

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.

05-165

March, 2021

Construction Permits

Introduction

The NDEE has had a construction permit program for air contaminant sources since 1972. The program was modified in the early 1990's to reflect changes brought about by the Clean Air Act Amendments of 1990. Facilities are required to obtain a construction permit **before they construct, reconstruct or modify** any air contaminant source or emission unit where there is a net increase in the potential to emit (PTE) pollutants above the following thresholds found in Title 129, Chapter 17:

- 15 tons per year (tpy) of PM₁₀ (Particulate Matter 10 microns in diameter or smaller.),
- 40 tpy of SO₂ (Sulfur Dioxide) or SO₃ (Sulfur Trioxide) or any combination thereof,
- 40 tpy of oxides of nitrogen (calculated as NO₂),
- 40 tpy VOC (Volatile Organic Compounds),
- 50 tpy CO (Carbon Monoxide),
- 0.6 tpy Lead, or
- 2.5 tpy of any single HAP (Hazardous Air Pollutant) or 10 tpy of all HAPs combined.

In addition, all incinerators, regardless of emissions, must have a construction permit.

Beginning January 1, 2005, a permit application fee must accompany each construction permit application. The fee ranges from \$250 to \$3,000 depending on the potential emissions of the source (refer to Form 1.1 of the construction permit application and the "Construction Permit Fee" Fact Sheet found at <http://dee.ne.gov> under Publications).

Purpose

A construction permit allows the facility to construct the emission unit(s) while protecting the ambient air quality. In addition to allowing construction, the permit will also establish operating, monitoring, and record keeping requirements. These requirements are necessary to assure the emission units are in compliance with the applicable regulations. The requirements are also necessary in the event the source isn't required to obtain an operating permit. A construction permit is issued for the life of the emission unit(s).

Frequently Asked Questions

The Air Program receives many questions regarding construction permits for air contaminant sources. Many of these questions arise from the uncertainty about who exactly is required to obtain a permit. Some of the most frequently asked questions are listed below, along with answers to help you determine whether your source requires a construction permit and how to apply for one.

Q. What is the difference between an operating permit and a construction permit?

- A. A construction permit must be obtained prior to constructing or modifying an air contaminant source and it does not expire. An operating permit must be applied for within 12 months after startup of an air contaminant source and is valid for up to five years. Operating permits contain all applicable requirements for all emission points at the source. This includes incorporating conditions from the construction permits issued to that source.

Q. How do I know if I need to obtain a construction permit?

- A. Generally, a construction permit is required for the construction of any new emission unit or the modification of an existing unit at a source that produces a net increase in *potential emissions* (referred to as PTE) equal to or exceeding the levels noted above. A construction permit is also required for all incinerators, regardless of size. If you are not sure, you can apply for a permit or contact the Air Program at NDEE.airquality@nebraska.gov or the Public Information Office at (402) 471-2186 to discuss your project.

Q. How do I calculate my potential-to-emit (PTE)?

- A. PTE is the basis for determining if you need a permit. It is the maximum quantity of air pollutant(s) an emission unit or source can emit in a year given its physical and operational design. PTE is calculated with the assumption that the source is operated continuously for one year (24 hours a day, 365 days a year, which equals 8,760 hours a year). The PTE must be calculated separately for each pollutant.

The PTE calculation also assumes the emission unit(s) is uncontrolled. However, the PTE can include reductions for control equipment or other process limitations if they are included in a federally enforceable permit. For instance, if a facility has an existing air quality construction permit that limits the amount of material you can process per hour, you can take that into consideration in your PTE calculation.

Additionally, you can take into consideration certain process limitations or bottlenecks when calculating your PTE. A bottleneck is an activity or process that restricts the capacity of another operation. For example, a grain elevator dryer has a capacity of 45,000 bushels per hour (bu/hr). The facility has one conveyor leg that feeds grain to the dryer. The leg has a capacity of 30,000 bu/hr. Since the leg physically limits the amount of grain that can be dried, it is a bottleneck and 30,000 bu/hr can be used to calculate the PTE for the dryer.

Potential-to-emit example:

The emission unit is a 50 million Btu/hour natural gas fired boiler. Following is the PTE calculation for nitrogen oxides (NO_x).

Heating value of natural gas = 1,020 Btu/cubic foot

Annual operating hours = (365 days/year)(24 hours/day) = 8,760 hours/year

Hourly maximum fuel use = $\frac{50 \text{ Million Btu/hr}}{1,020 \text{ Btu/ft}^3} = 49,020 \text{ cubic feet/hour}$

NO_x emission factor from AP-42 = 100 pounds of NO_x emitted per million ft³ of natural gas burned

8760 hr/yr X 49,020 ft³ natural gas/hr = 429.41 million ft³ natural gas/year

429.41 million ft³ natural gas/yr X 100 pounds NO_x/yr = 42,941 pounds of NO_x per year

42,941 pounds/yr | 2,000 pounds/ton = 21.47 tons/year

Q. What is the difference between potential emissions and actual emissions?

A. Generally, potential emissions are the maximum emissions that would result from operating the facility at full capacity 24 hours a day, seven days a week, 52 weeks a year taking into consideration federally enforceable requirements. Actual emissions are emissions produced by a facility, based on actual operating times and actual operating conditions.

Q. What is an “emission unit”?

A. An “emission unit” is any part or activity at a stationary source that emits or would have the potential to emit any regulated air pollutant. A source has one or more emission units.

Q. How do I determine if my emissions meet or exceed those requiring a construction permit?

A. Generally, an estimation of emissions using emission factors will have to be done. However, emissions data, from testing on a similar unit, *may* be acceptable. For estimations, the Department generally uses emission factors from the Compilation of Air Pollutants Emission Factors (AP-42) or from Factor Information Retrieval Data System (FIRE). These and other emission factor resources may be found on the internet at <https://www.epa.gov/chief>. Most emission factors are based on fuel usage, throughput or other quantifiable process information.

Q. How long before I intend to construct must I send in a construction permit application?

A. Depending on the quality of the application and our workload, a construction permit will take 4 – 12 months to process, so an application should be submitted to the Department as soon as possible. For more complicated sources and for Prevention of Significant Deterioration (PSD) sources, the permitting process may take longer. We strongly encourage facilities to meet with NDEE Air Program staff prior to submitting the construction permit application. A pre-application meeting will ensure the facility is aware of NDEE’s expectations and will likely result in the facility submitting a complete application. For more guidelines on submitting a complete construction permit application, see the “Construction Permit Application Tips” fact sheet on NDEE’s website at <http://dee.ne.gov/> under the Air Quality publications and forms.

Q. What if I determine I don’t need a permit?

A. Many people believe they need confirmation (commonly referred to as a “No Permit Required Determination” or NPR) stating they do not need a permit. In fact, sources do not need a NPR determination from NDEE if they are able to document and provide information to a NDEE representative supporting their claim.

To demonstrate you don’t need a permit, you should be able to provide the PTE calculation and any supporting documentation used in the calculation.

You must document what emission factors you used in your PTE calculation and the source of the emission factors. Emission factors may originate from continuous emissions monitor data, stack test data, material balance equations, industry/trade organizations, and Environmental Protection Agency (EPA) documents. You must use the emission factor that best represents your facility. For example, if you have stack-testing data for your emission unit, you would use that information to calculate your PTE because it is the most accurate information you have. If you don’t have source specific information such as stack test or continuous emission monitor data, you can typically find emission factors for your process in EPA’s “AP-42, Compilation of Air Pollutant Emission Factors.” You can find this document, as well as other emission factor resources, on EPA’s website at <https://www.epa.gov/chief>.

You must also document the emission unit(s) design capacity. Manufacturer's data can be used when the nameplate capacity is used in the PTE calculation. You must also provide documentation if you utilized any bottlenecks, permit limitations, or control equipment in your calculation and be able to explain how and why those were used in the PTE calculation. For instance, if a permit limitation was used, have a copy of the permit available.

Be sure your calculation documentation includes the appropriate units (i.e. pounds/hour, Btu/hour, etc). It is also beneficial to provide the date that the PTE was calculated.

In addition to keeping this documentation on-site, we encourage you to submit a letter to the NDEE Air Program explaining your project and providing your emission calculations that support your determination. This will provide our staff with the most current information about your facility and remain as documentation in our filing system. Also, in the event that a routine inspection is conducted at your facility, this information will help our staff be better prepared prior to conducting the inspection, which will most likely result in a more expedited and efficient visit.

Q. How do I obtain a permit application?

- A. To obtain a construction permit application, you may call or write the Air Program of the Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922, phone: (402) 471-2186. You may also send an e-mail to More.Info@nebraska.gov, or download a permit application from our website at <http://dee.ne.gov> under the **Publications** section.

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>