NEBRASKA ADMINISTRATIVE CODE

Title 128 - Department of Environmental Quality

Chapter 13 - PERMIT APPLICATION

001 Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director in accordance with the conditions and requirements of this Chapter. Persons currently authorized with interim status shall apply for permits when required by the Director. Persons covered by permits by rule need not apply. Procedures for applications, issuance and administration of emergency permits are found in Chapter 12, 001.04B.

001.01 Procedures for application, issuance and administration of research, development and demonstration permits are found in Chapter 12, 001.04E.

001.02 Any person who intends to apply for a new commercial hazardous waste management facility permit must file a "Notice of Intent" form with the Director at least 180 days prior to making their application, in accordance with Neb. Rev. Stat. 81-1521.08, et seq.

001.03 Persons seeking initial permits for hazardous waste management units, or seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations, must comply with the pre-application public meeting and notice requirements in Section 016 of this Chapter. For the purpose of Section 016, a “significant change” is any change that would qualify as a class 3 permit modification under Section 012.02 of Chapter 15.

001.04 Persons seeking initial permits for hazardous waste management units, or seeking renewal of expiring permits for such units under Section 014.04 of Chapter 15, must comply with the requirements for public notice at the application stage in Section 017 of this Chapter.

001.05 The requirements of Sections 016 and 017 do not apply to permit modifications under Section 012.02 of Chapter 15, or to applications that are submitted for the sole purpose of conducting post-closure activities and corrective action at a facility.

001.06 All applicants seeking permits for hazardous waste management units must comply with the information repository requirements in Section 018 of this Chapter.

002 When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that all owners must also sign the permit application.

003 The Director shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his or her satisfaction. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information in accordance with the conditions and requirements of Section 010 of this Chapter. The Director may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.

004 All applicants for permits shall provide information to the Director as set forth in Sections 005 through 014 of this Chapter, using the application form provided by the Director.

005 Owners and operators of existing hazardous waste management facilities and hazardous waste management facilities qualifying for interim status in accordance with Chapter 12, 003.01, are required to file permit applications in accordance with the conditions and requirements of 40 CFR 270.10(e), which are hereby adopted and incorporated herein by reference.

006 Owners and operators of new hazardous waste management facilities are required to file permit applications in accordance with 40 CFR 270.10(f), which are hereby adopted and incorporated herein by reference.

007 Permit applications shall be updated in accordance with the conditions and requirements of 40 CFR 270.10(g), which are hereby adopted and incorporated herein by reference.

008 Permit reapplications shall be submitted in accordance with the requirements of 40 CFR 270.10(h), which are hereby adopted and incorporated herein by reference.

009 Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted for a period of at least three years from the date the permit expires.

010 Exposure information.

010.01 Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the regulated unit. At a minimum, such information must address:

010.01A Reasonably foreseeable potential releases from both normal operations and accidents at the regulated unit, including releases associated with transportation to or from the regulated unit;

010.01B The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under Section 010.01A of this Chapter; and

010.01C A health-based risk assessment addressing the potential magnitude and nature of the human exposure resulting from such releases.

010.01D Any additional information as required by the Director.

010.02 If required by the Director, any Part B permit application submitted by an owner or operator of a facility for a post closure permit must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address the requirements of 010.01A through 010.01D of this chapter.

010.03 The Director may require a permittee or an applicant to submit additional information in order to establish permit conditions under Chapter 14.

011 Signatures.

011.01 All permit applications shall be signed in accordance with the conditions and requirements of 40 CFR 270.11(a), which are hereby adopted and incorporated herein by reference.

011.02 All reports required by permits and other information requested by the Director shall be signed in accordance with the conditions and requirements of 40 CFR 270.11(b) and (c), which are hereby adopted and incorporated herein by reference.

011.03 Any person signing a document under this Section must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

011.04 For remedial action plans (RAPs) under Chapter 12, Section 004 of this Title, if the operator certifies according to 011.03 of this Section, then the owner may choose to make the following certification instead of the certification in 011.03 of this Section:

"Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is, upon information and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

012 Contents of the permit application.

012.01 Part A of the hazardous waste permit application shall be submitted in accordance with the conditions and requirements of 40 CFR 270.13, which are hereby adopted and incorporated herein by reference.

012.02 Part B of the hazardous waste permit application shall be submitted in accordance with the conditions and requirements of 40 CFR 270.14, which are hereby adopted and incorporated herein by reference.

012.02A For post-closure permits, the owner or operator is required to submit only the information specified in 40 CFR 270.14(b)(1), (4), (5), (6), (11), (13), (14), (16), (18) and (19), (c), and (d), as incorporated by reference in Section 012.02, unless the Director determines that additional information from 40 CFR 270.14, as incorporated by Section 012.02, or from 40 CFR 270.16, 270.17, 270.18, 270.20, or 270.21, as incorporated by reference in Section 012.04, is necessary.

012.03 Applications for new hazardous waste land disposal areas and surface impoundments shall include engineering plans and specifications prepared under the direction of and stamped by a professional engineer licensed to practice in Nebraska; and

012.04 Specific information must be submitted for certain types of hazardous waste facilities that are used for storage, treatment or disposal. A description of the specific information required is given in 40 CFR 270.15 through 270.27, which are hereby adopted and incorporated by reference herein.

012.05 All permit applications for hazardous waste treatment, storage, and disposal facilities shall include certification by the State Fire Marshal as to fire prevention and fire safety.

013 Additional information requests. No permit application submitted to the Department will be processed until all information necessary to complete the application or additional information as requested by the Department has been received.

014 If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied.

015 The effective date of an application is the date on which the Director notifies the applicant that the application is complete.

016 Pre-application public meeting and notice for initial permits and permit renewals proposing a significant change in facility operations.

016.01 Prior to the submission of a part B permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

016.02 The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this section, and copies of any written comments or materials submitted at the meeting, to the Director as a part of the part B application, in accordance with 40 CFR 270.14(b), as adopted by reference at Section 012.02 of this Chapter.

016.03 The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the Director upon request, documentation of the notice.

016.03A The applicant shall provide public notice in all of the following forms:

016.03A1 *A newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in Section 016.03B of this Chapter, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

016.03A2 *A visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in Section 016.03B of this Chapter. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

016.03A3 *A broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in Section 016.03B of this Chapter, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director.

016.03A4 *A notice to the permitting agency.* The applicant shall send a copy of the newspaper notice to the Director and to the appropriate units of State and local government, in accordance with Section 006.01 of Chapter 15.

016.03B The notices required under Section 016.03A of this Chapter must include:

016.03B1 The date, time, and location of the meeting;

016.03B2 A brief description of the purpose of the meeting;

016.03B3 A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

016.03B4 A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

016.03B5 The name, address, and telephone number of a contact person for the applicant.

017 Public notice requirements at the application stage for initial permits and renewal of expiring permits.

017.01 Notification at application submittal.

017.01A The Director shall provide public notice as set forth in Section 006.01A of Chapter 15, and notice to appropriate units of State and local government as set forth in Section 006.01 of Chapter 15, that a part B permit application has been submitted to the Director and is available for review.

017.01B The notice shall be published within a reasonable period of time after the application is received by the Director. The notice must include:

017.01B1 The name and telephone number of the applicant's contact person;

017.01B2 The name and telephone number of the Department's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

017.01B3 An address to which people can write in order to be put on the Department mailing list as defined in Section 006.01A of Chapter 15;

017.01B4 The location where copies of the permit application and any supporting documents can be viewed and copied;

017.01B5 A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

017.01B6 The date that the application was submitted.

017.02 Concurrent with the notice required under Section 017.01 of this Chapter, the Director must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

018 Information repository requirements for all permit applicants.

018.01 The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it must establish and maintain an information repository. (See ~~40 CFR 270.30(m), as adopted by reference at~~ Section 002.18 of Chapter 14, for similar provisions relating to the information repository during the life of a permit).

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018.02 The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.

018.03 The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.

018.04 The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the Department mailing list as defined in Section 006.01A of Chapter 15.

018.05 The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in Section 018.01 of this Chapter.

Enabling Legislation: Neb. Rev. Stat. §81-1505(13), and 81-1521.08

Legal Citation: Title 128, Chapter 13,
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