

## THE AIR DVD: Chapter 2 Construction Permits

Before you build a new source or modify an existing source you may be required to get a construction permit.

Construction permits impose federally enforceable requirements. They may include emission, production, or operation limits that will protect air quality.

They also contain recordkeeping, reporting, monitoring and testing requirements

Construction permits must be obtained before you commence construction.

Your construction permit will be valid for the life of your emissions unit.

Construction must be commenced within 18 months of obtaining your permit for the permit to *remain* valid.

Technically, you have commenced once you have all necessary preconstruction approvals and either have begun physical on-site construction or have entered into binding agreements or contracts. The construction must be continuous and the contracts cannot be cancelled or modified without substantial loss to the owner or operator.

There are two construction permitting programs, one developed by the state and one developed by the federal government.

The type of permit you will need is based on your potential emissions.

The NDEQ has implemented its state air quality construction permit program since 1972. Sources subject to the state program are referred to as minor sources.

You will need to determine your net emissions increase for each construction project. The net increase takes into account the PTE for the project minus the PTE of any emissions units that you will be removing.

The annual net increases in PTE that trigger the need for a state construction permit are:

- 15 tons of PM<sub>10</sub>,
- 40 tons of SO<sub>x</sub>
- 40 tons of NO<sub>x</sub>
- 40 tons VOC
- 50 tons CO
- 0.6 tons Pb
- 2.5 tons of any single HAP
- or 10 tons of combined HAPs

Incinerators will always require a construction permit regardless of emissions.

If your facility's potential HAP levels exceed the construction permit thresholds, you will need to conduct a control device review and install the best available air pollution control technology, or BACT.

A facility obtaining a state construction permit may be required to conduct an air quality review using computer modeling to predict the impact they may have on the ambient air.

Whether or not a facility needs to model will depend on their rate of emission increase, history, location, type, and emission point configuration.

Construction permits are not issued if modeling demonstrates an expected violation of an ambient air quality standard.

More information can be found on our agency website under modeling guidelines or by contacting the NDEQ Air Quality Division Permit Hotline. (877) 834-0474.

You can find the requirements for state construction permits in chapter 17 of the Nebraska Air Quality regulations.

There is a state construction permit option called Permit-by-Rule, or PbR. As of 2008, PbRs are available for asphalt plants and small animal incinerators. Additional PbRs may be developed in the future.

PbRs act as both a construction permit and an operating permit. While you won't be issued an official permit, you will have to comply with Chapter 42 of Title 129 and the conditions you agreed to in your Notice of Intent.

The PbR notice of intent forms are brief and standardized so you can obtain coverage quickly and easily.

They are located on our website, along with guidance documents we've developed to help you with the recordkeeping and reporting requirements.

In 1977 the EPA developed the federal construction permit program, known as the New Source Review, or NSR, program.

Sources subject to the NSR program are referred to as major sources. The NDEQ has incorporated the federal program into our state regulations and has the authority to implement and enforce these rules.

Areas that have pollution levels below the national ambient air quality standards, or NAAQS, are called attainment areas. Sources in these areas obtain Prevention of Significant Deterioration (PSD) permits.

Areas that have pollution levels above the NAAQS are called nonattainment areas. Sources in these areas obtain nonattainment New Source Review permits.

As of 2010, all areas in Nebraska are in attainment. As new science about the health effects from air pollution becomes available, the EPA evaluates and revises the standards. Therefore, Nebraska's attainment status may change in the future.

Nonattainment areas pose risks to our health. They also could impact economic growth. Businesses may decide against expanding or may decide to move if they can't afford the controls needed to return an area to attainment status.

New businesses may decide not to locate in these areas if they are unable to afford emission controls.

The NSR requirements are listed in chapter 19 of the Nebraska Air Quality Regulations.

Your facility will need an NSR construction permit if you meet two conditions.

First, you need to determine if you are a major source. You are a major source if you fall into an NSR source category and the PTE for your entire source is 100 or more tpy of any regulated air pollutant.

A list of the NSR source categories can be found in Title 129 Chapter 2.

You are also a major source if your PTE of any air pollutant is 250 or more tpy, regardless of your source category.

Then, major sources need to look at the annual emissions increase of their project to determine if they need a permit. The procedure to calculate the emissions increase is outlined in Chapter 19 of Title 129.

If the emissions increase is equal to or greater than the significance thresholds in chapter 19, you will need a permit.

There are many factors involved when determining your emissions increase. Be sure to contact the Air Division if you have any questions.

If you are subject to nonattainment New Source Review, your applicability thresholds may be significantly lower.

If you need to obtain a PSD permit, you must conduct a control device review and install BACT based on that review. If you need to obtain a nonattainment NSR permit, you must apply the lowest achievable emission rate.

You must also conduct an ambient air quality analysis and analyze additional environmental impacts. In some cases, pre-application ambient monitoring will be required.

NSR permits may be subject to review by the EPA, federal land managers, bordering states, and tribal organizations.

We highly encourage facilities to set up a pre-application meeting with us if they are submitting an application for a PSD project.

This opens up communication between the applicant and the Air Division. For more information about pre-application meetings, take a look at the fact sheet on our website.

All construction permit applications and permit-by-rule forms for construction need to be accompanied by a permit application fee. If you are submitting a minor permit revision form in order to revise an existing construction permit, you will not have to submit a fee.

The fee tiers are \$250, \$1,500, and \$3,000.

These fees are based on your entire facility's potential emissions, taking into consideration restrictions and emission limits from the construction permit you are requesting.

More information is included on the Construction Permit Application Fee fact sheet located on our website.

If you have calculated your PTE and it is below the thresholds for construction permits *and* you don't need a permit revision for any reason, you won't need to obtain a construction permit.

You will still need to keep the documentation you used in your determination on-site for verification.

We highly encourage you to submit your project description and potential emission calculations to us. While we won't respond to your submission, we will update your files to keep them current.