to use?

Y □ N □ 12. Do you require applicants to perform a visibility analysis for Class I areas?

Y □ N □ 13. If visibility impairment is indicated, do you require the applicant to notify the appropriate FLM for the Class I area?

Y □ N □ 14. Is the applicant required to address potential effects on scenic vistas associated with Class I areas that may have been identified by the FLM during the notification process?

Y □ N □ 15. Do you have a formal process for handling Class I area increment violations if predicted?

Y □ N □ 16. Have you issued PSD permits where the FLM objected?

If yes, please explain and identify the projects.

B. Nonattainment Major NSR Modeling

Response: Not applicable, the nonattainment NSR program does not currently apply to Nebraska.

Y □ N □ 1. Do you require modeling to ensure that emission offsets provide a positive net air quality benefit? (Only applies to sulfur dioxide, particulate matter, and carbon monoxide nonattainment areas.)

C. Minor Source Modeling

Y □ N **X** 1. Are minor permit actions (*i.e.,* proposed new and modified minor sources), evaluated to determine if modeling for PSD increments is needed?

a. Under what circumstances is increment modeling triggered for these minor permit actions?

Response: Only major NSR sources/major NSR modification projects are required to do PSD increment modeling.

Y **X** N □ 2. Do you use modeling to assure that minor sources and minor modifications will not violate the NAAQS?

If so, at what emission thresholds?

Response: NDEE utilizes the Significant Emission Rate (SERs) for minor sources and minor modifications.

Y □ N **X** 3. Based on any modeling results, do you require installation of air quality monitors or establish other permit conditions to assure protection of the NAAQS and increment?

Y □ N **X** 4. For the pollutants with PSD increments established do you have a list of areas where the minor source baseline has been triggered?

Response: NDEE recently hired an additional modeler into the Section and is working on a plan to formalized increment consumption/expansion inventory for the State which will include baseline trigger dates.

Y **X** N □ 5. Do you model minor sources for PSD increments if the minor source baseline is triggered?

Y □ N **X** 6. Do you have procedures in place to identify minor sources that consume or expand PSD increment?

D. Increment Tracking

1. What method do you use to assign baseline dates (*e.g.,* county-specific, region-specific, or entire state)?

Response: Major Source Baseline Date (MjSBD) is set by the EPA.
Trigger Date (TD) is set by the EPA.
Minor Source Baseline Date (MiSBD) is the date the first technically complete, PSD Application is received after the TD. As long as the application is technically complete, even if the application is later withdrawn by the applicant, it will still trigger the MiSBD.

Y □ N **X** 2. Do you have a list of the minor source baseline dates for each area?

If yes, please provide a copy.

Response: NDEE recently hired an additional modeler into the Section and is working on a plan to formalized increment consumption/expansion inventory for the State which will include baseline trigger dates.

Y □ N **X** 3. Do you have an understanding of receptor location dependence vs. source location dependence for increment tracking?

Response: NDEE recently hired an additional modeler into the Section and is working on a plan to formalized increment consumption/expansion inventory for the State which will include baseline trigger dates.

Y ☐ N **X** 4. Do you have a program for tracking increment consumption?

If yes, please describe the program and whether it is a formal or an informal program?

Response: In the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalized increment consumption/expansion inventory for the State.

Y ☐ N **X** 5. Do you maintain and update a computerized emission source database for increment tracking that includes minor sources that affect increment?

If yes, does the database include the information needed for modeling (*e.g.,* source locations, stack parameters, emissions)?

Response: In the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalized.

6. Do you use allowable or actual emissions for increment tracking purposes?

Response: In the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalized.

a. If actual emissions, how do you calculate emissions for each averaging period covered by the increments?

Response: Average actual, using the most recent two-years that are representative of normal operating conditions. Please refer to answer to question on Section V.A.11.a

Y ☐ N **X** 7. Are area sources included in increment tracking analyses (*e.g.,* growth-related and transportation-related emissions)?

8. How frequently is increment consumption evaluated - on a scheduled basis or just when occasioned by a new permit application?

Response: Currently, increment consumption is evaluated when a new permit application is received, NDEE has recently hired another modeler into the

Section and NDEE and is working on a plan to formalize the tracking which will include increment consumption scheduled evaluations.

9. How "transparent" (*i.e.,* understandable) is the emission source inventory used for PSD modeling? (*i.e.,* could an outside reviewer (such as a member of the public) clearly identify the sources included (*e.g.,* name, location, stack parameters) and the sources excluded in a modeling analysis?)

Response: In the recent past, PSD increment consuming/expanding was not being formally tracked. NDEE does conduct modeling for NSR major projects and/or NSR major modification projects and takes into consideration consuming/expanding sources. NDEE recently hired an additional modeler into the Section and is working on a plan to formalized.

10. How do you handle interstate increment tracking (for state reviewing authorities) or inter-jurisdiction tracking (for local reviewing authorities), including consistency of tracking across jurisdiction boundaries?

Response: This would be evaluated on case-by-case basis dependent on the project.

11. What procedure do you follow in planning for and incorporating new modeling tools?

Response: NDEE does not follow a formal procedure in planning for and incorporating new modeling tools. Staff attends regular training, EPA conferences, and communicates with EPA Region VII on a regular basis to understand if there are new modeling tools available.

Y ☐ N **X** 12. Do you provide increment tracking training to NSR permitting staff (other than on-the-job training)?

If yes, describe the nature of the training provided.

Y ☐ N **X** 13. Are mobile sources modeled for increment compliance?

14. How does the public access a list of sources that affect PSD increments?
modeling tools?

Response: All permitting applications, documentation related to draft of permits, and any other applicable documentation is available to the public via the Nebraska's Enterprise Content Management Portal.

VI. *Other Program Elements*

A. Environmental Justice (EJ)

Note: By EJ analysis we refer to any procedures applied during the permitting process, regardless of whether they are called EJ, that consider demographics (race, income, nationality, etc.), cumulative effects, (burden, exposure, risk), comparative effects or modifications to the public involvement processes to address unique characteristics of the project.

Y ☐ N X 1. Do you consider EJ issues during the permitting process? If yes, please provide a description of the criteria, guidelines, or screening procedures used to address EJ issues

Response: NDEE does not have legislation or a formal policy or guidance expressly addressing environmental justice. However, NDEE, in the administration of its programs and activities, seeks to ensure fair treatment of all people regardless of race, color, national origin, disability, age, and meaningful involvement of the public with respect to our environmental programs. NDEE has placed a non-discrimination statement prominently on its webpage and designated a deputy director as the point of contact for any questions. Other examples include (1) extensive stakeholder outreach in the regulation development process, (2) public information sessions associated with draft permits in addition to public hearings, (3) a robust citizen complaint system and an online "report a problem", (4) compliance assistance on NESHAPs and NSPS, (5) an enforcement goal to protect and reduce risk to human health and the environment, (6) grant programs, and (7) the ability to utilize limited language translation services.

Y ☐ N X 2. Regarding section 173(a)(5) of the Clean Air Act, do you conduct an alternatives analysis as part of your nonattainment area permitting process? If yes, please provide a description of the EJ criteria or guidelines used for this analysis

Response: N/A; Nebraska currently does not have any nonattainment areas.

Y X N □ 3. Regarding section 165(a)(2) of the Clean Air Act, does your NSR permitting program and public comment process for PSD regulated pollutants provide for consideration of alternatives?

4. How are the demographics of the affected community taken into account in the permitting process?

Response: Demographics are not taken into account during the permitting process. Please refer to answer to Section VI.A.1

5. How are cumulative effects and/or pre-existing burden addressed in the permitting process?

Response: Air Dispersion Modeling is conducted (if necessary) in accordance with federal regulations and NDEE's modeling guidance.

6. What additional community information and/or demographics (for example – children, the elderly) do you consider important for an EJ analysis?

Response: Please refer to answer to Section VI.A.1.

Y □ N □ 7. Do you allow public involvement during an EJ analysis? If yes,

a. What stakeholder groups do you try to involve?

b. At what point in the EJ analysis or permitting process do stakeholders become involved?

c. To what degree and in what manner do stakeholders or the community influence the permit decision making process?

d. To what degree do you know about how stakeholders or the affected community participated in the permit decision making process?

e. Describe how you make information available to stakeholders and the affected community. (For example – translation of information, understandable and accessible materials, personal contacts, clearly explained technical information including potential risk, distribution of information, public meetings, etc.)

Response: Not Applicable. Please refer to answer to Section VI.A.1.

Y □ N □ 8. In the EJ analysis, do you consider direct and indirect benefits and burdens from the proposed actions? If yes,

a. Describe what benefits you consider in the EJ analysis. (For example – economic, social, cultural, health, environmental, etc.)

b. Describe what burdens you consider in the EJ analysis. (For example – economic, social, cultural, health, environmental, etc.)

Response: Not Applicable. Please refer to answer to Section VI.A.1.

Y □ N □ 9. In the EJ analysis, do you consider comparative and disproportionate impacts? If yes,

a. Describe the criteria or procedures used to determine any potential or actual adverse health or environmental effects or impacts.

b. Describe the criteria or procedures used to determine whether evidence exists to describe these effects or impacts.

c. Describe the criteria or procedures used to determine whether the proposed project complies with all applicable environmental laws.

Response: Not Applicable. Please refer to answer to Section VI.A.1.

B. Endangered Species Act (ESA)

Y □ N X 1. If you have a delegated PSD program, do you notify PSD permit applicants of their ESA obligations?

If so, please provide a copy or description of your notice.

Y □ N X 2. If you have a delegated PSD program, do you advise applicants, concerning their ESA obligations, to consult with a.) EPA; b.) The U.S. Fish and Wildlife Service; and/or c.) Federal Land Manager?

If yes, please explain, and describe what information you provide to applicants concerning their ESA obligations.

Response: Although NDEE does not explicitly advise applicants concerning their ESA obligations, the permits contain the following language:

"Holding of this permit does not relieve the source from the responsibility to comply with all applicable portions of the Nebraska Air Quality Regulations and any other requirements under local, State, or Federal law. Any permit noncompliance shall constitute a violation of the Nebraska Environmental Protection Act and the Federal Clean Air Act,

and is grounds for enforcement action or permit revocation (Title 129, Chapter 41 and Chapter 17, Section 011)."

Y □ N X 3. If you have a SIP approved PSD program, do you have any responsibilities under your state law to carry out an endangered species analysis?

If so, please briefly describe the scope of the program. If no, please so indicate.

Response: NDEE consults with local governments, federal and land managers before the issuance of a PSD permit through the application review and public participation process, which provides opportunity for interested parties to comment on the project.

Y □ N □ 4. If you carry out a federal or state ESA review, does the consultation affect the timing of your issuance of a proposed or final permit?

If yes, please explain.

Response: Not Applicable.

C. State & Local Agency Coordination

1. How do the local and state agencies coordinate permitting-related responsibilities?

Response: Lincoln Lancaster County and the City of Omaha issue NSR permits (major and minor sources). NDEE reviews NSR permits and have regular communication with the local agencies. NDEE collaborates with local agencies on questions in regard to facilities, NDEE aids on modeling for the local agencies, has opportunity to comment on public notice on permits being drafts and share training opportunities as they become available.

2. How does the department overview the local agency's permitting activities?

Response: There is no formalized auditing program that NDEE conducts for the local agencies. Lincoln Lancaster County and the City of Omaha issue NSR permits (major and minor sources). NDEE reviews NSR permits and have regular communication with the local agencies. NDEE collaborates with local agencies on questions in regard to facilities, NDEE aids on modeling for the local agencies, has opportunity to comment on public notice on permits being drafts and share training opportunities as they become available.

Y **X** N □ 3. Does the local agency routinely send draft and final permits to the state agency for review, comment, and concurrence?

If yes, please explain the details.

Response: NDEE reviews NSR permits and have regular communication with the local agencies. NDEE collaborates with local agencies on questions regarding facilities, NDEE aids on modeling for the local agencies, has opportunity to comment on public notice on permits being drafts and share training opportunities as they become available.

4. How often does the local agency provide the state with information on its permitting activities?

Response: At least monthly.

5. Do you interact with other state environmental media programs (e.g. water, RCRA, waste) when permitting complicated projects?

Response: Yes, Air Construction Permitting often interacts with other state environmental media program depending on the projects. The current organizational changes also facilitate dialogue between the media since permitting for all media is under one division.

6. Please provide a copy of the most recent program review you have completed for each local agency with all or a portion of the NSR permitting responsibilities in the state.

Response: There is no formalized auditing program that NDEE conducts for the local agencies. Lincoln Lancaster County and the City of Omaha issue NSR permits (major and minor sources). NDEE reviews NSR permits and have regular communication with the local agencies. NDEE collaborates with local agencies on questions regarding facilities, NDEE aids on modeling for the local agencies, has opportunity to comment on public notice on permits being drafts and share training opportunities as they become available.

NEBRASKA

DEPT. OF ENVIRONMENT AND ENERGY

#001 – Director
Jim Macy

#184 – Deputy Director
Steve Goans

#159 – Administrator
Permitting & Engineering Division
Shelley Schneider

Air Quality Construction Permit Section
#235 – Section Supervisor Pati West
#046 - Engineer
#063 – Engineer Vacant
#064 - Engineer
#087- Engineer
#183 – Engineer
#216 – Engineer Vacant
#226 – Engineer
#228 – Engineer Vacant
#262 – Environmental Specialist II (Modeling)
#223* - Environmental Specialist II (Modeling)

Air Quality Operating Permit Section
#114 – Section Supervisor David Christensen
#009 – Environmental Specialist II
#068 – Environmental Specialist II
#206 – Environmental Specialist II
#222 – Environmental Specialist II
#223* – Environmental Specialist II Vacant
#233 – Environmental Specialist II

*#223 – Environmental Specialist II Position is on loan to the Air Quality Construction Permit Section

ATTACHMENT C: Completed Title V Questionnaire

Returned by NDEE prior to Audit.

[see the attached copy]

Title V Program
Self-Evaluation Questionnaire
NDEE - 2022

Last Updated: December 7, 2006

Instructions for completing the Title V Permit Program Self-Evaluation Questionnaire

- When answering Yes or No questions, please add explanation as appropriate to clarify your response.

- Please skip any sections of the self-evaluation questionnaire that do not apply within your permitting jurisdiction rather than answering hypothetically.

- If you have a written policy or guidance document that substantially answers any question in this self-evaluation questionnaire, please so indicate and either attach a hardcopy to your response or point to a specific URL on your public web server where the document may be found.

- This self-evaluation questionnaire was developed by EPA Headquarters and Regions to assist in the agency's Title V oversight program. As part of its peer review process, EPA sought review and comment from STAPPA-ALAPCO. While this questionnaire has undergone a make-over from the original, the scope and detail of the questions asked remains the same for all agencies.

Table of Contents

A. Title V Permit Preparation and Content

1. What % of your initial applications contained sufficient information so the permit could be drafted without seeking additional information? What efforts were taken to improve quality of applications if this % was low?

Response: There is always additional questions or information needed during the drafting of the initial operating permits. During the drafting of the permit documents, NDEE communicates regularly with the source to help determine the applicability State and Federal regulations and to help determine the appropriate monitoring and recordkeeping requirements.

However, during the renewal process, NDEE usually has very few questions and usually very little additional information has been needed. NDEE is constantly improving our renewal forms to assist the source to submit a complete application while streamlining the process by allowing sources to use their active operating permit (OP) as the basis of their application. The source only provides detail in the application about any changes made to the facility since the issuance of their active permit. This process not only streamlines the renewal application process for the facility, but it also streamlines the drafting process for NDEE as we can focus on the changes made during this permit cycle.

The current renewal process allows the source to complete their application in a much shorter time and produces a more complete application. This process also reduces NDEE's time to review the application for completeness as well as reducing the drafting time of the permit documents. As stated above, NDEE also communicates regularly with the source during the drafting of the permit documents to communicate any changes in regulations or requirements that have taken place since the issuance of their active permit.

2. For those title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

Response: There is no requirement in Title 129 that states a source must update their application once it is submitted. However, if a significant amount of time has passed since the receipt of the application, the permit writer will contact the source and ask it there has been changes to the facility since the submission of the application and if there has, then will request an updated application.

a. Do you require a new compliance certification?

Response: NDEE only requires an updated compliance certification if there are significant changes to the original application.

3. Do you verify that the source is in compliance before a permit is issued and if so, how?

Response: Sources are required to submit Certification of Compliance Reports every year, these reports as well as Compliance Inspection Reports and all other information that is in the facility file since the issuance of their active permit is reviewed by the assigned permit writer. The permit writer will also communicate with the Compliance Team during the permit drafting process to determine if there are any outstanding compliance issues have been identified.

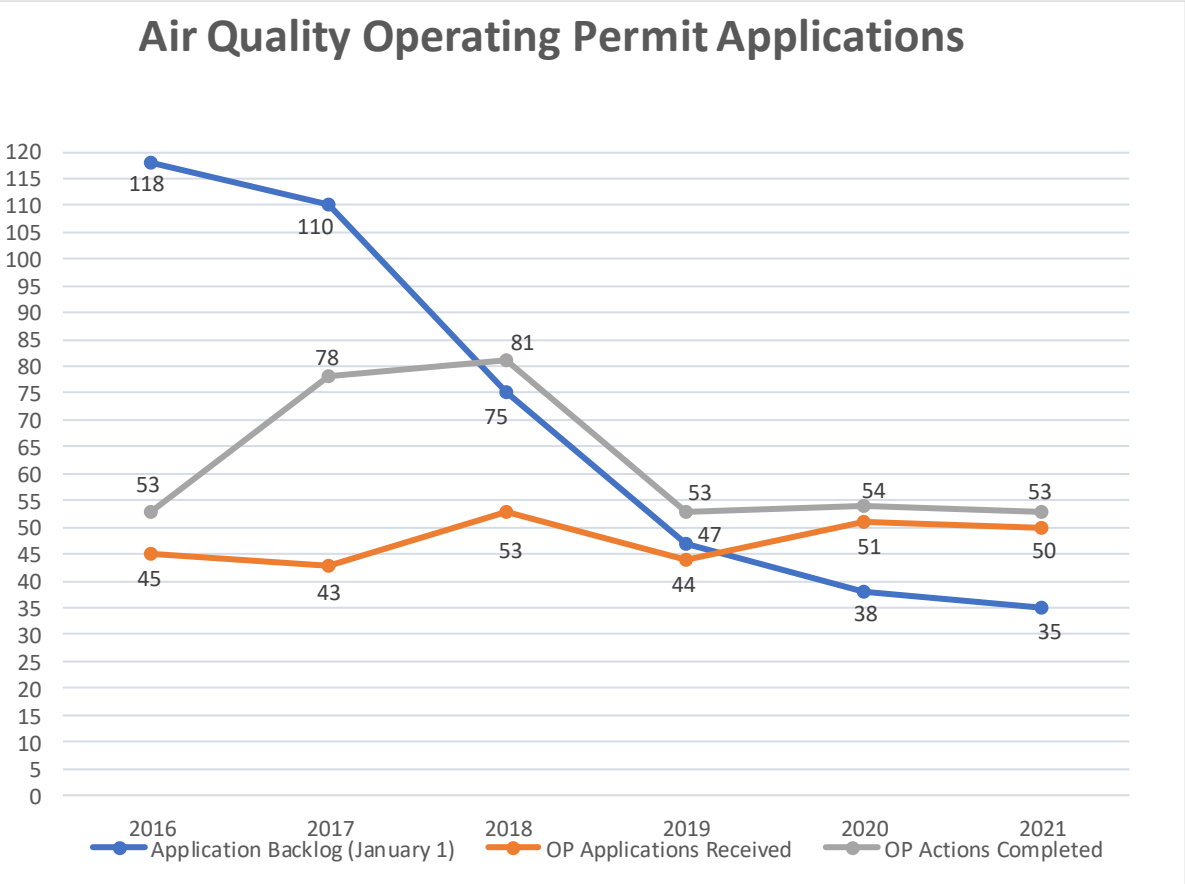
The permit writer will also review the Construction Permit (CP) Team's permit application log to determine if the source has any active construction permit applications. If there are active construction permit applications, then the permit writer will discuss with the CP Team the deails of the application and how it will affect the drafing of the OP.

a. In cases where the facility is out of compliance, are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

Response: NDEE usually does not delay permit issuance due to a compliance problem. If the source is out of compliance at the time of permit issuance, the permit will contain a compliance schedule which will have specific milestones and dates the source must meet to be able to return to compliance.

4. What have you done over the years to improve your permit writing and processing time?

Response: NDEE staff participate in available CenSARA training and use customized and standard permit formats as well as standardized permit conditions whenever possible. Permitting staff also meet on a routine basis to give presentations on specific subjects that will help improve permitting practices as well as discuss permitting challenges. NDEE is completed process improvement activities to help improve our applications, factsheets and permits. These processes have resulted in streamlining our work to be able to complete and issue permits quicker and has improved our final product. The table below illustrates the progress made by the operating permit team in reducing backlog since 2016.



5. Do you have a process for quality assuring your permits before issuance? Please explain.

Response: All permits are reviewed by the following process:

1. Peer reviewed by another permit writer
2. Reviewed by compliance team
3. Reviewed by the source prior to public notice
4. Reviewed by section supervisor before public notice
5. Public notice period
6. Reviewed by Division Administrator before issuance

6. Do you utilize any streamlining strategies in preparing the permit such as:

a. Incorporating test methods, major and minor New Source Review permits, MACT's, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule?

Response: Federal Rules are incorporated into our permits by referencing the applicable rule. NDEE also includes all limits required by the federal rule for each affected emissions point in the permitted emissions limit table.

b. Streamlining multiple applicable requirements on the same emission unit(s) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe.

Response: Each permit NDEE issues is unique to each permitted source. NDEE's current practice is to permit by process rather than by emissions units. So, all the applicable federal and state requirements, permitted limits, testing requirements, operational requirements, monitoring requirements, recordkeeping and reporting requirements for the emissions units and control devices for a single process are listed together. Each additional process for the source is handled in the same manner. Some examples of processes are grain handling, milling, fermentation, boilers, thermal oxidizer/heat recovery steam generator system, storage tanks, cooling towers, haul roads, etc.

c. Describe any other streamlining efforts.

Response: NDEE implements EPA's guidance for streamlining operating permits, we also utilize the insignificant activities process allowed by EPA. NDEE has streamlined the application process by allowing sources to use their active operating permit as the basis of their application and then only provide detail in the application about any changes made to the facility since the issuance of their active permit. This process not only streamlines the renewal application process for the facility, but it also streamlines the drafting process for NDEE as we can focus on the changes made during this permit cycle. NDEE also requires the facility to identify all construction permits issued, operating permit revisions made and any non-permitted changes to the facility and an updated PTE and actual emissions summary for the facility. NDEE also allows the facility to provide proposed language for the for the permit in their application. The current renewal application template can be found in Attachment A.

7. What do you believe are the strengths and weaknesses of the format of the permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

Response: The format of our permits is periodically updated as regulations change and feedback is provided by sources. NDEE believes our current format provides the regulated community a succinct as possible permit that includes all the necessary detail that the source needs to understand and comply with the applicable permit requirements.

8. How do you fulfill the requirement for a statement of basis? Please provide examples.

Response: NDEE provides a fact sheet (statement of basis) for each permit issued. The fact sheet is prepared specifically for each source and contains source description, permitting history, list of permitted emissions points with descriptions, type and quantity of emissions produced, applicability of

federal rules (why or why not), discussion of specific permit conditions, when needed, which can include the following:

1. explanation of permit limits
2. explanation of operational and monitoring requirements
3. recordkeeping and reporting requirements

The fact sheet will also include a list of conditions that were included in the facilities construction permits that are not included in the operating permit with an explanation of why they weren't included.

9. Does the statement of basis[1] explain:

a. the rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)?

Response: Yes

b. applicability and exemptions, if any?

Response: Yes

c. streamlining (if applicable)?

Response: Yes, NDEE has completed a process improvement exercise in 2020 which reviewed the content of our fact sheets and based on the results of this exercise changes were made to reduce the content of the fact sheet to only include the necessary information. NDEE also changed the process to list insignificant activities in the fact sheet only and jnot in the OP.

10. Do you provide training and/or guidance to your permit writers on the content of the statement of basis?

Response: Yes,

11. Do any of the following affect your ability to issue timely initial title V permits:

a. SIP backlog (i.e., EPA approval still awaited for proposed SIP revisions)

Response: No

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[1] The Statement of Basis sets forth the legal and factual basis for the permit as required by 70.7(a)(5). The permitting authority might use another name for this document such as Technical Support Document, Determination of Compliance, Fact Sheet.

b. Pending revisions to underlying NSR permits

Response: No

c. Compliance/enforcement issues

Response: No

d. EPA rule promulgation awaited (MACT, NSPS, etc.)

Response: No

e. Issues with EPA on interpretation of underlying applicable requirements

Response: No

f. Permit renewals and permit modification (i.e., competing priorities)

Response: Occasionally

g. Awaiting EPA guidance

Response: No

i. If yes, what type of guidance?

Response: Not applicable

ii. If yes, have you communicated this to EPA?

Response: Not applicable

A. If yes, how did you request the guidance?

If yes, please specify what type of EPA guidance, and how you requested the guidance

Note: If yes to any of the above, please explain.

12. Any additional comments on permit preparation or content?

Response: NDEE currently has 4 applications that are over 18 months old and two of those are actively being worked on by the assigned permit writer and expect to be issued by the end of 2022. Currently, all operating permit renewal applications submissions are assigned to a permit writer within 30 days of receipt with the goal of issuance within 60 days of permit expiration. Also, currently all initial operating permit applications received are assigned to a permit writer within 30 days of receipt with the goal of issuance within 9 months but no more than 18 months of receipt.

B. General Permits (GP)

1. Do you issue general permits?

Response: NDEE does not issue general title V permits. NDEE does issue one Class II general operating permit for incinerators.

a. If no, go to next section

b. If yes, list the source categories and/or emission units covered by general permits.

Response: Small animal incinerators and small bake-off incinerators that are not subject to a federal rule. NDEE currently has 38 facilities who have applied and received coverage under the general operating permit.

2. In your agency, can a title V source be subject to multiple general permits and/or a general permit and a standard "site-specific" Title V permit?

Response: NDEE does not issue general title V permits.

a. What percentage of your title V sources have one or more general permits? _____%

3. Do the general permits receive public notice in accordance with 70.7(h)?

Response: Yes

a. How does the public or regulated community know what general permits have been written? (E.g., are the general permits posted on a website, available upon request, published somewhere?)

Response: The general operating permit is posted on NDEE's website and facilities are required to request coverage under the permit by filling out an online request that is also posted on the website.

4. Is the 5-year permit expiration date based:

Response: Yes

a. on the date the general permit is issued?

Response: Yes, the general operating permit expires 5-years after issuance.

b. on the date you issue the authorization for the source to operate under the general permit?

Response: A facility may apply for coverage any time during the duration of the general permit; however, the coverage is only from the time of approval of their request to the expiration of the active general operating permit.

5. Any additional comments on general permits?

Response: No

C. Monitoring

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3) and 70.6(c)(1)) if monitoring is not specified in the underlying standard or CAM?

Response: NDEE permit team reviews previous compliance inspection reports, certification of compliance reports, deviation reports as well as historic and current emissions testing reports. Based on the review of the reports and using engineering and professional judgment, the permit team determine the frequency of monitoring that is needed to demonstrate continuous compliance with the permitted limit.

a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the guidance.

Response: No, however we strive for consistency amongst similar source categories to assure sufficient monitoring is in place to demonstrate compliance. As we learn more about a source in a particular category, we apply those lessons learned to other sources in that same category.

2. Do you provide training to your permit writers on monitoring? (e.g., periodic and/or sufficiency monitoring; CAM; monitoring QA/QC procedures including for CEMS; test methods; establishing parameter ranges)

Response: NDEE permit writers attend available CenSARA classes that include monitoring and QA/QC procedures and CenSARA also has a class for CAM. New permit writers are mentored by more experienced permit writers which helps them to determine appropriate monitoring. Also as part of the permit drafting process, the permit writer will review the previously issued permit as well as active permits of similar sources to help them determine appropriate monitoring that will demonstrate continuous compliance with the permit requirements. Permit writers collaborate with the CP team and Compliance team in Air Program team events as well as one on one to help understand how the different teams evaluate and handle challenges with permitting and compliance.

3. How often do you “add” monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

Response: Nebraska generally does not impose requirements that are more stringent than the requirements in federal rules. Generally, NDEE’s testing, and monitoring requirements are based on federal and state requirements.

However, there are times that additional testing and monitoring is required due to individual facility conditions and/or conditions within the air shed that would require an increase in testing and monitoring.

4. Are you incorporating CAM monitoring into your permits?
Response: Yes, NDEE also includes the completed CAM Plan as an attachment to the permit.

D. Public Participation and Affected State Review

Public Notification Process

1. Do you publish notices on proposed title V permits in a newspaper of general circulation?
Response: Yes, NDEE publishes notices in the newspaper closest to the facility so the public living in and near the source are aware of the proposed permitting action.

All of our permitting actions requiring notice are also published on our website.

2. Do you use a state publication designed to give general public notice?
Response: Omaha World Herald, which is the official state of Nebraska newspaper

3. On average, how much does it cost to publish a public notice in the newspaper (or state publication)?
Response: The cost for publishing a public notice varies from approximately $50 to approximately $800.

4. Have you published a notice for one permit in more than one paper?
Response: No

a. If so, how many times have you used multiple notices for a permit?

b. How do you determine which publications to use?

c. What cost-effective approaches have you utilized for public publication?

5. Have you developed a mailing list of people you think might be interested in title V permits you propose? [e.g., public officials, concerned environmentalists, citizens]
Response: NDEE does not have a mailing list for title V permits.

a. How does a person get on the list?

b. How does the list get updated?

c. How long is the list maintained for a particular source?

d. What do you send to those on the mailing list?

6. Aside from publications described above, do you use other means of public notification?

Response: Yes, all public notices are posted on NDEE's website

If yes, what are they (e.g., post notices on your webpage, e-mail)?

Response: The website address is http://dee.ne.gov/Press.nsf/PNall.xsp

7. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

Response: Not generally, however, we are always willing to meet or have a call with citizens who have questions or concerns about a permitting action.

8. Do your public notices clearly state when the public comment period begins and ends?

Response: Yes

9. What is your opinion on the most effective avenues for public notice?

Response: NDEE Website

a. Are the approaches you use for public notice effective?

Response: Yes

10. Do you provide notices in languages besides English? Please list.

Response: No

Public Comments

11. Have you ever been asked by the public to extend a public comment period?

Response: Yes

a. If yes, did you normally grant them?

Response: Yes

b. If not, what would be the reason(s)?

12. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? Describe.

Response: No

13. Do you provide the public a copy of the statement of basis if they request it? If no, explain.

Response: Yes, the fact sheet is provided as part of the public notice documents for all permits. All of the materials supporting the NDEE's permitting action are also available through our website.

14. What percentage of your permits have received public comments?

Response: NDEE receives public notice comments less than 5% of the time.

15. Over the years, has there been an increase in the number of public comments you receive on title V permits? Is there any pattern to types of sources getting comments?

Response: No

16. Have you noticed any trends in the type of comments you have received? Please explain.

Response: N/A Comments generally come from the source and pertain to unique issues regarding their facility.

a. What percentage of your permits change due to public comments?

Response: Less than 1% of permits will change due to public comment.

17. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?

Response: No

18. Do your rules require that <u>any</u> change to the draft permit be re-proposed for public comment?

Response: No

a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?

Response: A significant change such as a permitted limit relaxation or decrease in monitoring would result in republic noticing the permit documents.

EPA 45-day Review

19. Do you have an arrangement with the EPA region for its 45-day review to start at the same time the 30-day public review starts? What could cause the EPA 45-day review period to restart (i.e., if public comments received, etc)?

Response: Yes, EPA's comment period starts at the beginning of the public comment period. However, anytime during the public comment period EPA can either submit comments or notify NDEE that they are invoking their 45-day review period to begin after the public comment period and receiving the complete permit record for review.

a. How does the public know if EPA's review is concurrent?

Response: NDEE's current public notice does not specifically state when EPA's review period begins and ends. The format of NDEE's public notice is in accordance with NDEE's approved Workplan, Section 2.12. The public notice states the following:

Within 60 days after the US Environmental Protection Agency Administrator review, persons may petition the Administrator to object to the issuance of the proposed permit. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the 30-day comment period, unless the petitioner demonstrates that it was not practicable to raise such objection within such period. For specific dates for which the 60-day petition period is open, contact {Permit Writer}at (402) 471-2186. Petitions should be submitted electronically through EPA's Central Data Exchange at https://cdx.epa.gov . If the petitioner is unable to use the Central Data Exchange, EPA requests that your submission be emailed to titleVpetitions@epa.gov . If petitioner is unable to submit electronically, then a hard copy of the petition can be submitted, please contact the permit writer above for EPA's address.

20. Is this concurrent review process memorialized in your rules, a MOA or some other arrangement?

Response: The review process is outlined in NDEE's approved Workplan in Section 2.7.

Permittee Comments

21. Do you work with the permittees prior to public notice?

Response: Yes, we are in communication with the source from start to finish during the drafting of the permit documents process prior to public notice.

22. Do permittees provide comments/corrections on the permit during the public comment period? Any trends in the type of comments? How do

these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

Response: Occasionally NDEE will receive comment from sources which are usually minor in nature, such as typographical errors. NDEE works extensively with the source during drafting of the permit documents as well as provide the draft permit to the source for review prior to public notice. It is NDEE's intent to have all potential challenges with the draft permit worked out and agreed upon before the draft permit is submitted for public notice.

NDEE has not noticed any trends in the type of comments received during public notice.

Public Hearings

23. What triggers a public hearing on a title V permit?

Response: A request from the public or the source during the public comment period.

a. Do you ever plan the public hearing yourself, in anticipation of public interest?

Response: No

Availability of Public Information

24. Do you charge the public for copies of permit-related documents?

Response: All public noticed draft permit documents are available electronically through NDEE's electronic records system and can be accessed at http://dee.ne.gov/Press.nsf/PNall.xsp . If paper copies are requested, NDEE would charge for them.

If yes, what is the cost per page?

Response: The instructions and costs for obtaining copies of records are found at http://dee.ne.gov/NDEQProg.nsf/OnWeb/PRR

a. Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)?

Response: No

b. Do your title V permit fees cover this cost? If not, why not?

Response: No, NDEE has not received a request for a paper copy of the public noticed permit documents since making them available electronically.

25. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?

Response: All public records for each permitted facility in Nebraska can be obtained by accessing their electronic file by going to NDEE's website. The instructions are below:

Online Document Searches
How to View Document Images for a Facility

Facility-related documents have been imaged into the State of Nebraska's **Enterprise Content Management** system (**ECM**) **since April 2011**. The ECM is the repository of official facility records that are created or received by the agency. Documents that have been scanned into the ECM are available to review from our **Public Records Search**.
To use this option, you will need to know the facility number and program. You can call 402-471-3557 or email ndee.records@nebraska.gov to obtain a facility number for a records search. The search will return a maximum of up to 500 of the most recent documents. The date fields are optional for a records search, unless a message appears stating you need to narrow your search to view additional documents, then dates will be required to view older documents.

a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Explain.

Response: No

26. How long does it take to respond to requests for information for permits in the public comment period?

Response: Requests for additional information by the public has not happened during a public notice period for at least five years. All public information for each permitted facility is available through NDEE's electronic content manager (ECM). Please see question 25 above for how to access ECM. Also, all public noticed draft permit documents are available electronically through NDEE's electronic records system and can be accessed at http://dee.ne.gov/Press.nsf/PNall.xsp .

27. Have you ever extended your public comment period as a result of information requests?

Response: No, a request to extend the public comment period would have to be requested by the source or the public.

a. Where is this information stored?

Response: All public information is stored in ECM and is available electronically as outlined in question 25 above.

b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

Response: No

c. Have you ever extended the public comment period because of a request for a public hearing?

Response: Yes, if the Director approves the public hearing request, the public comment period is extended until the conclusion of the public hearing.

28. Do you have a website for the public to get permit-related documents?

Response: Yes, public notice documents are found at http://dee.ne.gov/Press.nsf/PNall.xsp T
The facility's complete public file is available through NDEE's ECM. Please see question 25 above for how to access ECM.

a. What is available online?

Response: All public information since April 2011 is available for each permitted facility is through NDEE's electronic file (ECM). Please see question 25 above for how to access ECM.

b. How often is the website updated? Is there information on how the public can be involved?

Response: The public record is updated continuously, and the records received by NDEE are usually available to the public after seven days of receipt. Documents generated by the NDEE are made available on the ECM upon mailing.

29. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe.

Response: No

30. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

Response: Yes, the public notice includes information about the 60-day citizen period.

31. Do you have any resources available to the public on public participation (booklets, pamphlets, webpages) ?

Response: Yes, the public notice contains contact information for the public to obtain additional information.

32. Do you provide training to citizens on public participation or on title V?

Response: No

33. Do you have staff dedicated to public participation, relations, or liaison?

Response: The NDEE has an Office of Public Information that serves as a liaison between the public and the agency. This team is for the entire agency and is not dedicated to just Title V. However all air permitting staff are

available to the public to answer questions as well.

a. Where are they in the organization?

Response: All the Air Program permit writers are in the Permitting & Engineering Division, located at NDEE's office in Lincoln.

b. What is their primary function?

Response: Reviewing applications and drafting permit documents for issuance.

Affected State Review and Review by Indian Tribes

34. How do you notify affected States of draft permits?

Response: NDEE sends an email to all affected States with the facility information and instructions on how to access ECM to obtain the public notice documents.

a. How do you determine what States qualify as "affected States" for your draft permits?

Response: NDEE reviews each submitted permit application to determine if the facility is within the 50 miles of an affected State.

35. How do you notify tribes of draft permits?

Response: NDEE sends an email to all affected States with the facility information and instructions on how to access ECM to obtain the public notice documents.

36. What percentage of your permits get comments from affected States? from Tribes?

Response: NDEE has not received any comments from affected States or Tribes on any permitting actions for over seven years.

37. Is there any pattern to the type of draft permit that gets affected State / Tribal comment? Are there common themes in comments from affected States or Tribes?

Response: NDEE has not received any comments from affected States or Tribes on any permitting actions for over seven years.

38. Suggestions to improve your notification process?

Response: None at this time.

Any additional comments and public notification?
None at this time.

E. Permit Issuance / Revision / Renewal

Initial Permit Issuance

1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable timeframe? If not, what can EPA do to help?

Response: NDEE has the following initial permit applications that are over 18 months old:

Facility #	Facility Name	Date Received	Location of Facility	Date Assigned	Current Status	Issuance Goal
57902	Cargill Corn Milling	11/15/1996	Blair	Cargill - 4/2016 NDEE - 2/2019 (Cargill requested NDEE finish permit)	Issued	Issued 5/12/2022
64401	Cargill Polyols	12/18/2006	Blair	8/2020	Drafting	12/2022
91164	Cargill Latic Acid	5/4/2007	Blair	1/2020	Reviewing Source comment prior to public notice	8/2022
59052	Aurora East	9/29/2008	Aurora	Not Applicable	Facility ceased operation, waiting for facility to submit letter (this is connected to Aurora West below)	Not Applicable
87072	Aurora West	6/27/2013	Aurora	Not Applicable	All OP activities are on hold, Source is significantly changing facility and submitting a new CP.	Unknown

Currently all complete initial permit applications received by NDEE are assigned within 30 days and completed and issued within 18 months of receipt.

Permit Revisions

2. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:

a. Administrative amendment? (See § 70.7(d)(vi))

Response: Yes, see Title 129, Chapter 15, Section 001

b. §502(b)(10) changes? (See §70.4(b)(12))

Response: Yes, see Title 129, Chapter 15, Section 007.01

c. Significant and/or minor permit modification? (See §70.7(e))

Response: Yes, see Title 129, Chapter 15, Section 003.01 (Minor Revisions)
Yes, see Title 129, Chapter 15, Section 005 (Significant Revisions)

d. Group processing of minor modifications?

Response: Yes, see Title 129, Chapter 15, Section 004

3. If the EPA Regional office has formally asked you to re-open a permit, were you able to provide EPA with a proposed determination within 90 days? (40 CFR 70.7(g)(2))

Response: Yes, however, NDEE has not been formally asked by EPA Region 7 to re-open a permit.

If not, why not?

4. For those permits that have been issued, and where the permitted facility has undergone a change, how many changes to the title V permit have you processed?

Response: Since January 2015, NDEE has processed and issued 78 permit revisions, this does not include administrative amendments as they are not tracked at this time.

a. What percentage of changes at the facilities are processed as:

i. Significant

Response: Since January 2015, approximately 7% were processed as a significant permit revision.

ii. Minor

Response: Since January 2015, approximately 33% were processed as a minor permit revision.

iii. Administrative

Response: Unknown, NDEE currently is not tracking administrative amendments. However, the majority of administrative amendments NDEE receives are for name changes at the facility.

b. Of all changes that you have, how many (or what percentages) were:

i. Off-permit

Response: NDEE does not track off-permit changes since there is no permit revision completed.

ii. 502(b)(10)

Response: NDEE does not track 502(b)(10) changes since there is no permit revision completed.

5. How many days, on average, does it take to process (from application receipt to final permit amendment):

a. a significant permit revision?

Response: Since January 2015, an average of approximately 150 days were spent processing a significant permit revision.

b. a minor revision?

Response: Since January 2015, an average of approximately 86 days were spent processing a minor permit revision.

c. an administrative revision?

Response: NDEE currently is not tracking administrative amendments. However, the administrative amendments NDEE receives are processed within the 60-day requirement.

6. Have you taken longer than the part 70 timeframes of 18 months for significant revision, 90 days for minor permit revisions and 60 days for administrative? Explain.

Response: At this time the only reason for significant and/or minor permit revisions would exceed the part 70 timeframes for issuance would be if a construction and operating permit revisions were submitted at the same time. Then there are times when the part 70 timeframes are exceeded due to waiting for the construction permit revision to be completed before the operating permit revision can be completed.

7. What have you done to streamline the issuance of revisions?

Response: By eliminating operating permit backlog has helped to reduce issuance

time for permit revisions. Also, NDEE gives priority to completing minor permit revisions, so they are completed by the allotted timeframe.

8. What process do you use to track permit revision applications moving through your system?

Response: NDEE has an internal tracking system (Excel Spreadsheet) that tracks all applications received. This system tracks the progress of the application from receipt to issuance. An example is attached as Attachment B.

9. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.

Response: No, the assigned permit writer uses Title 129, Chapter 15 as a guide in determining if the application qualifies as a administrative amendment, off-permit change, significant or minor revision or if the permit needs to be reopened.

10. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit?

Response: Yes

a. For minor modifications, do you require sources to explain their change and how it affects their applicable requirements?

Response: Yes

11. Do you require applications for minor permit modifications to contain a certification by a responsible official, consistent with 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?

Response: Yes

12. When public noticing proposed permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative description of change, highlighting, different fonts).

Response: Only the portion of the permit that received changes is public noticed.

13. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment?

Response: Only the portion of the permit that received changes is public noticed.

Permit Renewal Or Reopening

14. Have you begun to issue permit renewals?

Response: Yes

15. What are your plans for timely issuance of the renewals?

Response: Currently, all operating permit renewal applications submissions are assigned to a permit writer within 30 days of receipt with the goal of issuance within 60 days of permit expiration.

16. Do you have a different application form for a permit renewal compared to that for an original application? (e.g., are your application renewal forms different from the forms for initial permits)

Response: Yes, the current renewal application template can be found in Attachment A.

*****

a. If yes, what are the differences? Are 1st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal?

Response: The renewal application is based on the facilities current permit, then they are to include a list of all permitting actions completed and any other non-permitted changes made. The current renewal application template can be found in Attachment A.

17. Has issuance of renewal permits been "easier" than the original permits? Explain.

Response: Yes, with the inclusion of the permit renewal application it is much easier to determine the changes made at the facility since the last permit issuance. The time to draft the permit documents has reduced tremendously as the permit writer is concentrating their efforts on the changes made rather than having to review application forms of existing equipment that hasn't changed to find the forms for new or changed equipment. Not only does this save time for NDEE, but it also saves the source's time in preparing their renewal application.

18. How are you implementing the permit renewal process (ie., guidance, checklist to provide to permit applicants)?

Response: The permit renewal application includes detailed instructions for the applicant.

19. What % of renewal applications have you found to be timely and complete?

Response: Approximately 99% of the renewal applications are timely and complete. NDEE emails reminders to each permitted facility approximately 12 months before permit expiration to remind them that they need to submit a

renewal application.

20. How many complete applications for renewals do you presently have in-house ready to process?

Response: As of May 10, 2022, NDEE has 24 applications for renewal in-house.

21. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can EPA do to help?

Response: Currently, all operating permit renewal applications submissions are assigned to a permit writer within 30 days of receipt with the goal of issuance within 60 days of permit expiration. At this time all permit renewal applications are completed and issued within the 18 month timeframe outlined in part 70.

22. Have you ever determined that an issued permit must be revised or revoked to assure compliance with the applicable requirements?

Response: No, however, NDEE has revoked all permits for two sources within the last five years. The sources, Big Ox's air quality construction permit was revoked due to non-compliance. All of AltEn's permits including their air quality operating permit were revoked, however the permits were revoked due to non-compliance in other media and the source losing their ability to operate.

F. Compliance

1. Deviation reporting:

a. Which deviations do you require be reported prior to the semi-annual monitoring report? Describe.

Response: Below are the requirements for reporting deviations as stated in Condition II.(A)(2) of our Class I operating permits:

(2) The source shall report all deviations from permit requirements, including those attributable to start-ups, shutdowns or malfunctions, the probable cause of such deviations, and any corrective actions or preventive measures taken. The probable cause, corrective actions, or preventive measures do not have to be provided if that information has already been submitted in other reports to the NDEE, such as for 40 CFR 60.7; however reported deviations must reference these other reports. All reports of deviations must be submitted within the time frame as per Conditions II.(A)(2)(a), (b), and (c) below(Title 129, Chapter 11,Chapter 8, Sections 004.03B and 004.04, and Chapter 35, Sections 004 and 005).

(a) Any deviation resulting from emergency or upset conditions shall be reported within two (2) working days of the date on which the source first becomes aware of the deviation ifthe source wishes to assert the affirmative defense authorized under Chapter 11 of Title129. The report may be submitted initially without a certification by the responsible official, as required by Condition II.(A) above, if an appropriate certification is providedwithin ten (10) days thereafter, together with
the information required under Condition II.(A)(2) and any corrected or supplemental information required concerning the deviation.

(b) Any deviation that poses an imminent and substantial danger to public health, safety, or the environment shall be reported as soon as is practicable. The report may be submittedinitially without a certification by a responsible official in accordance with Condition II.(A) above, if an appropriate certification is provided within ten (10) days thereafter, together with any corrected or supplemental information required concerning the deviation.

(c) All other deviations shall be reported as per Condition II.(A)(1).

(Condition II.(A)(1) can be found in question 2 below)

b. Do you require that some deviations be reported by telephone?

Response: No, see response 1.a. above for more information about reporting.

c. If yes, do you require a followup written report? If yes, within what timeframe?

Response: See response 1.a. above for information about reporting.

d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified).

Response: Yes

i. Do you require all certifications at the time of submittal?

Response: See response 1.a. above for certification requirements.

ii. If not, do you allow the responsible official to “back certify” deviation reports? If you allow the responsible official to “back certify” deviation reports, what timeframe do you allow for the followup certifications (e.g., within 30 days; at the

time of the semi-annual deviation reporting)?

Response: See response 1.a. above for certification requirements.

2. How does your program define deviation?

Response: Deviation is defined in Title 129, Chapter 1, Section 045 as follows:

> "Deviation" means a departure from an indicator range or work practice for monitoring, consistent with any averaging period specified for averaging the results of the monitoring.

Below is the definition of deviation as stated in Condition II.(A)(1) of our Class I operating permits:

> (1) The source shall submit a report of all instances of deviations from permit requirements including monitoring requirements stated in the permit every six (6) calendar months to the NDEE. The report for the first six (6) months (January through June) shall be submitted by September 30 of each year. The report for the second six (6) months (July through December) shall be submitted by March 31 of the following year (Title 129, Chapter 8, Section 004.03A).

Also see response 1.a. above for information on the definition of a deviation.

a. Do you require only violations of permit terms to be reported as deviations?

Response: Yes, unless the permit specifies differently.

b. Which of the following do you require to be reported as a deviation (Check all that apply):

i. excess emissions excused due to emergencies (pursuant to 70.6(g))

Response: Yes

ii. excess emissions excused due to SIP provisions (cite the specific state rule)

Response: No, NDEE does not have any SIP excess emissions provisions.

iii. excess emissions allowed under NSPS or MACT SSM provisions?

Response: No

iv. excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM)

Response: Yes

v. excursions from specified parameter ranges where such excursions are credible evidence of an emission violation

Response: Yes

vi. failure to collect data/conduct monitoring where such failure is “excused”:

Response: Yes

A. during scheduled routine maintenance or calibration checks

Response: No

B. where less than 100% data collection is allowed by the permit

Response: Yes

C. due to an emergency

Response: Yes

vii. Other? Describe.

Response: Not Applicable

3. Do your deviation reports include:

a. the probable cause of the deviation?

Response: Yes

b. any corrective actions taken?

Response: Yes

c. the magnitude and duration of the deviation?

Response: Yes

4. Do you define “prompt” reporting of deviations as more frequent than semi-annual?

Response: Yes

5. Do you require a written report for deviations?

Response: Yes

6. Do you require that a responsible official certify all deviation reports?

Response: Yes

7. What is your procedure for reviewing and following up on:

a. deviation reports?

Response: The Air Program Compliance staff review all deviation reports to determine if all required information was provided and that the facility has taken action to correct the issue.

b. semi-annual monitoring reports?

Response: The Air Program Compliance staff review all semi-annual monitoring reports to determine if they contain all required information and that the facility is in compliance with its permitted requirements.

c. annual compliance certifications?

Response: The Air Program Compliance staff review all annual compliance certification reports to determine if they contain all required information and that the facility is in compliance with its permitted requirements.

8. What percentage of the following reports do you review?

a. deviation reports

Response: 100%

b. semi-annual monitoring reports

Response: 100%

c. annual compliance certification

Response: 100%

9. Compliance certifications

a. Have you developed a compliance certification form? If no, go to question 7.

Response: Yes

i. Is the certification form consistent with your rules?

Response: Yes, See Attachment C for an example form and instructions.

ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

Response: Yes, compliance is determined by both methods. NDEE reviews the CoC for continuous compliance with permitted requirements as well as whether the monitoring method is continuous or intermittent.

iii. Do you require sources to use the form? What percentage do?

Response: No, NDEE does not track who uses the form and who does not. NDEE does not require the source to use NDEE's form. The source can develop and use their own form as long as it contains the required information.

iv. Does the form account for the use of credible evidence?

Response: Sources can submit supporting information (logs/records) to explain the reason for the deviation and how it was corrected.

v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

Response: Yes

10. Excess emissions provisions:

a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it:

Response: Yes, Title 129, Chapter 11

i. Provide relief from penalties?

Response: No, however, NDEE can use enforcement discretion for emergency events if the source has completed all required reporting and the event meets the definition of an emergency event.

ii. Provide injunctive relief?

Response: No, however, NDEE can use enforcement discretion for emergency events if the source has completed all required reporting and the event meets the definition of an emergency event.

iii. Excuse noncompliance?

Response: No, however, NDEE can use enforcement discretion for emergency events if the source has completed all required reporting and the event meets the definition of an emergency event.

b. Does your program include a SIP excess emissions provision? If no, go to 6.c. If yes does it:

Response: No

i. Provide relief from penalties?

ii. Provide injunctive relief?

iii. Excuse noncompliance?

c. Do you require the source to obtain a written concurrence from the PA before the source can qualify for:

i. the emergency defense provision?

Response: No

ii. the SIP excess emissions provision?

Response: NDEE does not have a SIP excess emissions provision.

iii. NSPS/NESHAP SSM excess emissions provisions?

Response: No

11. Is your compliance certification rule based on:

a. the '97 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or:

b. the '92 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

Response: Compliance is determined by both the 1992 part 70 rule and the 1997 revisions to part 70.

12. Any additional comments on compliance?

Response: None at this time

G. Resources & Internal Management Support

1. Are there any competing resource priorities for your "title V" staff in issuing Title V permits?

a. If so, what are they?

Response: NDEE's operating permit team's primary responsibility is reviewing appications and drafting Class I (Title V) and Class II operating permits for issuance.

Members of the team have helped in other areas of the air program as needed, such as reviewing and drafting air quality construction permits and regulation development. However, such activities are for the good of the overall program and do not compete with the ability to issue timely and quality operating permit.

2. Are there any initiatives instituted by your management that recognize/reward your permit staff for getting past barriers in implementing the title V program that you would care to share?

Response: NDEE has a number of avenues for recognizing excellence. Teammates receiving a Blue Agate and/or a Cottonwood are also eligible to be "Employee of the Month."

Blue Agate Award:
The intent of the ***Blue Agate Award*** is to recognize and thank employees on the ***Blue Agate Recognition*** site.

Everyone in the agency will be able to type in a thank you or recognition of a job well done for another individual or group of individuals. There will be no awards, just an open communication forum for staff recognition.

Supervisors are encouraged to recognize employee's efforts both verbally and in writing. This can be as simple as a "thank you, you did a great job," to a letter of appreciation, to a positive comment in a performance feedback memo, to a posting to the NDEE Welcome Page.

Peer recognition is also a great way to let your co-workers know you appreciate their efforts. Again, a verbal thanks is the simplest way, up to and including posting a thank you on the DEE Intranet, or sending their supervisor a note.

All written recognition should include who, what, when, where, and why.

Comments will be reviewed prior to posting.

The DEE "Cottonwood" Award is a quasi-formal method of recognizing individual agency employees who go "above and beyond," in performing their duties during the course of the year. The nomination will be completed on the agency intranet and once completed will be electronically forwarded to the Human Resource Section. The process may be kept confidential at the request of the nominee or the nominator.

- Recipients will be recognized at the annual employee recognition ceremony
- Receive an award up to $50 in value one time per year
    - Employees can be nominated and selected more than once a year for the Cottonwood Award; however, the $50 award can only be received once a year.
- Cottonwood Certificate
- Recipients from June 1st through May 31st will be submitted for consideration of the agency's annual Excellence in Leadership Award.

does not have a formal Staff

No other funds for refreshments or food are to be used for these awards. Cottonwood.

All Cottonwood Award winners will be recognized during the following year's annual Employee Recognition Ceremony

Criteria to be used for Cottonwood award nomination submission

- Innovation/Forward Thinking/Continuous Improvement
- Teamwork/Collaboration
- Serving by Example
- Customer Service Focused Excellence
- Valuing People
- Aligning Resources
- Visionary Leadership/Proactive Management/Leadership by Example
- Success-Focused, Ethics, Transparency Focus
- Effective Communication
- Coach and Develop Team Members/Staff Engagement

Staff are also recognized during meetings for their exemplary performance and compliments from facilities are shared with the team as well as management.

3. How is management kept up to date on permit issuance?

Response: The supervisor is in constant communication with the division administrator. The division administrator also reviews and signs each operating permit that is issued.

NDEE has an internal tracking system (Excel Spreadsheet) that tracks all applications received. This system tracks the process of the application from receipt to issuance. An example is attached as Attachment B.

The Division Administrator keeps the Director and Deputies apprised of potentially significant issues.

4. Do you meet on a regular basis to address issues and problems related to permit writing?

Response: The operating permit team meets weekly as a team to discuss updates on assigned permits as well as discussions on permit challenges that are happening. The operating permit team and construction permit team meet monthly to discuss relevant topics to both teams. The entire Air Program team meets on a quarterly basis to discuss program wide challenges as well as discuss any new developments in the air program.

5. Do you charge Title V fees based on emission volume?

Response: Yes, the requirements for fees are found in Title 129, Chapter 29.

a. If not, what is the basis for your fees?

b. What is your Title V fee?

Response: NDEE's current emissions fee is $50 per ton of regulated pollutant. The fee rate is adjusted annually to assure that sufficient funds are available to implement the Title V program.

6. How do you track title V expenses?

Response: Staff code every 0.25 hour of work time to a specific activity code. Each title V and Class II synthetic minor facility has a unique project number code that is utilized on teammate's timesheet that tracks all hours of activity for that facility. Timesheets are submitted every two weeks and time that was allotted to each title V facility is logged and tracked and totaled at the end each year to determine the amount of time spent on each title V facility.

NDEE provides an annual report to the Legislature which details the Title V revenue and expenses. See Attachment D.

7. How do you track title V fee revenue?

Response: All title V facilities annual emissions inventories for the previous year are due by March 31 of the following year. Once the inventories are received all title V emissions for each regulated pollutant is calculated for each facility and a cost per ton is determined. Each title V facility is sent an invoice for their emissions, which is due by July 1 of each year. The

emissions fees are received and tracked by NDEE's Fiscal Section.

8. How many Title V permit writers does the agency have on staff (number of FTE's)?

Response: NDEE currently has 5 operating permit writers and one vacant position for a total of 6 operating permit writers allotted and one supervisor.

9. Do the permit writers work full time on Title V?

Response: No

a. If not, describe their main activities and percentage of time on title V permits.

Response: NDEE's operating permit team's primary responsibility is reviewing and drafting Class I (Title V) and Class II operating permits for issuance.

b. How do you track the time allocated to Title V activities versus other non-title V activities?

Response: Staff code every hour of work time to a specific activity code. Each title V facility has a unique project number code that is utilized on teammate's timesheet that tracks all hours of activity for that facility.

10. Are you currently fully staffed?

Response: No, the operating permit section currently has one vacant position which was recently moved to the construction permit section to allow for cross training of a new modeler before the current modeler retires.

11. What is the ratio of permits to permit writers?

Response: NDEE currently has 90 Class I facilities, 70 Class II Synthetic Minor facilities and 42 Class II facilities. The current ratio of permits to permit writers is 40.4:1.

Year	Ratio of Permits to Permit Writer (initial and renewal permits only)
2021	7.6:1
(2020	3.8:1
2019	4.4:1
2018	5.1:1
2017	6.2:1
2016	5.6:1

12. Describe staff turnover.

Response: NDEE has an average turnover of one permit writer per year for the last seven years. Sometimes it takes an extended period of time to find qualified people to fill vacant positions.

a. How does this impact permit issuance?

Response: There is a negative impact on the number of permits issued as there is less people drafting permits. Also, when new people are hired there is a learning curve for new staff as well as taking time with existing staff mentoring and assisting the new staff.

b. How does the permitting authority minimize turnover?

Response: By allowing flexible work schedules, compressed work weeks (4 -10 hour days) and by helping each person develop short and long term career goals.

NDEE has also developed a job shadowing program that allows staff to "shadow" other staff in different positions and in different programs allow staff members to view other positions and determine if there is an interest in a different position within the Agency. This program will help place the right people in the right position and will help retain qualified and experienced people in the Agency.

13. Do you have a career ladder for permit writers?

a. If so, please describe.

Response: The agency has an Environmental Specialist I/II/III ladder. Currently, all positions in the Operating Permit Section are classified as Environmental Specialists II. Should a position and/or person qualify, a request to upgrade to an Environmental Specialist III is available. Additionally, staff in good standing are eligible to apply for any vacant position in the Agency

14. Do you have the flexibility to offer competitive salaries?

Response: No

15. Can you hire experienced people with commensurate salaries?

Response: No

16. Describe the type of training given to your new and existing permit writers.

Response: NDEE new and existing staff participate in available Central States Air Resource Agencies (CenSARA) training and use customized and standard permit formats as well as standardized permit conditions whenever possible.

Permitting staff also meet on a routine basis to give presentations on specific subjects that will help improve permitting practices as well as discuss permitting challenges. NDEE is completed process improvement activities to help improve our applications, factsheets and permits. These processes have resulted in streamlining our work to be able to complete and issue permits quicker and has improved our final product.

NDEE encourages staff to make facility visits while working on their projects if to help them better understand their projects. Both new and existing staff is required to complete a minimum of 30 hours of training per calendar year relevant to their position.

Each new and existing staff has the opportunity to have a dedicated meeting meet with Section Supervisor on a weekly or monthly basis to discuss projects aside all informal project discussions . Existing staff is paired on a rotating monthly basis with team members from the Construction Permit Section to respond to hotline email/phone calls; this promotes cross training between the two programs.

17. Does your training cover:

a. how to develop periodic and/or sufficiency monitoring in permits?

Response: Yes

b. how to ensure that permit terms and conditions are enforceable as a practical matter?

Response: Yes

c. how to write a Statement of Basis?

Response: Yes

18. Is there anything that EPA can do to assist/improve your training? Please describe.

Response: NDEE appreciates the working relationship with EPA Region 7 and the willingness to assist us as needed. We suggest continuing to offer and develop new training opportunities for permitting staff as well as to continue with the 4 states meetings at the Region 7 office on at least an annual basis.

19. How has the PA organized itself to address Title V permit issuance?

Response: The operating permit team has set goals to draft and issue all permit renewals within 210 active days of assignment with a goal of issuing the renewal permit within 60 days of existing permit expiration. Currently all complete renewal applications are assigned to a permit writer within 30

days of receipt.

The goal initial operating permit applications are also to have them drafted and issued within 210 days of assignment. Currently all complete applications are assigned to a permit writer within 30 days of receipt.

20. Overall, what is the biggest internal roadblock to permit issuance from the prospective of Resources and Internal Management Support?

Response: As a state regulatory agency, we are limited in what we are able to do to attract highly qualified, experienced personnel above the minimum hiring rate. We compete with private industry, consulting, and federal agencies to retain staff. This is not an NDEE issue, but a state-wide issue.

Environmental Justice Resources

21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts?

Response: NDEE does not have legislation or a formal policy or guidance expressly addressing environmental justice. However, NDEE, in the administration of its programs and activities, seeks to ensure fair treatment of all people regardless of race, color, national origin, disability, age, and meaningful involvement of the public with respect to our environmental programs. NDEE has placed a non-discrimination statement prominently on its webpage and designated a deputy director as the point of contact for any questions. Other examples include (1) extensive stakeholder outreach in the regulation development process, (2) public information sessions associated with draft permits in addition to public hearings, (3) a robust citizen complaint system and an online “report a problem”, (4) compliance assistance on NESHAPs and NSPS, (5) an enforcement goal to protect and reduce risk to human health and the environment, (6) grant programs, and (7) the ability to utilize limited language translation services.

If so, may EPA obtain copies of appropriate documentation?

22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?

Response: Please see the response to question 21 above.

23. Have you provided EJ training / guidance to your permit writers?

Response: Please see the response to question 21 above.

24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority

populations, etc.)

Response: Please see the response to question 21 above.

25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.

Response: Please see the response to question 21 above.

H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:

a. NSPS requirements?

b. The stationary source requirements in the SIP?

c. The minor NSR program?

d. The major NSR/PSD program?

e. How to design monitoring terms to assure compliance?

f. How to write enforceable permit terms?

Response: The current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:

a. Your source universe including additional sources previously unknown to you?

Response: As stated in question 1 above, the current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

However, since the institution of the operating permit program (Class I and Class II) the locating and tracking facilities has improved.

b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?

Response: As stated in question 1 above, the current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

However, since the institution of the operating permit program (Class I and Class II), NDEE has received more detailed information from sources to help understand their processes and how they work and any changes that are instituted.

c. Your stationary source emissions inventory?

Response: As stated in question 1 above, the current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

All Class I and Class II permitted sources in Nebraska are required to submit emissions inventories via the State and Local Emissions Inventory System (SLEIS) on a yearly basis. All other sources (low emitters and no operating permit required) must submit an emissions inventory via SLEIS every three years at a minimum or when requested by NDEE.

d. Applicability and more enforceable (clearer) permits?

Response: As stated in question 1 above, the current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

NDEE is always striving to improve our permits to be more concise and easier to understand as well as present enforceable conditions.

3. In issuing the Title V permits:

a. Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.

Response: No

b. Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.

Response: The operating permit team works with the construction permit team to draft permit conditions that are consistent as possible for both programs.

We also review different source categories to determine consistency within each category, so we are treating each facility with the same type process consistently.

NDEE strives to be consistent with facilities of the same type (i.e. ethanol plants, municipal power plants) by reviewing these as a group and individually to determine that we are not being inconsistent in how we are permitting the facilities.

4. Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:

	Never	Occasionally	Frequently	Often
a. prior to submitting an application	☐	X	☐	☐
b. prior to issuing a draft permit	☐	X	☐	☐
c. after issuing a final permit	☐	X	☐	☐

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance with the following requirements prior to implementing Title V:

	Never	Occasionally	Frequently	Often
a. NSPS requirements (including failure to identify an NSPS as applicable)	☐	☐	☐	☐
b. SIP requirements	☐	☐	☐	☐
c. Minor NSR requirements (including the requirement to obtain a permit)	☐	☐	☐	☐

d. Major NSR/PSD requirements (including the requirement to obtain a permit) □ □ □ □

Response: As stated in question 1 above, the current operating permit team was not working prior to the implementation of the Title V program. The most experienced permit writer in the operating permit team started in 2012. NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

6. What changes in compliance behavior on the part of sources have you seen in response to Title V? (Check all that apply.)

a. increased use of self-audits?

Response: Yes

b. increased use of environmental management systems?

Response: Yes

c. increased staff devoted to environmental management?

Response: Yes

d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?

Response: Yes

e. increased resources devoted to compliance monitoring?

Response: Yes

f. better awareness of compliance obligations?

Response: Yes

h. other? Describe.

Response: No

7. Have you noted a reduction in emissions due to the Title V program?

Response: Yes, NDEE has issued approximately 70 Class II Synthetic Minor Permits to avoid Title V. By limiting the source's PTE and actual emissions to below major source thresholds, there are no annual emissions fees assessed to the facility. Also, for Title V sources there is a financial incentive to decrease emissions as much as possible to decrease emissions fees paid to NDEE.

The table below illustrates NDEE's annual fee rate per ton since calendar year 2006.

State Fiscal Year	Fee Rate ($/ton)	State Fiscal Year	Fee Rate ($/ton)
2006	38	2015	67
2007	51	2016	70
2008	57	2017	71
2009	57	2018	78
2010	62	2019	78
2011	70	2020	70
2012	66	2021	65
2013	64	2022	50
2014	65	2023	50

a. Did that lead to a change in the total fees collected either due to sources getting out of title V or improving their compliance?

Response: Yes

b. Did that lead to a change in the fee rate (dollars/ton rate)?

Response: Yes, NDEE reevaluates the emissions fee rates every year to determine the amount per ton needed to provide the funding necessary to maintain the Title V program. See Appendix E for the latest annual assessment of the current fee rate.

8. Has title V resulted in improved implementation of your air program in any of the following areas due to Title V:

a. netting actions

Response: No

b. emission inventories

Response: Yes, Title V sources have improved the accuracy of their emissions for their emissions inventory report to reduce the amount of emissions fees paid.

c. past records management (e.g., lost permits)

Response: No, however, NDEE is continually improving our record management system to meet the needs of the agency.

d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)

Response: Yes

e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc.

Response: Yes, the permitting team reviews the source's file to determine if there have been compliance problems during the daft permit process and discusses with Compliance Team if there are possible remedies to help improve compliance.

f. clarity and enforceability of NSR permit terms

Response: No

g. better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)

Response: Yes, the operating permit team is continually working to improve the documentation for the basis of applicable limits to help the source and public understand the purpose for the limit.

h. emissions trading programs

Response: No

i. emission caps

Response: Yes, PTE caps established though the synthetic minor program allow the source to avoid the Title V program.

j. other (describe)

Response: No

9. If yes to any of the above, would you care to share how this improvement came about? (E.g., increased training; outreach; targeted enforcement)?

Response: Many of the changes have come about as the program has matured over the last 20 years. Also, NDEE has completed several process improvements exercises to help us improve our process of drafting and issuing quality air operating permits.

10. Has Title V changed the way you conduct business?

Response: Not recently, however, NDEE is constantly striving to improve our permitting process and communication with the regulated community as well as the public.

a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.

Response: Not within the past seven years.

b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.

Response: NDEE strives for continuous improvement and collaborates with the construction permit team and the compliance team to assure permits are consistent and practically enforceable.

c. Do you work more closely with the sources? If yes, describe.

Response: Yes, we are in communication with the source from start to finish during the drafting of the permit documents process prior to public notice.

d. Do you devote more resources to public involvement? If yes, describe.

Response: No

e. Do you use information from Title V to target inspections and/or enforcement?

Response: Yes

f. Other ways? If yes, describe.

Response: No

11. Has the Title V fee money been helpful in running the program? Have you been able to provide:

Response: The Title V fee money collected is used to administer the Title V program in Nebraska. There is sufficient funding collected each year to administer the program.

a. better training?

Response: No

b. more resources for your staff such as CFRs and computers?

Response: No

c. better funding for travel to sources?

Response: No

d. stable funding despite fluctuations in funding for other state programs?

Response: Yes

e. incentives to hire and retain good staff?

Response: No

f. are there other benefits of the fee program? Describe.

Response: No

12. Have you received positive feedback from citizens?

Response: Not recently

13. Has industry expressed a benefit of Title V? If so, describe.

Response: Not recently

14. Do you perceive other benefits as a result of the Title V program? If so, describe.

Response: The Title V program benefits the regulated community, public, EPA, and any other interested parties as it provides an all-encompassing look at the air pollution sources at a facility, as well as the requirements those sources are subject to. Because Title V provides a complete review of all air emissions points and their requirements, the Title V permit review serves as a source-wide look at the emission limits, monitoring, recordkeeping, and reporting set in the construction permits and may add additional monitoring to protect ambient air quality standards and emission limits. The Title V review may identify conflicts in language or limits among construction permits that have been issued over several years or decades and work with the construction permit team and the facility to resolve these differences.

15. Other comments on benefits of title V?

Response: Since the inception of the Title V program there has been an increase in communication with facilities and an increased understanding of their processes which makes us better prepared to meet the needs of the regulated community.

Good Practices not addressed elsewhere in this questionnaire

Are any of the practices employed that improve the quality of the permits, or other aspects of title V program that are not addressed elsewhere in this questionnaire?

Response: NDEE offers the low emitter program to sources whose PTE is above major source thresholds and their actual emissions are below operating permitting thresholds (less than 50% of major thresholds). The source must show a 5 year history of actual emissions below the thresholds. The requirements for the low emitter program are outlined in Title 129, Chapter 5, Section 001.03B

EPA assistance not addressed elsewhere in this questionnaire

Is there anything else EPA can do to help your title V program?

Response: NDEE appreciates Region 7's continued support and willingness to assist us with our permitting questions. The continuation of the 4 state calls and the yearly in-person 4-State meeting at Region 7 is a valuable training resource for us.

ATTACHMENT A

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

Air Quality Operating PermitRenewal Application
Form 8.0, Section 1.1

Agency Use Only

Program ID:
Air _____

SOURCE NAME:_____**DATE:** _____

NDEE FACILITY ID#: _____

PLEASE READ THE INSTRUCTIONS FOR EACH SECTION PRIOR TO COMPLETING THIS FORM.
Please type responses or use black ink. Do NOT use pencil.

Who Needs to Reapply?

1) Owners or operators of sources operating under a current Class I/Class II Operating Permit must submit an application for permit renewal to the Department not less than 6 months and not more than 18 months before the expiration date of the permit.

What Must Be Submitted?

2) The intent of this document is to streamline the Class I/Class II permit renewal process. At a minimum, the owner or operator must submit the enclosed application, which includes (if applicable) general information, facility/process changes, compliance plan changes, new applicable requirements and changes, and certification by a responsible official. Note: New or revised regulations or standards may require changes from the existing permit. These may include the Compliance Assurance Monitoring (CAM) rules, 40 CFR Part 64; New Source Performance Standards (NSPS), 40 CFR Part 60; National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61; and National Emission Standards for Hazardous Air Pollutants for source categories (MACT), 40 CFR Part 63.

Documents and Information to Assemble Before Completing Application

3) The owner or operator should assemble the following information/documents before completing the renewal application:
   a. Current Class I/Class II permit including any re-openings, modifications, amendments, and/or off-permit source modifications.
   b. Construction permits and approvals issued during the current permit term.
   c. Consent agreements and compliance schedules issued during the current permit term.
   d. Information on any other significant source or permit changes.
   e. Information on new or revised regulations or standards that may require changes to the current permit.

Records Requests/Searches

4) Electronic Records (MS Word, MS Excel, or Adobe .pdf) may be requested at:

Fax: 402-471-2909
Email: ndee.records@nebraska.gov
U.S.P.S.: NDEE Records Management Section
P.O. Box 98922
Lincoln, NE 68509-8922

Location: NDEE Records Management Section
245 Fallbrook Boulevard
Lincoln, NE 68521

-or-

Public Records Search Online (Adobe .pdf format only):

https://ecmp.nebraska.gov/publicaccess/viewer.aspx?&MyQueryID=340

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

Air Quality Operating Permit
Renewal Application
Form 8.0, Section 1.1

NDEE Information				
5) NDEE Facility ID#:				
Owner Information				
6) Name:				
7) Mailing Address:				
8) City:		9) State: Nebraska	10) Zip:	
11) If the owner is a business, is it incorporated? ☐ No ☐ Yes If Yes, name of state where incorporated:				
12) Is the source located within 50 miles of another state, tribal land, local air quality agency or a national park? ☐ No ☐ Yes If Yes, indicate which state(s): ☐ Colorado ☐ Iowa ☐ Kansas ☐ Missouri ☐ South Dakota ☐ Wyoming ☐ Tribal Land ☐ OAQC ☐ LLCHD ☐ National Parks				
Source Information				
13) Name of Source:				
14) Source Description:				
15) SIC Code(s):				
16) NAICS Code(s):				
17) Physical Address:				
18) City:		19) State: Nebraska	20) Zip:	
21) County:	¼ ¼	Section:	Township:	Range:
22) UTM Coordinates: Zone:	X:	Y:		
23) Is the source located on leased property? ☐ No ☐ Yes (If yes, complete 24-28 below)				
24) Property Owner Name:				
25) Property Owner Mailing Address:				
26) Property Owner City:		27) State:	28) Zip:	
Source Contact Information				
29) Contact Person:				
30) Contact Person's Title or Responsibility:				
31) Phone Number: 32) Alt. Phone Number:		33) Fax Number: 34) E-mail Address:		
35) Should the NDEE contact someone other than the Source Contact for questions? ☐ No (If No, skip to 42) ☐ Yes (If Yes, fill in 36-41 below)				
36) Additional Contact's Name:				
37) Additional Contact's Company:				
38) Phone Number: 39) Alt. Phone Number:		40) Fax Number: 41) E-mail Address:		
Contact Information (continued)				
42) Draft permit documents should be sent to: ☐ Source Contact ☐ Additional Contact ☐ Other (fill in 43-51)				
43) Draft Document Recipient's Name and Title:				
44) Draft Document Recipient's Mailing Address:				

45) Draft Document Recipient's City:	46) State:	47) Zip:
48) Phone Number: 49) Alt. Phone Number:	50) Fax Number: 51) E-mail Address:	

Operating Schedule

52) Is this source operated seasonally?
☐ Yes ☐ No If Yes, give range of months:

53) Operating Hours of source (seasonal and non-seasonal facilities):
Hours per Day:
Days per Week:
Weeks per Year:

Project Information

54) Type of Permit:
☐ Class I
☐ Class II – Synthetic Minor
☐ Class II – Natural Minor

55) Class I source only: Are you requesting a permit shield?
☐ Yes ☐ No **(**If Yes, complete Form 1.0, Section 1.2: Renewal Permit Shield)(If No, continue to step 56)

56) Have there been **any** changes to the source since your current operating permit was issued?
☐ No; If there have been no changes to the source since your current operating permit was issued, skip to step 62.
☐ Yes; Proceed to step 57.

Permitting Information

57) Has your source received any permits or determinations from NDEE since your current operating permit was issued?
☐ Yes ☐ No If Yes, use the table below to provide a brief description of each construction permit (CP), operating permit (OP) revision, low emitter (LE) determination, no-permit-required (NPR) determination obtained from the NDEE, as well as any re-openings or amendments (attach additional sheets if needed).

Date Issued	Type	Brief Description
	☐ CP ☐ OP ☐ LE ☐ NPR ☐ Other	
	☐ CP ☐ OP ☐ LE ☐ NPR ☐ Other	
	☐ CP ☐ OP ☐ LE ☐ NPR ☐ Other	

Source Description

58) Only include a source description for the changes that have occurred at the source. **Do not include information that has not changed.** On separate sheet(s) of paper, provide a detailed narrative description of the changes that have occurred at the source since issuance of the current operating permit. This should include general information, facility/process changes, production changes, and compliance plan/new applicable requirements and changes. Include all new, removed, and/or revised emission points, emission units, pollution control equipment, and identification numbers. The narrative should complement any updated source layout (59) and process flow diagrams (60).
Updated Source Description: ☐ Yes ☐ No

Source Layout Diagram

59) Only include a source layout diagram if changes have occurred at the source. **If a source layout diagram is included, please highlight all changes.** On a separate sheet(s) of paper, provide an updated detailed diagram or site drawing that includes all buildings, stacks, emission points and units, control equipment, tanks, etc. identified in this application. Make sure all elements in the drawing are properly identified, drawn to scale, and consistent with other sections of this application. The source layout diagram should show the location of all buildings, structures, stacks, and property boundaries. Fences or other public access restrictions should be shown or identified and described. Be sure to identify adjacent roads and include a north arrow. Include an effective date for the diagram.

Updated Source Layout Diagram: ☐ Yes ☐ No

Process Flow Diagram

60) Only include a process flow diagram if changes have occurred at the source. **If a process flow diagram is included, please highlight all changes.** On a separate sheet(s) of paper, provide an updated flow chart(s) that includes all processes, process equipment, stacks, air pollution control equipment, and fuel burning equipment **for only the changes** identified in this application. When finished, this diagram should show how materials (including fuel) flow through each **changed** process. Make sure all emission points and units are identified and consistent with other sections of the application that identify changes. Include an effective date for the diagram.

Updated Process Flow Diagram: ☐ Yes ☐ No

Source/Process Changes

61) NDEE To describe **any** changes to the source and/or processes, complete: **"Air Quality Operating Permit Renewal Form 8.0, Section 1.3: Source/Process Changes"** located at dee.ne.gov.
(This should include all new equipment or process changes as well as any equipment that has been removed or modified)

Form 8.0, Section 1.3 included: ☐ Yes ☐ No

Risk Management Plan

62) Is your source subject to Clean Air Act Section 112r? ☐ Yes ☐ No
a. If Yes, have you prepared a Risk Management Plan? ☐ Yes ☐ No
b. Have you submitted your Risk Management Plan to the NDEE, State Emergency Response Commission, and your Local Emergency Planning Committee? ☐ Yes ☐ No

Potential To Emit (PTE) Calculations

63) Calculate the **current** source wide PTE, incorporating all changes to PTE since the current operating permit was issued (if applicable).
a. Has the PTE changed from the current air operating permit? ☐ Yes ☐ No
If Yes, continue to "b." below.
If No, please include the PTE spreadsheet from your current air operating permit Factsheet attachment.

b. This PTE update should include all new or revised emission points, any updated emission factors, recent stack test results, Construction Permit limits, etc. Removed equipment should not be included.
Note: Ethanol sources are recommended to use the "Universal Ethanol PTE Spreadsheet" located at dee.ne.gov

New or Revised Applicable Regulations/Requirements

64) For any changes since the issuance of the existing operating permit that are subject to 40 CFR § 60, 61 or 63, and/or CAM (40 CFR § 64) indicate which specific subparts apply and the affected sources. Using: "**Air Quality Operating Permit Renewal Form 8.0, Section 1.4: New or Changed Requirements"** located at dee.ne.gov for applicable NSPS, NESHAP and/or Title 129 requirements, give a detailed description whether an NSPS, NESHAP (40 CFR § 61 and/or 63), Title 129 requirement and/or CAM apply, or appear to apply but

do not. This will include all new or revised regulations that have become applicable to both new and existing equipment since the current operating permit was issued. If applicable, include NSPS or NESHAP compliance plan changes.

Form 8.0, Section 1.4 included: ☐ Yes ☐ No
Form 8.0, Section 1.2 included: ☐ Yes ☐ No ☐ Not Applicable

Documenting Changes to the Existing Operating Permit

65) To identify changes to the NDEE, it is recommended for the source to complete the following:

a. Identify specifically which portions of the existing air operating permit requiring change(s).

i. On the existing permit highlight the permit condition(s) or language that needs to be changed.

b. On the existing permit, beneath where the condition(s) or language needs to be changed include proposed suggested language use ***red bolded italicized underlined*** font for each proposed suggested language change(s).

Documents to Attach to Air Operating Permit Renewal Application

66) The following documents should be attached to the air operating permit renewal application (if applicable):

Check the box if the document has been included as an attachment

☐ Copy of **only** the Condition(s) from the existing Class I/Class II permit that were identified as changed in Step 65, including:
- ☐ Summary of each change
- ☐ New suggested language **(optional)**
- ☐ Track changes in MS Word **(optional)**

☐ PTE Calculations **(required-Step 63)**

☐ Air Quality Operating Permit Renewal Form 8.0, Section 1.2: Renewal Permit Shield **(if completed in Step 55)**

☐ Updated Source Description **(if completed in Step 58)**

☐ Updated Source Layout Diagram **(if completed in Step 59)**

☐ Updated Process Flow Diagram **(if completed in Step 60)**

☐ Air Quality Operating Permit Renewal Form 8.0, Section 1.3: Source/Process Changes **(if completed in Step 61)**

☐ Air Quality Operating Permit Renewal Form 8.0, Section 1.4: New or Changed Requirements **(if completed in Step 64)**

☐ CAM plan **(if new or revised only-Step 64)**

Submitting Air Operating Permit Renewal Application to the NDEE

67) What do I need to submit to the NDEE?

☐ Submit two (2) signed paper copies of the complete renewal application (including attachments) to:

NDEE
Air Program
P.O. Box 98922
Lincoln, NE 68509

or

NDEE
Air Program
245 Fallbrook Boulevard
Lincoln, NE 68521

☐ Submit one (1) electronic copy **in MS Word format** of Air Quality Operating Renewal Permit Application Form 8.0, Section 1.1 and applicable Air Quality Operating Renewal Permit Sections 1.2, 1.3 and/or 1.4

and the Conditions(s) from the existing Class I/Class II permit and/or CAM plant that were identified as changed in step 65 by email to NDEEAirQuality@nebraska.gov

☐ Submit one (1) electronic copy of the PTE calculations **in MS Excel format**, by email to NDEEAirQuality@nebraska.gov

Responsible Official Certification Statements

68) Compliance Certification

☐ I hereby certify that, based on information and belief formed after reasonable inquiry, the source that emitsair pollutants, which is identified in this application and that is subject to the applicable requirements, NSPS, NESHAP, Title 129 and/or CAM, identified in Air Quality Operating Permit Renewal Form 8.0, Section 1.4 New or Changed Requirements

1. Is in compliance with all applicable requirements, except as described in Permit Shield Table on Air Quality Operating Renewal Permit Form 8.0, Section 1.2;
2. Will continue to comply with all applicable requirements; and,
3. Will comply with all applicable requirements for which compliance is not currently achieved.

69) Truth and Accuracy Certification

☐ I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in this Air Quality Operating Permit application are true, accurate, and complete. I certify that all hard copies of this application are identical in content.

70) Electronic Copy Certification (only when an electronic copy is submitted with the hard copy application)

☐ I certify under penalty of law that, based on information and belief formed after reasonable inquiry, the statements and information contained in the electronic copy of the Air Quality Operating Permit application are identical in content to the hard copy submittal.

Responsible Official Certification Signature

71) Responsible Official Certification (see instructions for signatory requirements):

Typed or Printed Name of Responsible Official	Title
Signature of Responsible Official	Date (mm/dd/yyyy)

Questions?
Contact the Air Quality Program - Operating Permits Section at 402-471-2189 or (Permit Hotline) 877-834-0474, NDEEAirQuality@nebraska.gov or visit the NDEE website: dee.ne.gov

*Produced by: Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922; phone (402)471-2186. For this and other related information visit the NDEE website at **dee.ne.gov**.*

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

Air Quality Operating Renewal Permit Application
Form 8.0, Section 1.2: Permit Shield

SOURCE NAME: _____ **DATE:** _____

NDEE FACILITY ID#: _____

IMPORTANT: PLEASE READ THE INSTRUCTIONS BELOW PRIOR TO COMPLETING THIS FORM.

Please type responses or use black ink. Do NOT use pencil.

Permit shields (as defined in Title 129, Chapter 8, Section 014) only apply to Class I operating permits. You may request protection (e.g. permit shield) from enforcement action and citizen lawsuits for failure to comply with applicable requirements omitted from, or incorrectly addressed in, the operating permit received by your source. You may also request a permit shield from requirements that appear to be applicable to your source but are not; however, you must include in the permit application an explanation of why each requirement is not applicable in order to receive a permit shield. A permit shield protects your source as long as the source is in compliance with the operating permit conditions. For more fact sheet information concerning permit shields, please read the information starting on page 2 of this document.

1) Do you have a current permit shield in place? ☐ Yes ☐ No

   If Yes, proceed to Question 2 (below) If No, skip to the Permit Shield Table (below)

2) Do you want a shield for the same requirements and the same reasoning as your current permit shield?

   ☐ Yes ☐ No

   If No, identify the applicable requirements or changes to the existing permit shield.

Permit Shield Table

Emission Point(s)	Requirement (Citation)	Reason(s) For Permit Shield (Why Requirement May or May Not Apply)

Air Quality Operating Renewal Permit Application
Form 8.0, Section 1.2: Permit Shield

What is the purpose of a Permit Shield?

The Federal Clean Air Act and Title 129-Nebraska Air Quality Regulations allow a major source, as defined in Title 129, Chapter 2, to have a permit shield in its operating permit. The permit shield can protect the source from enforcement action by the U.S. Environmental Protection Agency (USEPA) and/or the Nebraska Department of Environment and Energy (NDEE) as well as public citizen suits. A permit shield provides protection under the following specific circumstances (more details later in this fact sheet):

- Failure of the source to comply with an applicable requirement that was incorrectly addressed in the source's operating permit and/or
- Failure of the source to comply with an applicable requirement that was deemed not applicable in the source's operating permit due to an incorrect NDEE determination that the requirement was not applicable.

A permit shield only provides protection for those requirements addressed in the permit shield condition of the operating permit. For the permit shield to be protective, the source must comply with the requirements in the operating permit. Note that a permit shield does not protect a source from failure to comply with requirements that become applicable after issuance of the operating permit. Nor does a permit shield provide protection if inaccurate information is provided in an operating permit application that leads to an inaccurate NDEE determination of applicability.

How does my source obtain a permit shield?

Title 129, Chapter 7, Section 006.02K allows a major source to request a permit shield in its operating permit application. A permit shield may be requested for an applicable requirement(s) of an emission unit and/or a requirement(s) that appears to be applicable to an emission unit at the source but is not.

What applicable requirements can be in a permit shield request?

An applicable requirement in a permit shield request can be from Title 129, a federal regulation, or a state implementation plan. The requirement must apply to an emission unit at the source. Examples of applicable requirements that can be included in a permit shield request are:

- National Emission Standards for Hazardous Air Pollutant (NESHAP);
- New Source Performance Standard (NSPS); and
- Title 129, Chapter 20 opacity requirements when another opacity standard applies, such as an opacity limit in a NSPS.

What requirements cannot be included in a permit shield request?

A permit shield cannot be requested by a source for a requirement that does not apply or appear to apply to a specific emission unit. For example, a source cannot request a permit shield for a NSPS for boilers when the source does not have a boiler. A source cannot request a permit shield for Title 129 in its entirety or for an entire chapter within Title 129 because these are not emission unit specific. For example, a source cannot request a permit shield for Title 129, Chapter 18 because this chapter adopts NSPS by reference and thus is not specific to an emission unit.

Air Quality Operating Renewal Permit Application
Form 8.0, Section 1.2: Permit Shield

How is a permit shield requested for applicable requirements?

The source must identify in its operating permit application each specific affected emission unit and the applicable requirement for which the source wants a permit shield. The request must identify the specific emission unit by name and identification number, include the citation of the applicable requirement, and explain why a permit shield is being requested. The NDEE may request additional information during its review of the permit shield request. Once the review of the permit shield request is complete, the NDEE will either grant or deny the permit shield request. If the request is granted, the permit shield will be incorporated into the source's Class I operating permit.

How is a permit shield requested for requirements that appear to apply but do not?

A source can also request in its operating permit application a permit shield from a requirement that appears to be applicable to an emission unit but actually is not. The request must at a minimum include the following:

- Citation of the requirement that appears to be applicable but is not,
- Emission unit(s) that appears to be subject to the requirement, and
- Explanation of why the requirement is not applicable to the emission unit(s).

Be sure to include enough detail in an explanation to make the case that a requirement is not applicable to the emission unit(s). The NDEE may request additional information during its review of this part of the permit shield. Once the review of the permit shield request is complete, the NDEE will either grant or deny the permit shield. If the request is granted, the permit shield for requirements that appear to be applicable but are not will be incorporated into the source's Class I operating permit. Note that a permit shield that is granted based on inaccurate application information is not valid.

The following is an example of a requirement that appears to be applicable but is not and can thus be included in a permit shield request: a source has a storage tank that was constructed after the applicability date of the NSPS Subpart Kb, which applies to volatile organic liquid storage vessels (volatile organic liquids can be gasoline, solvents, etc.), and meets the size requirement of the NSPS. The material stored by the source in the storage tank has a vapor pressure less than the minimum vapor pressure of stored liquid that would make the NSPS applicable. Therefore, Subpart Kb appears to be applicable to the source's storage tank but actually is not.

What is not affected by a permit shield?

In accordance with Title 129, Chapter 8, Section 014.03, any permit shield granted by the NDEE cannot affect:

- The emergency provisions of Nebraska Revised Statute §81-1507 of the State Act;
- Liability for any violation of applicable requirements or applicable requirements under the Act prior to or at the time of permit issuance;
- The applicable requirements of acid rain provisions in Title 129, Chapter 26;
- The authority of the NDEE or the USEPA to obtain information; or
- Any other permit provisions, terms, or conditions, including, but not limited to, construction permits issued pursuant to Chapter 17 or permits issued pursuant to other State authorities and Titles.

Any request by a source for a permit shield for any of the above will be denied by the NDEE.

What if a requirement is misinterpreted?

If the NDEE finds that an applicable requirement was improperly addressed or not included in the operating permit through no fault of the source, but should have been, the NDEE will reopen and modify the operating permit for cause in accordance with Title 129, Chapter 15, Section 006.

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

Air Quality Operating Renewal Permit Application
Form 8.0, Section 1.3: Facility/Process Changes

SOURCE NAME: _____ **DATE:** _____

NDEE FACILITY ID#: _____

Complete the table below for any changes to the source and/or processes.

Examples of minimum details to provide are provided below:

Maximum Capacity/Throughput in **Units** (MMBtu/hr, lb/hr, ton/hr, hp, number of cylinders, etc.)
For **Boilers**: Make, Model, Model Year, Installed Date, Maximum Rated Capacity, Fuel Combusted
For **Compressor Engines/Generators**: Make, Model Year, Maximum Rated Capacity, Fuel Combusted, L/Cylinder
For **Baghouses**: Grain loading and Air flow rate

Provide an updated site diagram (Step 59) and process flow diagrams (Step 60) to reflect the listed changes.

Emission Unit ID	Emission Unit ID/Description	Control Equipment ID/Description	Type of Change (Added/ Removed/ Modified)	Maximum Capacity/ Throughput (in Units)	Description of Change	Date of Change

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

Air Quality Operating Renewal Permit Application
Form 8.0, Section 1.4: New or Changed Requirements

SOURCE NAME: _____ **DATE:** _____

NDEE FACILITY ID#: _____

Complete the following table for any changes since the issuance of the existing operating permit that are subject to NSPS/NESHAP, compliance plan changes and for changes proposed for activities in existing operating permit. If a unit is subject to a Compliance Assurance Monitoring (CAM), the CAM must be submitted with the application.

Emission Unit ID (Existing, New and/or Modified	Citation	New or Changed Applicable Requirement (NSPS, NESHAP, Title 129)	Type of Change (Added/Removed/Modified)	Compliance Status	Compliance Demonstration (Monitoring/Recordkeeping/Reporting and/or Performance Testing)	Certification Reporting Schedule	Subject to the CAM Rule?

ATTACHMENT B

Attachment B, OP Application Tracker Example

Application NO.	NDEQ ID	Program ID	Timesheet / Project Code	Name	Location	City	County	Primary SIC Code	Application Type	Classification	Application Received	Application Administratively Incomplete (source notified)	Application Administrative Complete (sent for review)	Tech Review (Reviewer)	Tech Complete (Application deemed "Complete")	Date Assigned	Permit Writer	Project Comments and Weekly Status Update	Days on Hold	Internal OP Reviewer and Date Assigned	Compliance Reviewer and Date Assigned	Draft Complete	Draft Sent to Source	Source ReviewDue	Final Draft Complete	Forwarded for PN	Begin Public Comment	End Public Comment	Days since application received or until permit decision	Permit Decision (Issued, NPIR, Withdrawn)	Permit Decision Date	Days since application was assigned until permit decision	Active days after assignment
1482-002	64401	177-00045	33-560-008788	Cargill Polyols, LLC	651 Industrial Road, Blair, NE 68008-2649	Blair	Washington	2869	New	Class I	12/18/2006					08/24/20	Moyer	Note: Supplemental information was received on 1/26/2012 and 1/31/2013. 7/29/14: Initial Draft Stage 11/12/14: Drafting put on hold. **5/28/2015: The source requested that the "joint ventures" permits to be put on hold.** They requested that all the Cargill permits not be issued at the same time. At the moment, they are working on Cargill Corn Milling. When that permit is in the review stages, drafting will resume. 6/1/2015: CP application 15-018 received. 12/15/2016: CP16-046 issued. 5/23/2017: Sent back to Dave for reassignment. 10/15/2020: Information request sent on 9/16/2020, Recieved supplemental application on 9/23/2020 - it was incomplete, public and confidential copies don't match, sent letter discussing incomplete application on 10/14/2020	548										5637			N/A	91
0651-005 (SP-0366)	91164	177-00057	33-560-010294	Cargill Lactic Acid Plant	650 Industrial Road, Blair, NE 68008-2649	Blair	Washington	2821	New	Class I	8/21/2006		5/4/2007			01/07/20	Moyer	received supplemental information 10/7/13. **5/28/2015: The source requested that the "joint ventures" permits to be put on hold.** They requested that all the Cargill permits not be issued at the same time. At the moment, they are working on Cargill Corn Milling. When that permit is in the review stages, drafting will resume. 5/23/2017: Sent back to Dave for reassignment.; 7/21/2020: Received supplemental application 10/15/2020: Information request was sent on 9/10/2020	730										5756			N/A	139
0851-011	59052	081-00017	33-560-008424	Pacific Ethanol Aurora East LLC (was Nebraska Energy, LLC)	1205 South O Rd.; Aurora, NE 68818	Aurora	Hamilton	2869	New	Class I	09/29/08					**HOLD**		3/6/15: Source called asking on status of application. The source identified this OP should bw worked with Aventine Renewable in Aurora (FID 87072). Administratively complete. Supplemental/revised application received 3/26/12 - starts on page 147 of filed documents. Any documents w/application # 1251-007 should be changed to 0851-011. 8/24/2017: CP17-037 issued to Pacific Ethanol Aurora - East. 10/12/2017: Assigned to Pacific Ethanol Aurora East (Facility # 59092) and Pacific Ethanol Aurora West (Facility # 87072) – starting with Aurora East's OP; Upon review of East plant's CPs, the ethanol plants are a single source with a grain elevator (was Aurora Cooperative - Facility # 86001) effective December 2016 due to a joint venture; sent a letter to the grain elevator requesting a Class I OP application (previously the elevator was NOPR). 12/14/2017: Source's lawyer submitted legal requests for redetermination of single source determination and a stay on submitting information due to the requests for information email from NDEQ; waiting for NDEQs legal division to continue work on permit. 4/6/2018: declaratory order signed. 4/13/2018: email sent to source to submitted previously requested information by 5/16/2018. 5/4/2018: Updating standard language and format of documents. ON HOLD: 12/14/2017 to current (472 days through 3/31/2019). PENDING LEGAL ACTION **ON HOLD, THIS SOURCE IS NOT IN OPERATION**	1629										4986			N/A	#VALUE!
13S1-027	87072	081-00030	033-560-010151	Pacific Ethanol Aurora West (was Aventine Renewable Energy Aurora West)	2103 Harvest Drive	Aurora	Hamilton	2869	New	Class I	6/25/2013		6/27/2013	Rosenow	7/31/13	**HOLD**		3/6/2015: Source called asking on status of application. He identified this OP should be worked with Nebraska Energy (Facility #59052). 7/3/2017: CP application 17-034 received (facility name was Pacific Ethanol Aurora West). 7/17/2017: CP application 17-034 assigned to Andy. 8/24/2017: CP17-037 issued to Pacific Ethanol Aurora - East. 10/12/2017: Assigned to Pacific Ethanol Aurora East (Facility # 59092) and Pacific Ethanol Aurora West (Facility # 87072) – starting with Aurora East's OP; Upon review of East plant's CPs, the ethanol plants are a single source with a grain elevator (was Aurora Cooperative - Facility # 86001) effective December 2016 due to a joint venture; sent a letter to the grain elevator requesting a Class I OP application (previously the elevator was NOPR). 12/14/2017: Source's lawyer submitted legal requests for redetermination of single source determination and a stay on submitting information due to the request for information email from NDEQ; waiting for NDEQs legal division to continue work on permit. 4/13/2018: email sent to source to submitted previously requested information by 5/16/2018. 5/4/2018: Updating standard language and format of documents. **ON HOLD: 12/14/2017 to current (382 days through 12/31/2018).** **PENDING LEGAL ACTION** Legal Action complete - waiting on CP Source to submit updated OP application on or berfore February 4, 2922; 5/10/2022 - Project still on hold - Source coming in on May 24th for meeting and will be submitting a construction permit application for major reconstruction of facility.										3256			N/A	#VALUE!
21R2-025	1897	013-00012	033-561-008527	BNSF Railway Co Alliance Yard		Alliance			Renewal	Class II	6/16/2021		6/16/2021	Christensen	6/17/21	06/17/21	Moyer	Permit Expires on 01/17/2022										343			N/A	342
21R2-031	83269	035-00035	033-561-009039	Sunrise Composites					Renewal	Class II	8/4/2021		8/6/2021	Christensen	8/9/21	09/24/21	Green	Permit Expires on 09/12/2022										294			N/A	243
21R2-034	22547	061-00010	033-561-008736	City of Franklin		Franklin	Franklin		Renewal	Class II	8/23/2021		8/24/2021	Christensen	8/25/21	09/23/21	Green	Permit Expires on 06/25/2022										275			N/A	244
21S1-036	106518	153-00175	005-566-001657	Fireball Group LLC		Papillion	Sarpy		Initial	Class I	9/9/2021		9/15/2021	Rzodkiewicz	9/27/21	09/27/21	Rzodkiewicz	INITIAL Operating Permit		Morton 2/17/2022	Zuniabli 2/24/2022	03/17/22	03/17/22	04/15/22					258			N/A	240
21R2-040	78323	087-00014	033-561-009015	Trenton Agri Products		Trenton			Renewal	Class II	10/7/2021		10/7/2021	Christensen	10/7/21	10/14/21	Morton	Permit Expires on 04/09/2022		Green 1/26/2022	Halsted 2/23/2022	02/23/22	03/10/22	03/29/22		03/29/22	4/7/22	05/09/22	215	issued	5/10/2022	208	208
21M1-042	57902	177-00032	033-560-008296	Cargill		Blair	Washington		Significant Revision	Class I	10/27/2021		10/28/2021			**HOLD**												210			N/A	#VALUE!
21R1-043	62743	023-00030	033-560-008812	Butler County Landfill		David City	Butler		Renewal	Class I	10/27/2021		10/28/2021	Christensen	11/1/21	11/02/21	Rzodkiewicz	Permit Expires on 04/30/2022		Heine 12/2/2021	DeJong 1/26/2022	02/02/22	03/07/22	04/13/22					210			N/A	204
21M1-044	86000	079-00144	033-560-009094	Green Plains Wood River		Wood River	Hall		Significant Revision	Class I	10/21/2021		10/28/2021	Christensen	11/1/21	**HOLD**		**10/21/2021: ON HOLD.** Source wanting to split grain storge elevator from ethanol plant to make two separate sources. Submitted infromation to Legal for their review and determination if the sources can be split.										216			N/A	#VALUE!
21R1-045	48856	153-00006	033-560-008828	Sarpy County Sanitary Landfill		Springfield	Sarpy		Renewal	Class I	11/19/2021		11/19/2021	Christensen	11/29/21	12/02/21	Rzodkiewicz	Permit Expires on 06/04/2022		Heine 12/16/2021	Logan 1/14/2022	01/26/22	03/07/22	04/01/22		05/03/22	5/11/22	06/13/22	187			N/A	174
21R2-046	56905	033-00016	033-561-008718	City of Sidney Light Plant		Sidney	Cheyenne		Renewal	Class II	12/7/2021		12/8/2021	Christensen	12/13/21	12/21/21	Heine	Permit Expires on 05/17/2022		1/19/2022	Halsted 2/8/2022	02/08/22	03/17/22	04/18/22		04/27/22	5/4/22	06/06/22	169			N/A	155
21R2-047	23972	071-00003	033-561-008739	City of Burwell Light Plant		Burwell	Garfield		Renewal	Class II	12/9/2021		12/10/2021	Christensen	12/13/21	12/21/21	Heine	Permit Expires on 05/21/2022		Morton 1/10/2022	Nelson 1/14/2022	01/25/22	03/21/22	04/20/22					167			N/A	155
21M1-050	4129	025-00002	033-560-004504	Ash Grove Cement Company		Louisville	Cass		Modification	Class I	12/22/2021		12/23/2021	Christensen	1/5/22	**HOLD**		**1/5/2022 ON HOLD:** Waiting for CP to be issued, CP application submitted in July, 2021										154			N/A	#VALUE!
22R2-001	4880	027-00016		City of Laurel Municipal Power Plt		Laurel	Cedar		Renewal	Class II	1/10/2022		1/19/2022	Christensen	1/20/22	01/20/22	Rzodkiewicz	Permit Expires on 07/16/2022		Green 1/26/2022	Turco 2/24/2022	03/04/22							135			N/A	125
22R1-002	59056	153-00041	033-560-008471	Bimbo Bakeries USA Inc		Bellevue	Sarpy		Renewal	Class I	1/13/2022		1/14/2022	Christensen	1/19/22	01/19/22	Heine	Permit Expires on 07/11/2022		Rzodkiewicz 2/16/2022	Winters 2/18/2022	02/25/22							132			N/A	126
22R1-005	57789	153-01002	033-560-008436	Omaha Papillion Creek Wastewate		Bellevue	Sarpy		Renewal	Class I	1/24/2022		1/25/2022	Christensen	1/25/22	01/26/22	Morton	Permit Expires on 02/13/2023											121			N/A	119
22AR-006	42638	153-00005	033-560-008241	OPPD Sarpy County		Omaha			Renewal	Acid Rain	2/7/2022		2/10/2022	Christensen	2/14/22	02/16/22	Heine	Permit Expires on 08/28/2022											107			N/A	98
22R1-007	42638	153-00005	033-560-008241	OPPD Sarpy County					Renewal	Class I	2/7/2022		2/10/2022	Christensen	2/14/22	02/16/22	Heine	Permit Expires on 08/28/2022											107			N/A	98
22R1-008	723	001-00050	033-560-008366	A-1 Fiberglass		Hastings	Adams		Renewal	Class I	2/28/2022		3/8/2022	Christensen	3/8/22	03/08/22	Rzodkiewicz	Permit Expires on 08/24/2022		Green 3/23/2022	Leapley 3/24/2022	03/30/22							86			N/A	78
22AR-009	58048			Whelan Energy Center		Hastings	Adams		Renewal	Acid Rain	2/22/2022		3/22/2022	Christensen	4/5/22	**HOLD**		**4/5/2022: ON HOLD**, This application will be completed at the same time as the Class I operating permit renewal.										92			N/A	#VALUE!
22R1-010	9169	053-00018	033-560-008265	ADM		Fremont	Dodge		Renewal	Class I	3/7/2022		3/10/2022	Rzodkiewicz	3/22/22	03/22/22	Rzodkiewicz	Permit Expires on 09/07/2022		Morton 3/24/2022	Zunaibi 3/31/2022	04/04/22							79			N/A	64
22R2-011	22856	065-00012	033-561-008286	Beaver City MPP		Beaver City	Furnas		Renewal	Class II	3/4/2022		3/10/2022	Christensen	3/10/22	03/24/22	Morton	Permit Expires on 09/21/2022											82			N/A	62
22R1-012	23383	067-00001	033-560-008411	Koch Fertilizer Beatrice		Beatrice	Gage		Renewal	Class I	3/10/2022		3/10/2022	Green	4/6/22	03/14/22	Green	Permit Expires on 09/11/2022		Rzodkiewicz 5/2/2022	Turco 5/3/2022								76			N/A	72
22R2-013	40565			Falls City MPP		Falls City			Renewal	Class II	3/25/2022	3/29/2022	4/5/2022	Christensen	4/12/22	04/12/22	Heine	Permit Expires on 07/10/2023		Morton 5/11/2022									61			N/A	43
22LE-014	86751	067-00085		Eco-Energy Distribution	Beatrice C	Beatrice			New	NOPR	3/25/2022		3/29/2022	Christensen	4/5/22	04/07/22	Christensen												61			N/A	48
22R1-015	54712	079-00001	033-560-008770	CW Burdick Generating Station		Grand Island	Hall		Renewal	Class I	1/25/2022		3/31/2022	Christensen	4/5/22	04/11/22	Rzodkiewicz	Permit Expires on 08/04/2022; 5/11/2022 - **ON HOLD** Sumbitted significant CP revision										120			N/A	44
22M2-016	40819			Smithfield Fresh Meats Corp		Crete	Saline		Minor Revision	Class II	4/1/2022		4/5/2022	Christensen	4/12/22	04/14/22	Morton			Rzodkiewicz 5/10/2022									54			N/A	41
22M1-017	56628	049-00005	033-560-008297	TIGT Big Springs		Big Springs	Deuel		Modification	Class I	4/6/2022		4/7/2022	Christensen	4/11/22	04/12/22	Green			Rzodkiewicz 5/3/2022	Turco 5/5/2022								49			N/A	43
22AR-018	54712			CW Burdick Generating Station		Grand Island	Hall		Renewal	Acid Rain	1/25/2022		4/12/2022	Christensen	4/12/22	04/12/22	Rzodkiewicz	Permit Expires on 08/04/2022		Rzodkiewicz 5/2/2022									120			N/A	43
22R2-020	6808	039-00024	033-561-008719	Wisner MPP		Wisner	Cuming		Renewal	Class II	4/15/2022		4/19/2022	Christensen	4/21/22	04/21/22	Heine	Permit Expires on 11/27/2022											40			N/A	34
22R2-021	58341	081-00015	033-561-008308	Fiberglass Products Inc		Aurora	Hamilton		Renewal	Class II	4/15/2022		4/19/2022	Rzodkiewicz	4/19/22	04/19/22	Rzodkiewicz	Permit Expires on 06/20/2022								05/09/22	5/18/22	06/20/22	40			N/A	36
22R1-022	58562	105-00009	033-560-008319	Clean Harbors Environmental Services Inc		Kimball	Kimball		Renewal	Class I	5/5/2022		5/5/2022	Christensen	5/10/22	05/10/22	Green	Permit Expires on 12/17/2022											20			N/A	15

ATTACHMENT C

NEBRASKA

DEPT. OF ENVIRONMENT AND ENERGY

05-172 March, 2020

Certification of Compliance and Deviation Reports

Facilities with Nebraska air quality operating permits and those covered by a permit-by-rule are required to submit an annual Certificate of Compliance in accordance with Title 129 – Nebraska Air Quality Regulations, Chapter 8. Additionally, Title V (Class I) and some Class II facilities are required tosubmit deviation reports. This guidance document is intended to explain those reporting requirements and provide reporting examples. It is recommended that you thoroughly read your permit to assure compliance with all reporting requirements specific to your facility.

Certification of Compliance Reports

The Certification of Compliance is due on March 31st of each year and covers the reporting period of the previous calendar year, January through December. Title V (Class I) facilities must submit the report to the Nebraska Department of Environment and Energy (NDEE) and to the Environmental Protection Agency's Region VII Office. Class II facilities only need to submit the Certification to NDEE.

The Certification is your assessment, signed by your facility's responsible official, as to whether your facility complied with the terms and conditions of your operating permit. The Certification should includethe following information:

1) Facility information:
    a) The facility name and address;
    b) The facility phone number;
    c) The facility contact;
    d) The facility ID number;
    e) The date of the permit issuance; and
    f) The reporting period. The initial period that you are required to certify compliance for, after you have been issued your initial permit, is from the date the permit was issued until the endof December of that same year. You are required to certify compliance for the entire preceding calendar year.

2) Identify the permit terms and conditions to which your facility is subject, including design provisions;work practice elements; required operating conditions; emission limitations; and monitoring, reporting, and record keeping requirements.

3) List the compliance status for each permit term and condition as of the date of the Certification.

4) Certify whether compliance was continuous or intermittent.

   a) Any deviation from a permit condition will be considered intermittent compliance. Continuous compliance indicates you didn't have any deviations from your permit conditions during the reporting period. You must include information pertaining to the deviation including the nature and cause of the deviation, the date and time of the occurrence, and the corrective action taken.

   b) If a facility is utilizing an intermittent compliance monitoring and record keeping method (such as daily or weekly baghouse checks or daily or weekly visible emission observations),they may designate continuous compliance when each such monitoring event demonstratescompliance with the applicable emission limitation, control measure, work practice standard,or operational restriction, and they have no knowledge or information indicating noncompliance during the reporting period.

   c) If the permit requires a facility to determine compliance with an emission limitation by the use of compliant coatings and/or the use of record keeping and calculations (e.g., the calculation of a daily volume-weighted average VOC content, or calculations of emissionsbased on a fuel's sulfur content), they may designate continuous compliance when their records and calculations accurately document and substantiate the following:

      i. The use of nothing but compliant coatings, such that continuous compliance with therelevant emission limitation is actually achieved; or
      ii. The use of types and amounts of materials such that continuous compliance with therelevant emission limitation is actually achieved.

5) Identify the compliance monitoring methods and any other material information used as a means of determining compliance with emission limitations, control measures, work practice standards, or operational restrictions.

A facility is also required to certify to the general conditions of the permit. Certification can be done toeach general condition or one statement for all general conditions can be made.

You are required to consider, identify, and address any other material information that may indicate noncompliance with one or more of the applicable requirements of the operating permit even if dataobtained from monitoring activities required by the permit indicate compliance.

Deviation Reports

The Deviation Report for a Class I source covers the six-month reporting periods of January throughJune and July through December. The submittal dates for the reports are:

March 31st - Report for July through December of the previous yearSeptember 30th - Report for January through June of the same year

A Deviation Report is the reporting of any deviation from any permit condition or applicable requirement. Deviations are a departure from an indictor range or work practice established for monitoring under this part, consistent with any averaging period specified for averaging the result of themonitoring. Additional information regarding deviations can be found in the "Deviations" Fact Sheet located on the NDEE website at http://dee.ne.gov/ under Air Quality Publications.

Title V (Class I) facilities are required to complete Deviation reports and submit them to NDEE. Some permits require Class II facilities to also submit deviation reports. For Class II sources, only one deviation report is required. The submittal date is March 31st and it covers the previous calendar year.The reporting requirement is found in the general conditions of the operating permit. All Deviation reports require the following information:

1) Facility information:
    a) The facility name and address;
    b) The facility phone number;
    c) The facility contact;
    d) The facility ID number;
    e) The date of the permit issuance; and
    f) The reporting period.

2) The permit condition or applicable requirement
3) The cause of the deviation,
4) The date and time of occurrence, and
5) Details of the corrective action(s) taken.

Reporting Format

There are no required reporting forms or formats for those with Class I or Class II permits, so your facility may choose to send in the reports using customized formats, as long as the reports contain all the required information. Each facility is responsible for meeting the terms and conditions of their specific operating permit. Samples of reporting formats for the Class I and Class II permits are available for download on the Certification of Compliance and Deviation Reports web page and provideillustrations of how to complete the reports. One illustrates the certification of compliance information.
The other illustrates a semi-annual deviation report. You can combine the deviation and certificationinformation, as long as the requirements for each report are fulfilled.

NDEE has also developed forms for those sources covered by a permit-by-rule. Those forms are alsoavailable for download on the Certification of Compliance and Deviation Reports web page.

If you need assistance, feel free to contact the NDEE Air Quality Division at (402) 471-2189.

*Produced by: Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922;phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at **http://dee.ne.gov***

Sample Format for Illustration Purposes

Guidance Document for Annual Certification of Compliance
Class I Sources
Due March 31st

Facility Name: _____ Facility ID #: _____

Facility Address: _____ Facility Contact: _____

Permit Issuance Date: _____

This Certification of Compliance is being submitted for January 1, _____ *(Year)* through December 31, ___ *(Year)*

Permit Condition	Compliance Status	"C" Continuous or "I" Intermittent	Method for Determining Compliance
I – XVII General Conditions	In Compliance	Continuous	Routine records review and report submittals
XVIII (A) Opacity from the baghouses shall be less than 20%	Out of Compliance	Intermittent	Method 9 observations are made and recorded daily

Signature by a responsible official (per Title 129, Chapter 1) is required. Certifications of Compliance Reports without a responsible official signature will be returned as incomplete.

Title V (Class 1) facilities are required to submit copies of the Certification of Compliance report to both the EPA-Region VII and the NDEQ. All other facilities only need to submit their Certification of Compliance to NDEQ.

NDEQ
Air Quality Compliance
PO Box 98922
Lincoln, NE 68509-8922

US EPA Region VII
Air Permitting and Compliance Branch
11201 Renner Blvd.
Lenexa, KS 66219

I hereby certify that based on information and belief formed after reasonable inquiry, the statements and information in this document is true, accurate, and complete.

Signature: _____ Date: _____

Name (Printed): _____ Title: _____

ATTACHMENT D

Air Quality Permit Program
Emission Fee
Appropriations Report

Presented to
Appropriations Committee
of the Legislature

By the
Department of Environment and Energy

NEBRASKA
DEPT. OF ENVIRONMENT AND ENERGY

December 22, 2021

Table of Contents

Introduction

The Department of Environment and Energy submits this report to the members of the Appropriations Committee of the Nebraska Legislature, pursuant to Neb. Rev. Stat. §81-1505.04, as amended. This report details all direct and indirect program costs incurred during the State Fiscal Year 2021 (SFY 2021) in carrying out the air quality permit program. The permit program is the result of the Federal Clean Air Act Amendments of 1990 (CAAA) and the passage of LB1257 (1992) by the Nebraska Legislature. The department is required to establish and implement a comprehensive operating permit program for major sources of certain air pollutants. The federal program is referred to as the Title V program. The State of Nebraska's "Title V program" is often referred to as the Class I program.

Pursuant to the provisions of §81-1505.04, the department is required to collect an annual fee on the emissions from major sources of air pollution in an amount sufficient to cover the costs of the implementation of the permit program. The statute provides flexibility to develop and adjust the fee according to federal regulation or "as required to pay all reasonable direct and indirect costs of developing and administering the air quality permit program." The State's Payroll and Financial Center system is utilized to document time and resources spent on the program. The purpose of this report is to document the revenue generated from emission fees and identify costs associated with the program. In addition, as required by statute, this report identifies the costs incurred by the department to administer the program for each major source and each primary activity not specific to a major source. This report verifies that revenue generated from emission fees was used by NDEE solely to offset appropriate and reasonable costs associated with the air quality permit program.

Emerging Issues

A. National Ambient Air Quality Standards and Cross-State Pollution

Pursuant to the Clean Air Act, EPA must review the National Ambient Air Quality Standards (NAAQS) every five years. The purpose of these standards is to protect public health, welfare and the environment. Pollutants regulated by these standards include ozone (O_3), lead (Pb), particulate matter (PM), carbon monoxide (CO), nitrogen dioxide (NO_2), and sulfur dioxide (SO_2); Nebraska is currently comply with all six standards. Pending actions affecting Nebraska include:

2010 SO_2 NAAQS

The 2010 sulfur dioxide (SO_2) standard requires states to demonstrate attainment in the areas surrounding large sources of this pollutant. EPA finalized the Data Requirements Rule (DRR) in 2015 to assist in implementation of the 2010 standard, requiring state air agencies to characterize the air quality near sources that emit 2,000 tons per year or more of SO_2. Nebraska chose to comply with this requirement using both air quality monitoring and pollutant dispersion modeling. Five sources in Nebraska were subject to this rule; three sources relied on modeling and two opted to conduct monitoring to meet the requirements.

NDEE submitted Nebraska's designation recommendations to EPA for the areas surrounding three major sources to EPA in September 2015. EPA designated two of these sources (Gerald Gentleman Station in Lincoln County, and Nebraska City Station in Otoe County) as in compliance with the standards on September 16, 2016. The third (Sheldon Station in Lancaster County) was designated as in compliance with the standards on August 16, 2021. The area surrounding North Omaha Station (Douglas County) was designated as in compliance with the standards on April 30, 2021.

EPA conducts a comprehensive review of the NAAQS for each pollutant every five years. As these standards are continually subject to being lowered, maintaining the state's attainment status may prove to

be a challenge. In April 2019, EPA retained the current primary (health-based) SO_2 NAAQS, and the 2012 PM $_{2.5}$ NAAQS is presently under review. In the event Nebraska should be designated as not complying with a NAAQS, the state will be required to develop a strategy to return to compliance (typically within a timeframe of 3 to 5 years) and sustain on-going compliance thereafter. The impact of a non-compliance designation would potentially create challenges for existing industry to expand and may dissuade new industry from coming into the impacted parts of the state.

Because emissions from one state can sometimes cause or contribute to air pollution issues in a downwind state, EPA issued the Cross-State Air Pollution Rule (CSAPR) to address interstate transport. Interstate transport is addressed in State Implementation Plans (SIPs) submitted by states when a new or revised NAAQS is promulgated. At the present time, Nebraska is in compliance with this rule for all applicable NAAQS. A SIP revision for the 2010 SO_2 NAAQS was submitted to EPA in 2020 and approved in August 2021. When this SIP was originally submitted to EPA in 2013, these elements were addressed by reliance on a memo from former EPA Administrator Gina McCarthy; this memo was rendered void following implementation of the rule. An analysis of Nebraska sources of SO_2 and their potential for impacts on neighboring states was conducted and it was determined that emissions from Nebraska sources don't interfere with adjacent states' ability to maintain or comply with the NAAQS.

Particulate Matter ($PM_{2.5}$)

In April 2020, EPA proposed to retain the current NAAQS for particulate matter (PM), including both fine particles ($PM_{2.5}$) and coarse particles (PM_{10}), issuing its final rule in December 2020 to retain the current standards. In June 2021, EPA announced that it will reconsider the 2020 final rule based on evidence that current standards may not be adequate; it expects to issue proposed rulemaking in the summer of 2022.

B. Affordable Clean Energy Rule

In August 2018, EPA proposed the Affordable Clean Energy (ACE) Rule, which became final on July 8, 2019. This rule included three separate rulemakings: 1) repeal of the Clean Power Plan; 2) establishment of emission guidelines for states to use when developing plans to limit greenhouse gas emissions at power plants, and 3) determination that Heat Rate Improvement is the best system for reducing greenhouse gas emissions from coal-fired power plants. There were 12 designated EGU units inthe State of Nebraska that are subject to the ACE rule.

The Affordable Clean Energy Rule was vacated in January 2021. NDEE has put this plan on hold.

C. Municipal Solid Waste Landfill Plan

On May 21, 2021, EPA finalized the federal implementation plan for municipal solid waste landfills (MSWL). The plan supports the following federal rule located at 40 CFR Part 60 Subpart Cf: Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. The emission guidelines apply to landfills that were constructed prior to July 17, 2014 and accepted waste after November 8, 1987. This new emission guideline lowers the threshold for which facilities must install gas collection and control equipment from 50 Mg/yr to 34 Mg/yr of nonmethane organic compounds (NMOCs). NDEE is working with EPA on implementation of the federal plan while the agency develops a state implementation plan.

D. Regional Haze

Regional Haze refers to impaired visibility due to particulates and industrial gases in the atmosphere. EPA issued the Regional Haze Rule in 1999 to improve visibility in national parks and wilderness areas. The rule requires that state and federal agencies work together to achieve this goal. Numerous amendments to the Rule have been issued addressing the Cross-State Air Pollution Rule (CSAPR) as an alternative to Best Available Retrofit Technology (BART) for particular pollutant sources, and regulatory requirements for state implementation plans. In addition, recent guidance and technical support documents are available to assist states in preparing State Implementation Plans (SIPs) for the second implementation period (2018-2028).

Nebraska submitted its Regional Haze SIP for the first implementation period (2008-2018) in July 2011; in 2012, EPA issued a partial approval/partial disapproval of the SIP. The disapproved portions include the BART determination for sulfur dioxide for Gerald Gentleman Station and the state's long-term strategy for regional haze insofar as it relied on the BART determination. The disapproved portions will be addressed in the forthcoming SIP revision. This source participates in the CSAPR trading program, which allots each source an emissions budget for SO_2 and permits trading of allotments. Emissions to date from this source have been within the allotted SO_2 budget under CSAPR, and no additional control measures have been required.

The Department submitted its Regional Haze Five-Year Progress Report in April 2017. At present, the Department is developing its SIP revision for the second implementation period which was due to EPA in July 2021. This SIP revision will address portions of the initial SIP and progress report, as well as state obligations for the current implementation period.

Eagle Rock

Definitions

For the purposes of this report, the following definitions have been used:

Chargeable emissions: The total tonnage of regulated pollutants emitted from a major source up to and including any applicable caps. A cap of 4,000 tons per regulated pollutant applies to all major sources. A cap of 400 tons per pollutant applies to mid-size electrical generation facilities that are not under jurisdiction of a local air program and that have a nameplate capacity of between 70 and 115 megawatts.

Class I – Major Source: An air emissions source permitted to emit annually 100 tons or more of PM10, CO, NOx, SOx, or VOC; 10 tons or more of any single HAP; 25 tons of any combination of HAPs. Until the U.S. Supreme Court partially overturned the GHG permitting rule June 2014, a source with emissions of 100 tons or more of greenhouse gases on a mass basis and 100,000 tons of carbon dioxide equivalents were also considered major sources. The court ruled that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is subject to federal permitting rules. Such sources with emissions above the thresholds are required to obtain a Class I operating permit. Some other source categories are required to obtain a Class I operating permit because of other federal requirements.

Class II – Synthetic Minor Source: A source that has a potential to emit to be a major source, but through enforceable limits has lowered its potential to emit to below the major source thresholds. A synthetic minor source must either obtain a Class II permit or qualify for the Low Emitter Program. Synthetic minor sources are not assessed emission fees.

Compliance Assurance: Assuring compliance includes activities such as conducting facility inspections, responding to complaints, stack test observations, file reviews, voluntary compliance, and enforcement.

Direct costs: Direct program costs are those costs incurred through the direct implementation of the Title V program. Examples include: costs of permit writing and review labor, staff development, training, inspector salaries and travel expenses, air monitoring equipment purchases, regulation development, small business assistance, and computer modeling software purchases.

Indirect costs: Indirect costs are the programs share of costs incurred by the department that benefit the entire agency. Examples include: building rent, costs of certain administrative labor such as the director, the deputy directors, and general data management.

Low Emitter Source: A source that has a potential to emit to be a major source, but has demonstrated through records and emission inventories for at least 5 years a history of actual emissions not exceeding 50% of major source thresholds for regulated pollutants and that is not otherwise required to obtain a permit.

Non Source-Specific Costs: Those costs not specifically attributable to a single source. Examples include: resources required for review of federal regulations, resources required for participation in national organizations, small business assistance, labor for drafting a general air permit, and ambient air monitoring in areas of multiple sources.

Primary Activity: A main functional area of the air program. Examples of primary activities include: permitting, small business assistance, emission inventory, state regulation and program development, compliance assurance, federal policy and rulemaking, and acid rain.

Source-Specific Costs: Those costs specifically attributable to a single source. Examples include: labor for drafting an operating permit for a single source, labor for inspecting a single source, and cost of publishing a public notice for a permit.

Direct and Indirect Costs – SFY2021

A. Fees Assessed

Major source emissions were first subject to fees for calendar year 1994 emissions. The following table details the fee rates for the last 10 years, the date those fees were due, how much was collected, and which fiscal year the fees were intended to fund.

Table 1: Fees Collected

Emission Inventory Year	Fee Rate per Ton of Pollutant	Fee Due Date	Fees Collected[1]	Fiscal Year Funded
2011	$64	July 1, 2012	$2,640,609	SFY2013
2012	$65	July 1, 2013	$2,588,903	SFY2014
2013	$67	July 1, 2014	$2,738,257	SFY2015
2014	$70	July 1, 2015	$2,832,625	SFY2016
2015	$71	July 1, 2016	$2,719,339	SFY2017
2016	$78	July 1, 2017	$2,959,554	SFY2018
2017	$78	July 1, 2018	$3,115,348	SFY2019
2018	$70	July 1, 2019	$2,941,109	SFY2020
2019	$65	July 1, 2020	$2,617,991	SFY2021
2020	$50	July 1, 2021	$1,876,463	SFY2022

B. General Discussion of Program Costs

The department's SFY2021 estimated expenditures (budget) was $2,962,442 for the Title V program. The department expended $2,165,213, or approximately 73% of the budget. Table 2 provides a summary of SFY2021 Title V budgeted costs.

Table 2: Title V Budgeted Costs for SFY2021

(July 1, 2020 - June 30, 2021)

Category	Title V Budgeted Costs
Personnel	$ 1,628,815
Benefits	420,549
Contractual	19,000
Supplies	4,500
Other	78,501
Travel	25,500
Equipment	0
Total Direct Costs	2,176,865
Total Indirect Costs	785,577
Total Costs:	**$ 2,962,442**

[1] Fees collected reflect late payment fees and updates to the emissions inventory that may have occurred after the initial submittal was filed.

Middle Loup near Thedford

Primary Activity Costs

A. Payroll and Financial Center System

The department is required to establish a system that provides reporting of resources expended on the primary components of the air quality program, as well as resources expended for each major source. Use of a tracking system commenced in July 1996.

Under the Payroll and Financial Center system, program activities are either charged to the Title V (Class I) program, the "state" program, the federal 103 program, or to the construction permit application fee program. The emission fees paid by major sources fund the Title V program. The "state" program refers to the 105 grant program, which is funded by federal funds and state general funds. The federal 103 program is funded wholly by federal funds and is utilized only for maintaining the $PM_{2.5}$ (particulate matter with an aerodynamic diameter of less than 2.5 microns) ambient monitoring network. The construction permit application fee program was enacted by the legislature during the 2004 session (LB449) and began January 1, 2005. When applying for an air quality construction permit, the owner or operator of the facility must submit an application fee. The fees collected under the construction permit program are used toward paying some of the costs of processing the application. There are currently no fees charged to sources for air quality operating permits.

All time spent by staff on the Title V program is recorded as program activity on timesheets in the Payroll and Financial Center system. The Title V program includes activities associated with major sources and synthetic-minor sources. Permit, planning, and compliance program staff document time by primary activity and by specific source or non-source specific activities. An example of how the Title V program activities are tracked follows:

33 - 560 - 008223

Indicates which fund time is to be charged (Ex. TitleV program)

Indicates the primary activity (ex. Class I – major source permitting)

InIndicates whether the time is for a specific source or for a non-source specific activity (ex. F FEXcon Company, Inc.)

B. Costs by Primary Activity

The following table details the Title V air program costs for SFY2021 by primary activity:

Table 3: Costs by Primary Activity SFY2021

(July 1, 2020- June 30, 2021)

Time Tracking Code	Primary Activity	Agency Program Costs
001; 115; 119; 120; 121; 123; 124; 128; 130; 607	Administration/Management	$ 130,584
002	General Office	139,865
100	Outside Meeting	4,286
103; 111; 567; 568; 592	Compliance / Complaints / Enforcement	460,159
106; 554; 608	Environmental Data Collection/ Ambient Air Monitoring	18,928
112; 555; 564; 565; 604; 113	Rules & Regulations / Legislation	114,022
114; 606	Training	143,340
116; 122	Process Improvement / Application Development	38,350
125	Legal Advice	0
170	Hazards (Floods)	0
553; 594; 605	Air Emission Inventory	97,818
559; 600	Small Business Assistance / Title V/Class II – Compliance Assistance/Outreach	45,451
566; 590; 101	Construction Permit	276,240
591; 560; 561; 562; 570	Operating Permit	415,419
593; 603	Modeling	39,304
596	Monitoring Mercury	8,769
601	Air 105/Title V – Compliance Office Activities	74,937
602	Air 105/Title V – Planning Office	21,155
610	Air 105/Title V – Construction Permit Office	52,788
611	Air 105/Title V – Operating Permit Office	67,549
612	Air 105/Title V – NO FID/Permit	16,249
	TOTAL	**$ 2,165,213**

C. Costs Specific to Class I Major Sources

Table 4 contains the costs the agency incurred that were specific to individual Class I major sources.

Table 4: Costs by Class I Major Source SFY2021

(July 1, 2020 - June 30, 2021)

Facility Name	Facility Location	Facility ID	Time Tracking Code	Total Agency Costs
A-1 Fiberglass	Hastings	723	008366	$ 5,823.39
A-1 Fiberglass	Aurora	85312	008917	1,309.23
ADM Corn Processing	Columbus	39285	008206	33,358.80
AGP Soy Processing	Hastings	72698	008794	33,032.55
Archer Daniels Midland Co	Fremont	9169	008265	4,180.23
Ash Grove Cement Co	Louisville	4129	004504	21,163.08
BD Medical Systems	Columbus	38719	008383	784.52
Bertrand Compressor Station	Loomis	88547	010189	1,740.07
Bimbo Bakeries USA, Inc	Bellevue	59056	008471	517.30
Burgess Well Company	Minden	27639	007332	2,068.55
Butler County Landfill, Inc	David City	62743	008812	3,389.31
C.W. Burdick Gen. Station	Grand Island	54712	008429	510.75
Cargill Ag Horizons	Albion	1446	008310	249.67
Cargill Inc Polyol Sweeteners	Blair	64401	008787	16,444.45
Cargill Lactic Acid Plant	Blair	91164	010294	19,930.37
Cargill, Inc	Blair	57902	008296	165,897.90
Chief Ethanol Fuels, Inc	Hastings	58049	008315	16,673.54
City of Wayne	Wayne	47263	008426	453.16
Clean Harbors Environmental Services, Inc	Kimball	58562	008319	17,979.15
CNH Industrial America, LLC	Grand Island	24371	008395	7,716.89
David City Municipal Power	David City	4016	008300	442.55
Douglas County Recycling Landfill	Bennington	62593	008467	7,907.51
Douglas County Landfill	Omaha	59516	008244	11,714.50
Dutton-Lainson Co	Hastings	125	008374	2,744.52
E Energy Adams LLC	Adams	86373	010021	27,155.25

Facility Name	Facility Location	Facility ID	Time Tracking Code	Total Agency Costs
Eaton Corporation	Kearney	2374	008545	$ 23,243.70
Endicott Clay Products	Endicott	27355	008389	952.64
Enron Natural Gas	Palmyra	37514	008325	11,314.14
Excel Corp	Schuyler	6272	008524	11,941.74
FLEXcon Company, Inc	Columbus	58429	008223	10,824.27
Flint Hills Resources Fairmont	Fairmont	86026	010000	31,714.36
G & P Development, Inc Landfill	Milford	45275	008825	2,695.04
Goodyear Tire	Norfolk	53867	008391	5,560.64
Grand Island Burdick Station	Grand Island		54712	2,617.32
Grand Island Platte Gen Station	Grand Island		58027	6,856.75
Grand Island Regional Landfill	Shelton	62812	008809	2,225.24
Green Plains Atkinson, LLC	Atkinson	86416	010027	1,523.39
Green Plains Central City, LLC	Central City	82836	009032	13,478.19
Green Plains Ord, LLC	Ord	85861	009091	9,225.41
Green Plains Wood River, LLC	Wood River	86000	009094	28,968.08
Green Plains	York	59094	008291	8,673.02
Hastings Utility – Don Henry	Hastings	58345	008530	9,011.88
Hastings Utility – N. Denver	Hastings	55721	008339	4,320.13
Hastings Utility – Whelan Energy	Hastings	58048	008338	17,698.66
Huntsman	Sidney	5456	008392	1,666.78
IBP	Lexington	8744	008432	8688.63
J Bar J Landfill	Ogallala	63354	008826	3472.19
KAAPA Ethanol	Ravenna	77854	009013	30,511.38
KANEB Pipeline	Geneva	22282	008343	22,262.64
KANEB Pipeline	Columbus	39527	008345	7,004.22
KANEB Pipeline	Osceola	58738	008482	6,756.28
KN Energy	Lexington	8669	008437	5325.27
KN Int. Gas	Albion	1416	008475	184.70
KN Int. Gas	Holdrege	38270	008476	537.71

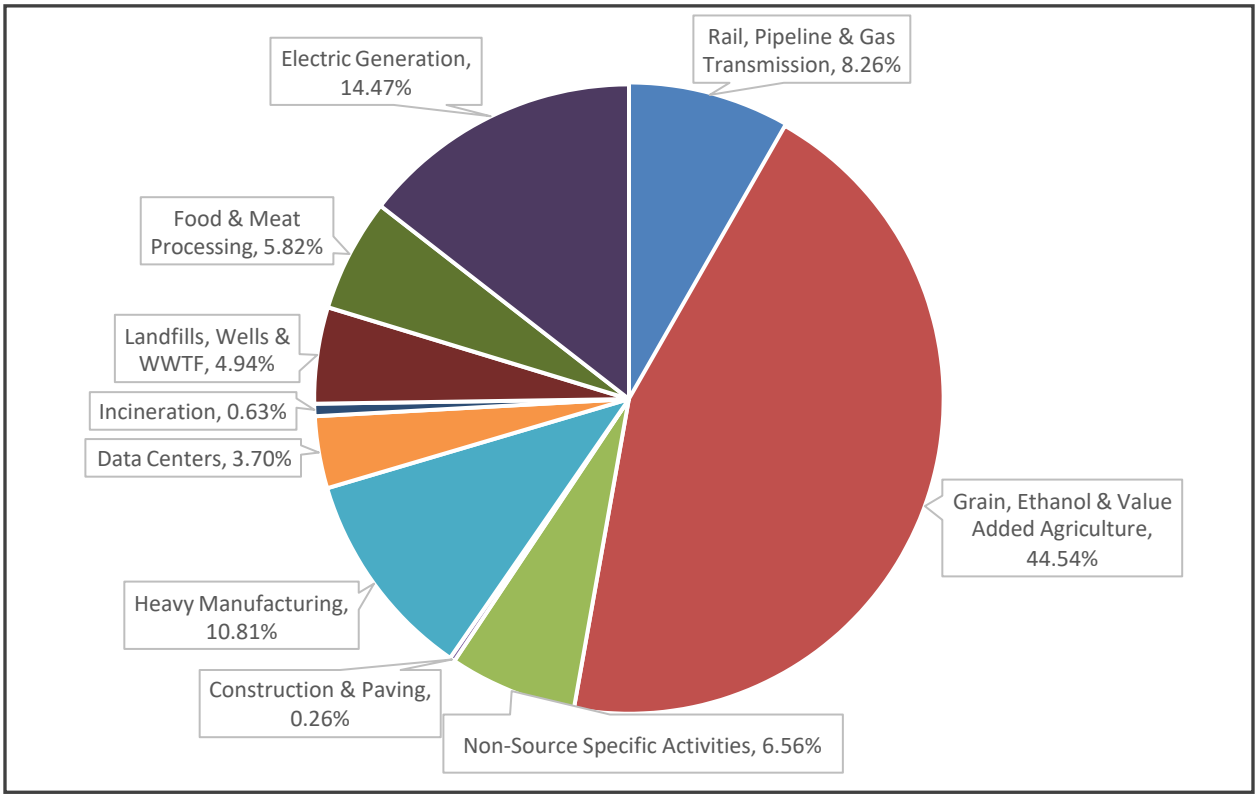
Facility Name	Facility Location	Facility ID	Time Tracking Code	Total Agency Costs
KN Int. Gas	North Platte	58735	008477	$ 10,625.77
KN Int. Gas	Grand Island	24673	008479	145.58
Koch Fertilizer Beatrice, LLC	Beatrice	23383	008411	18,973.11
Lon D Wright Power Plant	Fremont	48518	008350	6,809.27
Lincoln Premium Poultry	Fremont		002500	27,926.33
Natural Gas	Beatrice	23034	008435	1,053.29
Natural Gas	Otoe	37669	008470	12,932.60
Naturally Recycled Proteins	Wakefield	80265	009061	7,419.74
NatureWorks, LLC	Blair	69585	008857	2,332.68
Nebraska City Power Plant # 1	Nebraska City	37388	008353	93.21
Nebraska City Power Plant # 3	Nebraska City	64753	009004	9,397.98
Nebraska Energy	Aurora	59052	008424	157.37
NNSWC Landfill	Clarkson	62779	008811	3,119.61
Northern Natural Gas Co	Beatrice	23382	008324	7,814.90
NPPD Beatrice Power Station	Beatrice	76739	009002	15,019.55
NPPD Canaday Station	Lexington	8512	008433	103.63
NPPD Gerald Gentleman Station	Sutherland	34385	008396	4,448.93
NPPD Hebron Peaking Unit	Hebron	58034	008708	2,902.18
NPPD McCook Peaking Unit	McCook	39986	008836	2,649.13
NPPD Gerald Gentleman Station	Sutherland		000098	17,588.70
Nucor Corporation	Norfolk	35548	008406	1,053.31
Nucor Steel	Norfolk	35677	008267	14,974.06
OPPD Cass County Station	Plattsmouth	70919	008870	2,242.81
OPPD Nebraska City Station	Nebraska City	58343	008355	29,902.34
OPPD Sarpy County Station	Bellevue	42638	008241	1,570.34
Pacific Ethanol Aurora West	Aurora	87072	010151	22,283.88
Papillion CRK-WWTP	Omaha	57789	008436	1,639.58
PGLA-1	Blair	64258	008451	17,852.84
Pioneer Trails Tank Car		86000	001955	633.68

Facility Name	Facility Location	Facility ID	Time Tracking Code	Total Agency Costs
Plainview Municipal Power Plant	Plainview	38561	008757	$ 44.56
Platte Generating Station	Grand Island	58027	008771	799.91
Premier Ind.	Mead	43396	008221	2,840.39
Raven Northbrook, LLC	Springfield		010529	37,778.54
Sarpy County Sanitary Landfill	Springfield	48856	008828	4,330.12
Siouxland Ethanol	Jackson	85434	007303	5,289.67
TIGT Big Springs Station	Big Springs	56628	008297	7,876.12
Tyson Fresh Meats, Inc	Dakota City	7339	008376	12,714.41
Union Pacific Railroad	North Platte	60192	008481	12,454.19
Valero Renewable Fuels Co	Albion	85814	009089	7,093.32
Vulcraft/Nucor	Norfolk	35548	008406	717.15
Western Sugar Cooperative	Scottsbluff	44141	008225	45,216.12
Williams Power & Light	Irvington	17738	008462	4,404.73

D. Sector-Specific Costs

Chart 1 illustrates the program costs by industry sector. The heavy manufacturing sector includes manufacturing facilities such as Nucor Steel, Ash Grove, and FLEXcon. The food and meat processing sector includes bread manufacturing, meat packing, rendering, and pet food manufacturing. Incinerationincludes hospital waste incinerators, as well as the Clean Harbors facility in Kimball. Wastewater treatment facilities (WWTFs) include those systems at municipalities. The "non-source specific" category refers to costs associated with activities that are not related to an individual source, but benefit a broad category of sources. Examples of "non-source specific" activities include, but are not limited to: Grow Nebraska Team activities, ambient monitoring, rule development, process improvement activities, outreach, training, and operating expenses. The program costs reflected in Chart 1 include those attributed to source-specific activities related to specific sectors. The sector with the largest program coststo NDEE during SFY2021 was the Grain, Ethanol & Value-Added Agriculture Sector at 44.54%. Of this, $165,898 was attributed to one source, Cargill in Blair.

Chart 1: Title V Costs by Sector (Percentage)



ATTACHMENT E

Nebraska Department of Environment and Energy

MEMORANDUM

To: Jim Macy, Director

Through: Kara Valentine, Deputy Director

From: Brad Pracheil, Inspection and Compliance Division Administrator

Date: May 4, 2022

RE: 2021 Emission Fee Rate Assessment

Attached, please find the fee rate assessment for the 2021 emission inventory. Pursuant to §81-1505.04, emission fees are collected and used to fund the implementation of the air quality permit program since 1994. Sources report their annual actual emissions by March 31st for the previous calendar year. This information is then used to determine the appropriate fee rate. Fees assessed on the 2021 emission inventory fund state fiscal year 2023 (SFY23) which begins July 1, 2022.

The rate calculated for SFY23, based on the 2021 EI, is **$50 per ton** of pollutant. The rate for SFY22 (the current year) was also $50 per ton. The chargeable emissions increased by 1,205 tons from the previous year's emissions inventory and we have minimized the fee rate by applying an excess of $1,781,881 in surplus funds from SFY22 toward SFY23 (Table 1). Appendix 1 includes a table detailing the chargeable emission levels from 2016 to 2021.

The projected fee for the 2022 emission inventory is estimated to range from $73 to $78 per ton. The Department projects the future year fee rate so fee payers may plan their budgets accordingly. Adjustments (up or down) to the actual fee rate may occur as a result of budget changes, program changes, surplus availability, and the amount of reported chargeable em1ss1ons.

Please let me know if you have any questions or concerns. Invoices are expected to be sent out June 1, 2022. Thank you.

CC: Ryan Phillips
Kevin Stoner
Air Division Supervisors

2021 Fee Memo

FEE ASSESSMENT FOR 2021 EMISSION INVENTORY

This document is the Nebraska Department of Environment and Energy 2021 emission inventory fee assessment for the Class I program. The fee rate for the 2021 emission inventory is $50 per ton. The fees collected based on the 2021 emission inventory will be used to fund StateFiscal Year 2023 (SFY23), which runs July 1, 2022 through June 30, 2023. The following tabledetails a history of the emission fees collected and the amount of chargeable emissions emitted since 2004.

State Fiscal Year	Emission Reporting Calendar Year	Chargeable Emissions [1] (tons per year)	Fee Rate ($ per ton)	Total Fees Collected [2]	Estimated Budget Amount
2006	2004	42,942	$38	$1,634,451	$1,937,144
2007	2005	41,908	$51	$2,136,050	$1,997,943
2008	2006	42,489	$57	$2,410,594	$2,178,170
2009	2007	40,812	$57	$2,326,284	$2,479,887
2010	2008	39,982	$62	$2,478,420	$2,594,101
2011	2009	38,093	$70	$2,666,552	$2,685,567
2012	2010	38,890	$66	$2,566,717	$2,876,672
2013	2011	41,260	$ 64	$2,640,609	$2,810,237
2014	2012	40,728	$65	$2,588,903	$2,916,219
2015	2013	40,192	$67	$2,738,257	$2,968,018
2016	2014	40,606	$70	$2,832,625	$3,073,423
2017	2015	38,965	$71	$2,719,339	$3,204,509
2018	2016	38,036	$78	$2,959,554	$3,352,468
L019	2011	JIT,201	$'/8	$3,1T5,348	$3,425,769
2020	2018	41,748	$70	$2,941,109	$3,912,401
2021	2019	39,840	$65	$2,617,991	$2,962,442
2022	2020	37,521	$50	$1,879,781	$3,712,442
2023	2021	38,726	$50	TBD	

These fees collected from major sources are used to implement Nebraska's Class I program. Statute requires that emission fees can only be used for purposes of the direct andindirect costs associated with the Class I permit program (Neb. Rev. Stat. 81-1505.05).

There are two mechanisms by which the Department may set the emission fee rate. First, it may be adjusted in accordance with the Consumer Price Index (CPI): Second the Department has the flexibility to establish the emission fee "as required to pay all reasonable direct and

[1] When inventories are not submitted by March 31 the NDEE does not have an accurate account of the chargeable emissions for the previous calendar year. NDEE assumes the emissions remained level from the previous year.

[2] Total fees collected reflect late payment fees and updates to the emissions inventory that may have occurred after the initial submittal was filed. TBD - To be determined after payment have been made.

indirect costs of developing and administering the air quality permit program," Neb. Rev. Stat.81-1505.04 (Cum. Supp. 1992). The latter is the mechanism the Department is using.

Regulated chargeable emissions (particulate matter with aerodynamic diameter of 10 microns (PMl0), oxides of sulfur (SO2), oxides of nitrogen (NOx), volatile organic compounds (VOCs), lead, and hazardous air pollutants (HAPs)) emitted fluctuate year to year. In previous years while calculating the fee rate, the Department would forecast what the chargeable emissions were expected to be prior to receiving emission inventories from sources. The Department provided sources with the fee rate based upon a rough estimate of the chargeable emissions; they completed their emission inventories and submitted their fees with the inventories accordingly. During this practice, the Department would sometimes see a significantdifference between the forecasted and actual chargeable emissions numbers. Differences can result in collecting either insufficient funds or excess funds depending upon whether the actual chargeable emissions total was higher or lower than the forecast. Several years ago, the Department changed the system in order to obtain and use a more accurate estimate of the chargeable emissions. We collect the emission inventory reports first, use this information to determine the fee rate, and finally invoice the source for the emission fee. Additionally, each year, the Department conducts emission inventory audits on a sampling of sources to ensure that the reported emissions are complete, accurate, and reflect actual emissions for the year. If warranted, sources will be asked to update their inventories and remit additional emission fees or the Department will refund overpayments as appropriate.

There are two key factors that affect the fee rate: program costs (budget) and estimated chargeable emissions. The projected program costs (budget) and the assumptions used are detailed in Table 1. The next two pages detail the calculations which derive the 2021 emission fee rate and estimate the 2022 fee rate. The Department provides an estimate of the 2022 fee ratefor planning purposes only. The 2022 rate could change depending upon the amount of chargeable emissions, budget needs, and the availability of surplus funds to be applied to the next fiscal year.

Table 1: Title V Program Budget Request for State Fiscal Year 2023

Item	Amount	Description
Personnel	$ 1,980,525	Personnel cost - Salaries and benefits for 26 FTEs
Indirect	$ 854,417	Indirect costs
Other Expenses	$877,500	This includes operational costs such as process improvement projects, data processing expenses, office supplies, postal services, computer leases, publication, travel, training, membership dues, and capital outlay.
Total:	$3,712,442	

Appendix 1 lists the total chargeable emission tonnages per source. Facilities within the jurisdiction ofthe local air agencies (Lincoln Lancaster Health Department and Omaha Air Quality Control) are inventoried and assessed emission fees determined by these local programs. Sources within the local control regions are not included in Appendix 1.

FEE RATE CALCULATION

2021 Emission Inventory (EI) Fee Rate Calculation

Expenditures throue;h March 31, 2022	$ **(1,583,329)**
Cash Balance as of March 31, 2022	**$2,645,145**
Pro_lected Expenditures for April - June 2022	$ **(476,489)**
Pro_iected Total Expenditures for SFY 2022	$ **(2,059,818)**
Pro_iected Interest Income for April - June 2022	$ **13.225**
Proiected Balance on June 30, 2022	**$2,181,881**

Estimated Costs for SFY 2023 = $3,712,442

Minimum Operational Balance for initial SFY 2023 expenses[3] = $400,000

Estimated Need for SFY 2023 = $3,712,442 - $1,781,881 = $1,930,561

Chargeable Emissions Reported on 2021 Inventory as of April 20, 2022 = 38,727 tonsMinimum

Fee Rate= $1,930,561 + 38,727 tons=$ 49.85 per ton

Fee Rate to be assessed on the 2021 Emission Inventory[4] = $ 50 per ton

[3] The Department retains some funds in reserve in order to assure that sufficient funds are available to process payroll and bills as emission fees are submitted. The Department is striving to have an end of the year balance of approximately two pay periods of operational expenses .

[4] The Department must ensure that sufficient fees are collected to fund the program; therefore, the calculated rate was increased to the next whole dollar amount of $50 per ton.

Future Year Fee Rate Estimate-2022 Emission Inventory

Projected Cash Balance on June 30, 2022	**$2,181,881**
2021 Emission Inventory Fees Collected <Estimated $50 x 38,727 tons)	**$1,936,350**
Interest Income for SFY23 (Estimated)	**$35,000**
Project Funds Available for SFY23 (Estimated)	**$4,153,231**
Bud et for SFY23	$ **(3,712,442)**
Projected Balance on June 30, 2023 (Estimated)	**$440,789**

Estimated SFY 2024 Budget= $3,712,442(SFY 2023 Budget) - $750,000 (Process Improvement Projects Completed) = $2,962,442

Estimated Chargeable Emissions for 2022 = 38,000 to 41,000 tons[5]

Projected Minimum Fee Rate= $2,962,442 / (38,000 to 41,000 tons)= $72.25 to $77.96 per ton

Estimated Fee Rate/or the 2022 Emission Inventory= $73-$78 per ton

The Department projects the future year fee rate so fee payers may plan their budgets accordingly. Adjustments (up or down) to the actual fee rate may occur as a result of budget changes, program changes, surplus availability, and the amount of reported chargeable emissions.

[5] Due to the variability of total chargeable emissions reported each year, an estimated range in tonnage is used for the projected fee rate calculation.

Appendix 1: 2016 - 2021 Chargeable Emissions by Facility in Tons per Year

DEQ #	Facility Name	2016 Tons[8]	2017 Tons[8]	2018 Tons[8]	2019 Tons[8]	2020 Tons[8]	2021 Tons[8]
125	Dutton-Lainson Co	14.19	14.83	13.46	16.87	15.56	16.05
723	A-1 Fiberglass	57.65	58.69	53.02	58.74	42.36	32.19
1416	KMIGT Albion Compressor Sta	39.2	40.74	42.13	:39.98	43.77	42.54
2374	Eaton Corp				12.68	8.76	Class II
1446	Cargill AgHorizons	11.9	8.08	12.55	-	-	-
4016	David City Plant	2.26	1.77	0.83	-	-	-
4129	Ash Grove Cement Co	3,975.2	3704.22	3847.14	2963.88	2776.98	3338.21
5456	Tallgrass Huntsman Station 1	216.7	210.94	171.93	154.7	141.57	158.66
6272	Cargill Meat Solutions Corp	127.6	132.76	128.38	107.43	95.3	103.73
7339	Tyson Fresh Meats, Inc.	55.44	69.28	55.45	52.97	46.33	45.76
8512	NPPD Canaday Station	4	3.45	1.48	1.57	1.78	11.95
8669	KMIGT Lexington Compressor	61.7	76.6	148.44	120.2	129.48	88.24
8744	Tyson Fresh Meats, Inc.	78.1	72.11	74.73	81.13	74.53	73.86
9169	Archer Daniels Midland Co	187.4	205.73	252.76	247.74	208.92	246.2
17738	Irvington Station	52.1	54.88	58.66	51.12	47.61	55.28
22282	Geneva Terminal	117.5	119.59	136.83	105.83	120.91	168.18
23034	NGPL Compressor Sta. No. 106	1466.6	1589.01	1862.26	1841.77	1231.71	1092.88
23151	Exmark Manufacturing Co.	12.7	16.36	9.05	-	-	-
23382	Northern Natural Gas Company.	659.2	589.8	1164.76	1155.42	803.99	158.36
23383	Koch Nitrogen Plant	285.6	347.59	220.86	232.3	233.23	218.86
24371	New Holland North America Inc	37.8	40.53	40.72	33.48	32.44	42.98
24673	KMIGT Grand Island Comp.	131.6	143.74	150.31	144.02	118.59	138.33
27086	Agrium Advanced Technologies	closed	-	-	-	-	-
27355	Endicott Clay Products Co	198.7	218.26	218.78	218.4	229.29	227.06
27639	Burgess Well	3.4	0	3.45	8.67	2.89	-
34385	NPPD Gerald Gentleman Sta.	8590.6	8561.5	8588.59	8672.28	8560.2	8606.86
J5548	Nucor Corp Vulcraft Division	34.9	39.16	41.24	96.18	89.43	55.66
35677	Nucor Steel	528.7	503.44	683.82	576.58	592.61	754.19
36751	Magnolia Metal Corp	0.8	-	-	-	-	-
37388	Nebraska City Power Plant No 1	1.6	7.48	3.78	11.9	-	-

Appendix 1: 2016 - 2021 Chargeable Emissions by Facility in Tons per Year

DEQ#	Facility Name	2016 Tons[8]	2017 Tons[8]	2018 Tons[8]	2019 Tons[8]	2020 Tons[8]	2021 Tons[8]
37514	Northern Natural Gas Company	921.9	1086.31	1376.36	1194.78	997.51	849.91
37669	NGPL Compressor Sta. No. 196	16.6	31.46	38.88	24.52	4.97	1.57
38270	KMIGT Holdrege Como. Sta.	12.7	2.44	0.92	0.97	0.77	0.79
38561	Plainview Municipal Power	1.0	0.37	0.24	-	-	-
38719	Becton Dickinson Medical Svs.	27.6	47.02	69.11	64.07	62.35	70.1
39285	ADM Corn Processing	1906.9	2094.23	2005.72	1945.76	1364.91	1392.61
39527	Columbus Terminal	102.7	120.43	117.97	115.65	97.64	103.32
39986	NPPD McCook Peaking Unit	3.8	1.89	3.16	4.28	4.2	11.57
42638	OPPD Sarpy County Station	54.9	77.96	117.19	78.14	66.53	119.94
43396	Insulfoam	153.4	152.46	129.76	153.04	134.24	171.46
44141	Western Sugar Comoanv	177.3	842.25	679.84	690.2	719.68	803.22
45275	G&P Development Inc. Landfill	15.5	19.38	18.05	16.27	23.65	18.85
47263	Wayne Plant	8.6	3.33	6.93	1.44	1.54	21.99
48518	Lon D Wright Power Plant	958.5	1000.81	2174.57	1155.96	930.22	954.93
48856	Sarpy County Sanitary Landfill	29.2	17.51	5.78	3.84	6.21	9.67
53804	Apache Manufacturing	13.6	14.06	11.77	-	-	-
53867	Veyance Technologies Inc.	50.5	55.35	46.9	46.71	31.71	34.45
54712	C WBurdick Generating Station	2.0	2.65	2.82	4.35	2.32	14.92
55719	Hastings Adams County Landfill					15.28	14.45
55721	North Denver Station	0.8	2.05	0.99	0.97	0.89	0.22
56628	KMIGT Big Springs Station	210.1	241.23	270.21	264.42	257.28	231.56
57789	Omaha Papillion Creek Waste	320.3	300.35	302.95	243.22	202.56	287.6
57902	Cargill Inc	933.0	978.0	917	972.35	957.63	975.15
58027	Platte Generating Station	845.7	714.26	1154.03	832.8	793.46	825.5
58034	NPPD Hebron Peaking Unit	3.3	1.34	2.39	5.73	6.59	17.14
58048	Whelan Energy Center Unit #1	866.9	869.6	817	787.99	782.98	876.31
58048	Whelan Energy Center Unit #2	836.6	842.73	1628.11	1132.36	737.11	1059.77
58049	Chief Ethanol Fuels Inc	392.2	495.26	496.72	542.17	376.66	480.85

Appendix 1: 2016 - 2021 Chargeable Emissions by Facility in Tons per Year

DEQ#	Facility Name	2016 Tons[8]	2017 Tons[8]	2018 Tons[8]	2019 Tons[8]	2020 Tons[8]	2021 Tons[8]
58343	OPPD Nebraska City Station	8550.3	8501.91	8573.57	8434.13	8432.32	8390.53
58345	Don Henry Power Center	0.3	0.28	0.49	1.16	0.39	4.66
58429	FLEXcon Company Inc	31.4	31.01	29.68	21.1	19.09	21.44
58562	Clean Harbors Env Services	469.7	466.91	433.33	431.37	424.97	420.8
58735	KMIGT North Platte Compressor	16.1	21.11	71.03	45.04	59.86	24.74
58738	Osceola Terminal	2.4	2.43	2.41	2.34	**1.85**	2.53
59052	Nebraska Energy LLC	160.1	162.61	153.03	0.53	0	-
59056	Earthgrains Baking Company	25.4	31.5	30.71	28.48	25.01	
59094	Abengoa Bioenergy	87.0	111.19	91.22	108.63	110.13	112.84
59516	Douglas County Landfill	0.5	1.35	0.18	0.51	0.66	0.55
60192	Union Pacific Railroad	55.1	66.44	57.75	42.08	53.73	77.9
62593	Douglas Co Recycling Landfill	323.2	320.04	328.48	348.03	350.23	342.24
62743	Butler County Landfill	38.1	70.03	87.33	46.5	32.64	49.76
62744	LP Gill Inc Landfill					21.49	21.17
62779	NNSWC Landfill	14.7	10.33	10.69	12.83	12.01	12.24
62812	Grand Island Regional Landfill	19.3	20.67	24.78	28.28	29.94	27.52
63354	J Bar J Landfill	6.5	6.45	6.63	6.83	7.17	7.15
64258	PURAC Production USA	6.1	6.02	-	-	-	-
64401	Cargill Polyols, LLC	24.0	19.38	17.43	15.53	14.63	16.1
64753	Nebraska City Power Plant No 3	0.1	0.44	0.16	1.89	0.82	1.0
69585	NatureWorks LLC	39.9	52.56	52.87	52.48	55.56	53.63
70919	OPPD Cass County Station	11.4	7.35	45.56	78.58	60.61	79.16
72698	Ag Processing - Soy Bean Plant	527.6	740.13	715.99	691.14	761.4	1018.87
73356	Husker Ag LLC					200.77	221.6
75073	KAAPA Ethanol					201.72	231.38
76680	Lincoln Premium Poultrv LLC					286.34	362.64
76739	NPPD Beatrice Power Station	22.9	24.88	36.44	45.93	56.91	44.81
77755	Cornhusker Energy Lexington	64.3	-	-	-	-	-
77854	Abengoa Bioenergy of Nebraska	152.0	143.05	247.27	236.62	331.97	313.08
80265	Naturally Recycled Proteins, LLC	15.0	36.31	-	28.89	31.83	12.98

Appendix 1: 2016 - 2021 Chargeable Emissions by Facility in Tons per Year

DEQ#	Facility Name	2016 Tons[8]	2017 Tons[8]	2018 Tons[8]	2019 Tons[8]	2020 Tons[8]	2021 Tons[8]
82836	Green Plains Central City LLC	205.6	242.08	187.56	191.68	173.18	174.25
85312	A1 Fiberglass	-	10.26	11.77	14.87	14.16	10.59
85434	Siouxland Ethanol LLC	-	-	161.55	159.44	152.19	238.62
85814	Valero Renewable Fuels Company	182.8	172.95	187.72	187.41	198.11	216.24
85861	Green Plains Ord, LLC	148.1	157.35	160.91	144.7	128.61	150.9
86000	Green Plains Wood River, LLC	174.6	187.71	207.08	201.49	212.11	213.61
86026	Flint Hills Resources	258.3	223.93	257.91	268.48	292.75	293.42
86373	E Energy Adams LLC				261.78	232.0	258.5
86416	Green Plains Atkinson LLC	96.1	103.79	78.24	74.17	62.87	84.75
86963	Steele City Compressor Station	49.7	-	-	-	-	-
87072	Aventine Aurora West LLC	178.7	170.17	158.5	139.12	128.92	127.42
88547	Bertrand Compressor Station	232.0	233.59	281.76	160.46	83.66	12.24
91164	Cargill Lactic Acid Plant	28.8	35.77	37.16	39.92	33.7	37.39
106518	Fireball						1.5
108432	Raven Northbrook LLC						12.76
	Totals	**38,036.5**	**39,237.25**	**42038.37**	**39,840.25**	**37,523.44**	**38,727.39**

[8] A blank indicates the source was not a major source for that specific calendar year.

ATTACHMENT D: Fee Attachment

Attachment C from the March 27, 2018 Guidance
Program and Fee Evaluation Strategy and Guidance for 40 CFR Part 70

[see the attached copy]

ATTACHMENT C

Example Annual Financial Data Form for 40 CFR Part 70

Permitting Authority: Federal Clean Air Act Amendments of 1990 (CAAA) and the passage of LB1257 (1992) by the Nebraska Legislature

Annual Period: 07 / 01 / 2020 to 06 / 30 / 2021 (MM/DD/YYYY)

Annual Program Revenue		
A	**Total Program Revenue** (Fees Paid by Part 70 Sources)	$ 2,526,339.92
Annual Presumptive Minimum Cost Calculation		
B	Total Emissions of "Regulated Pollutants (for presumptive fee calculation)"	37,521 tons
C	Presumptive Minimum Fee Rate During Period ($/ton)	$ 52.79 per ton
D	Total Greenhouse Gas (GHG) Cost Adjustments (as applicable)	$
E = (B*C)+D	**Presumptive Minimum Cost for the Program**	$ 1,980,733.59
A < E or A ≥ E	**Compare Total Program Revenue to Presumptive Minimum Cost** Enter: "Less Than" or "Greater Than" or "Equal To"	Greater Than
Annual Program Costs		
F	Direct Labor Costs[1]	$ 1,565,053.45
G	Other Direct Costs[2]	$ 113,875.75
H = F+G	**Total Direct Costs**	$ 1,678,929.20
I	Known Indirect Costs[3]	$ 486,283.89
J = K*L	Calculated Indirect Costs[4]	$
K	Indirect Rate	%
L	Total Cost Base for the Part 70 Program	$
M = I or J	**Total Indirect Costs**	$ 486,283.89
N = H+M	**Total Program Costs**	$ 2,165,213.09
O = A - N	**Annual Operating Result** *(Report deficits in parentheses)*	$ 361,126.83

[1] This is the sum of all direct labor costs, including regular payroll, overtime payroll, leave, fringe, and any other administrative surcharges.
[2] This is the sum of all other direct costs, including travel, materials, equipment, contractor, and any other costs directly allocable to the part 70 program.
[3] Indirect Costs may either be known or calculated. If known, enter on this row; if calculated, skip to the next three rows.
[4] If Indirect Costs are calculated, enter the result here, and enter the rate and base below. Accounting or budgeting personnel may be able to provide additional information on or assistance with calculating Indirect Costs.

Program Balance of Accounts (*Report deficits in parentheses*)		
P	Beginning of Year Balance[5]	$ 3,325,903.27
Q = O	Annual Operating Result	$ 361,126.83
R	Fee Revenue Transferred In (describe in comments)	$
S	Non-Exchange Revenue Transferred In (describe in comments)a- Informational Only	$
T	Fee Revenues Transferred Out (describe in comments)	$ ( )
U = O+Q+R-T	**End of Year Balance**	$ 3,687,030.10

COMMENTS:

Use this section to describe any changes in accounting methods or program elements that affect the fee program, categories of revenue or expenses that do not fit into any of the listed categories or apply across multiple categories, transfers in or out, or any unusual activities or circumstances relevant to fees administration. Attach additional pages if needed.

[5] This is the prior year's "End of Year Balance."

ATTACHMENT E: Entrance Meeting Attendees June 8, 2022

Dana Skelley
Jim Macy [NDEE]
Steve Goans [NDEE]
Amy Algoe-Eakin
Shelley Schneider [NDEE]
Kevin Stoner [NDEE}
Ryan Phillips [NDEE]
Ward Burns
David Christensen [NDEE]
Pati West [NDEE]
Pat Scott
David Peter
Keith Johnson
Bob Webber
Kathy Finazzo

ATTACHMENT F: File Review Exit Meeting Attendees August 10, 2022

Steve Goans [NDEE]
Amy Algoe-Eakin
Shelley Schneider [NDEE]
Kevin Stoner [NDEE}
Ryan Phillips [NDEE]
Ward Burns
David Christensen [NDEE]
Pati West [NDEE]
Pat Scott
Keith Johnson
Bob Cheever
Bob Webber

ATTACHMENT G: NDEE's Response Letter Regarding the Draft Report

The EPA did not receive any comments from NDEE regarding the draft program review report.