



*This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.*

AIR058

June 2021

## **Request for Variance from Nebraska Administrative Code Title 129 – Nebraska Air Quality Regulations**

Nebraska Revised Statute §81-1513(1) provides that “Any person who owns or is in control of any plant, building structure, process, or equipment may apply to the director for a variance from rules or regulations”. Nebraska Administrative Code Title 129 Nebraska Air Quality Regulations (Chapter 33, Section 001.03) further requires that “All requests for variance as provided for in Neb. Rev. Stat. §81-1513 shall be submitted in writing to the Department ...” and identifies minimum submittal requirements.

A variance is not a right and is granted at the discretion of the Director. There is no timetable for the Director’s decision. In accordance with §81-1513, a variance cannot be granted that will sanction any violation of state or federal statutes or regulations. A variance cannot be granted to waive or change an existing permit condition or limit. A variance cannot be granted to sanction construction that was already started prior to obtaining a required construction permit. Please refer to the full text of the statute and regulations for additional information.

### **Submittal**

This form is provided for the submission of a variance request from Nebraska Air Quality Regulations for a proposed source of air pollution. This request is not a substitute for any required permit and there is no guarantee a variance will be granted. The form is not required in this specific format; however, it is provided for convenience of the applicant to help prepare a request. The notarized signature of the person responsible for the operation or installation is required.

Please type responses or use dark blue or black ink. Do NOT use pencil. The NDEE may request additional information as needed for evaluation and consideration of the request. Do NOT spiral bound the application as bindings must be removed for scanning and filing purposes.

If you plan to submit information you consider confidential, please complete the Confidentiality Request Form, which is available on the NDEE Web site, and submit it along with the required information as described in the form. A request for confidentiality must be made in accordance with Nebraska Administrative Code Title 115 - Rules of Practice and Procedure. Please note that a claim of confidentiality is subject to the Director’s determination and approving

confidentiality is not guaranteed. Generally, confidentiality claims must be resolved before the Department will begin processing the related submittal.

Submit as follows:

Attn: Director

Nebraska Department of Environment and Energy

(Mailing address) or (Physical address *for UPS/Fed Ex or hand-deliveries*)

PO Box 98922 245 Fallbrook Blvd

Lincoln, NE 68509-8922 Lincoln, NE 68521

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*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>.*

**Request for Variance from Nebraska Administrative Code  
Title 129 – Nebraska Air Quality Regulations**

<b>NDEE Identification Number</b>		
1) Facility ID: (leave blank if unknown)		
<b>Company Owner Information</b>		
2) Name:		
3) Mailing Address:		
4) City:	5) State:	6) Zip:
7) If the owner is a business, is it incorporated? <input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, name of state where incorporated:		

<b>Source Information</b>					
8) Common Name of Source:					
9) Source Description:					
10) SIC Code(s):					
11) NAICS Code(s):					
12) Physical Address:					
13) City:			14) State: <b>Nebraska</b>		15) Zip:
16) County:	¼	¼	Section:	Township:	Range:
17) Is the source located on leased property? <input type="checkbox"/> No <input type="checkbox"/> Yes (if Yes, complete 18 thru 22)					
18) Property Owner Name:					
19) Property Owner Mailing Address:					
20) Property Owner City:			21) State:		22) Zip:

<b>Source Contact Information</b>	
23) Contact Person:	
24) Contact Person's Title or Responsibility:	
25) Phone:	27) Fax:
26) Alt. Phone:	28) E-mail:
29) Should the NDEE contact another person in addition to the Source Contact for questions? <input type="checkbox"/> No <input type="checkbox"/> Yes (if Yes, complete 30 thru 35)	
30) Additional Contact's Name:	
31) Additional Contact's Company:	
32) Phone:	34) Fax:
33) Alt. Phone:	35) E-mail:

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**Source Description and Supporting Information**

Please complete the following. If additional space is needed for any of your responses, please mark the appropriate check box and include on each page of your attachment Identifying Information to include the Owner's Name, Source Name (i.e. Common Name of Facility or Source), and (if available) the NDEE Facility ID.

36) Describe in detail the particular operation or installation affected.

Check here if an air pollution source layout diagram, locational maps or other describing information is attached.

37) Describe the reasons you are unable to meet Title 129 requirement(s). Please be specific. If economic reasons are cited, please include a detailed economic analysis to show the impacts of not receiving the variance request (i.e., what would happen if the owner waits to receive the air permit or required approval for the identified source of air pollution).

Check here if additional relevant supporting information is attached (include Identifying Information on each page).

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38) Describe your plan for air pollution emissions controls and subsequent monitoring, reporting, documentation, and record keeping to demonstrate that the emissions or discharges proposed to occur will not endanger or tend to endanger human health or safety.

Check here if additional relevant supporting information is attached (include Identifying Information on each page).

39) Provide a specific time schedule of completed or planned progress toward compliance for the proposed project. The schedule should include:

- A. Date contracts will be issued for construction of this project:
- B. Date the construction permit application was submitted for this project:
- C. Date contracts for air emissions control systems or process modifications will be awarded:
- D. Date orders will be issued for the purchase of component parts for the associated project:
- E. Date of initiation of construction, installation of air emissions control equipment, or process change:
- F. Date by which construction, installation of air emissions control equipment, or process modification is to be completed:
- G. Date by which final compliance is to be achieved:

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**Certification by Responsible Official<sup>1</sup>**

40) Acknowledgement and Acceptance

- I understand and acknowledge that a variance, if granted, cannot be construed as a guarantee that an air quality construction permit will ultimately be issued or that operation of the proposed source of air emissions will be permitted.
- I understand and accept that a construction permit for the source may be denied and that I assume all risks related to any air emissions. In addition, I understand that the permit may require timely changes, retrofit of equipment, or changes to the source to meet permit requirements.

41) Truth, Accuracy, and Completeness Certification

- I certify under penalty of law that this information is true, accurate and complete to the best of my knowledge and belief and that, under the laws of the State of Nebraska, I have authority to sign on behalf of the source for which this request is being submitted.

42) Responsible Official<sup>1</sup> Signature:

Printed Name of Responsible Official<sup>1</sup>

Title

**X**

Signature of Responsible Official<sup>1</sup>

Date Signed (mm/dd/yyyy)

[Signature must be notarized below]

Subscribed and sworn before me, a Notary Public, on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
[Affix Notary seal here] Notary Signature

<sup>1</sup> For definition of “Responsible Official” see Chapter 1 of Nebraska Administrative Code Title 129