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Acceptable Pre-construction Dirt Work

The Department often receives questions about what construction activities can take place before an air quality construction permit has been issued. The answer to this question isn't simple and a detailed evaluation of each construction activity needs to be conducted to determine if the work is acceptable. However, we have established some criteria to assist you with this evaluation.

[Nebraska Administrative Code Title 129 – Nebraska Air Quality Regulations](#) specifies that no person shall cause the construction, reconstruction, or modification at any stationary air contaminant source or emission unit exceeding the listed emission levels found in Chapter 17. "Construction" is defined in Title 129, Chapter 1 as any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions. Title 129, Chapter 1 defines "begin actual construction" as the initiation of physical on-site construction activities on an emissions unit, which are of a permanent nature (including but not limited to the installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures).

Removing and stockpiling the topsoil in the area or compacting the soils where the new source will be located will not result in a change in actual emissions, and these changes are not of a permanent nature. These activities therefore do not require a construction permit or prior approval of the Department under Title 129, Chapter 17.

Any activities beyond those discussed in the previous paragraph will at least require an evaluation to see if they meet any of the criteria laid out in Title 129. The key issues to consider are:

- Does the work relate to an emission unit?
- Is the pre-construction activity of a permanent nature?

If you have questions regarding your construction project, contact the Air Quality Division at NDEE.AirQuality@nebraska.gov or (402) 471-2189.

For more information concerning construction permits and air quality regulations, see the guidance document entitled [Construction Permits](#) in the Air Quality Publication Section at <http://dee.ne.gov>.