

NEBRASKA ADMINISTRATIVE CODE

TITLE 130 - NEBRASKA DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENTAL QUALITY

Chapter 1 - DEFINITIONS

001 "Agronomic rates" means the application of livestock wastes and process wastewater at rates that meet crop needs for nitrogen and phosphorus, while taking into account other sources of nutrients, and without leading to or causing water quality impairment due to over application.

002 "Animal feeding operation" means a location where beef cattle, dairy cattle, horses, swine, sheep, poultry, or other livestock have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the location. Two or more animal feeding operations under common ownership are deemed to be a single animal feeding operation if they are adjacent to each other or if they utilize a common area or system for the disposal of livestock waste. Animal feeding operation does not include aquaculture as defined in Neb. Rev. Stat. § 2-3804.01.

003 "Applicant" means the person applying for the permit or major modification.

004 "Application area" means land utilized for the land application of livestock wastes.

005 "Authorized representative" means:

005.01 In the case of a corporation, a principal executive officer in charge of a principal business function and of at least the level of vice president;

005.02 In the case of a limited liability company, a manager, or a person as described in Neb. Rev. Stat. § 21-2606 (1)(g), or a principal executive officer;

005.03 In the case of a partnership, a general partner;

005.04 In the case of a sole proprietorship, the proprietor; or

005.05 In the case of a municipal, state or other public entity, a principal executive officer or ranking elected official.

006 "Best Management Practices" means schedules of activities, prohibitions, maintenance procedures, and other management practices found to be the most effective methods based on the best available technology achievable for specific sites to prevent or reduce the discharge of pollutants to waters of the State and control odor where appropriate. Best management practices also include operating procedures and practices to control site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

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007 "Borrow site" means a location where earth is excavated for use as fill at another location.

008 "Concentrated animal feeding operation" or "CAFO" means an animal feeding operation that is:

008.01 Defined as a large concentrated animal feeding operation because of size;

008.02 Defined as a medium concentrated animal feeding operation because of size and because animals are in direct contact with waters of the State or waste is discharged to waters of the state through a man-made conduit; or

008.03 Designated as a medium or small concentrated animal feeding operation by the Director.

009 "Construct" or "Construction" means the initiation of physical on-site activities.

010 "Construction and operating permit" means the state permit to construct and operate a livestock waste control facility, including conditions imposed on the livestock waste control facility and the associated animal feeding operation.

011 "Construction approval" means an approval issued prior to December 1, 2006, by the Department allowing construction of a livestock waste control facility.

012 "Council" means the Nebraska Environmental Quality Council.

013 "Department" means the Nebraska Department of Water, Energy, and Environment ~~and Quality~~.

014 "Dewatering days" means days that have suitable weather and soil conditions for land application of accumulated livestock wastes.

015 "Director" means the director of the Nebraska Department of Water, Energy, and Environment ~~and Quality~~.

016 "Discharge" means the spilling, leaking, pumping, pouring, emitting, emptying, or dumping of pollutants into any waters of the State or in a place which will likely reach waters of the State.

017 "Diversion terrace" means an individually designed grade channel with a supporting ridge on the lower side, constructed across the slope with a non-erosive grade.

018 "Existing livestock waste control facility" means a livestock waste control facility in existence prior to April 15, 1998, that does not hold a permit and which has requested an inspection prior to January 1, 2000.

019 "Existing non-permitted livestock waste control facility" means a livestock waste control facility constructed and operated without an inspection and permit by the Department prior to

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April 15, 1998, or a livestock waste control facility previously exempted from a permit by the Department.

020 "Ground water" means water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.

021 "Holding pond" means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for temporary storage of liquid livestock wastes, generally receiving runoff from open lots and contributing drainage area.

022 "Irrigation distribution system" means any device or combination of devices having a hose, pipe, or other conduit through which livestock wastes or a mixture of water and livestock wastes is drawn and applied for agricultural or horticultural purposes.

023 "Lagoon" means an impoundment made by constructing an excavated pit, dam, embankment or combination of these for treatment of liquid livestock waste by anaerobic, aerobic or facultative digestion. Such impoundment predominantly receives waste from a totally housed animal feeding operation.

024 "Large concentrated animal feeding operation" or "Large animal feeding operation" means an animal feeding operation that stables or confines as many as or more than the number of animals specified in any of the following categories:

024.01 700 mature dairy cows, whether milked or dry;

024.02 1,000 veal calves;

024.03 1,000 cattle other than mature dairy cows or veal calves and including but not limited to heifers, steers, bulls, and cow/calf pairs;

024.04 2,500 swine each weighing 55 pounds or more;

024.05 10,000 swine each weighing less than 55 pounds;

024.06 500 horses;

024.07 10,000 sheep or lambs;

024.08 55,000 turkeys;

024.09 30,000 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

024.10 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

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024.11 82,000 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

024.12 5,000 ducks, if the animal feeding operation uses a liquid manure handling system; or

024.13 30,000 ducks, if the animal feeding operation uses other than a liquid manure handling system.

025 "Liquid manure storage pits" means earthen or lined pits located wholly or partially beneath a semi- or totally housed animal feeding operation or at some removed location used to collect waste production.

026 "Livestock waste control facility" means any structure or combination of structures utilized to control livestock waste until it can be used, recycled, or disposed of in an environmentally acceptable manner. Such structures include, but are not limited to, diversion terraces, holding ponds, settling basins, liquid manure storage pits, lagoons, and other such devices utilized to control livestock wastes.

027 "Livestock wastes" means animal and poultry excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock wastes.

028 "Major modification" means an expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility.

029 "Medium animal feeding operation" means an animal feeding operation that confines or stables the type and number of animals in any of the following ranges:

029.01 200 to 699 mature dairy cows, whether milked or dry;

029.02 300 to 999 veal calves;

029.03 300 to 999 cattle other than mature dairy cows or veal calves. Cattle include but are not limited to heifers, steers, bulls, and cow/calf pairs;

029.04 750 to 2,499 swine each weighing 55 pounds or more;

029.05 3,000 to 9,999 swine each weighing less than 55 pounds;

029.06 150 to 499 horses;

029.07 3,000 to 9,999 sheep or lambs;

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029.08 16,500 to 54,999 turkeys;

029.09 9,000 to 29,999 laying hens or broilers, if the animal feeding operation uses a liquid manure handling system;

029.10 37,500 to 124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure handling system;

029.11 25,000 to 81,999 laying hens, if the animal feeding operation uses other than a liquid manure handling system;

029.12 1,500 to 4,999 ducks, if the animal feeding operation uses a liquid manure handling system; or

029.13 10,000 to 29,999 ducks, if the animal feeding operation uses other than a liquid manure handling system.

030 "Medium concentrated animal feeding operation" means a medium animal feeding operation, as defined by the type and number of animals that it confines or stables, and which has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if either one of the following conditions is met:

030.01 Pollutants are discharged into waters of the state through a man-made ditch, flushing system, or other similar man-made device; or

030.02 Pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the animal feeding operation or otherwise come into direct contact with the animals confined in the operation.

031 "National Pollutant Discharge Elimination System (NPDES) permit" means either a general permit or an individual permit, issued by the Department pursuant to Subsection 11 of Neb. Rev. Stat. § 81-1505. A general permit authorizes categories of disposal practices or livestock waste control facilities and covers a geographic area corresponding to existing geographic or political boundaries, though it may exclude specified areas from coverage. General permits are limited to the same or similar types of animal feeding operations or livestock waste control facilities which require the same or similar monitoring and, in the opinion of the Director of the Department of Water, Energy, and Environmental Quality, are more appropriately controlled under a NPDES general permit than under an individual permit.

032 "New animal feeding operation" means an animal feeding operation constructed after July 16, 2004.

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033 "New livestock waste control facility" means any livestock waste control facility for which a construction permit, an operating permit, a NPDES permit, a construction approval, or a construction and operating permit or an application therefore is submitted on or after April 15, 1998.

034 "100-year, 24-hour rainfall event" means a rainfall event with a probable recurrence interval of one in one hundred (100) years.

035 "Open discharge system" means a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.

036 "Open lot animal feeding operations" means pens or similar concentrated areas, including small shed-type areas or open-front buildings, with dirt, or concrete (or paved or hard) surfaces, wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed-type areas.

037 "Operating permit" means a permit issued prior to December 1, 2006, by the Department after the completion of the livestock waste control facility in accordance with the construction approval and the submittal of a completed certification form to the Department;

038 "Operator" means the person responsible for the operation of an animal feeding operation.

039 "Owner" means the person who owns an animal feeding operation or part of an animal feeding operation.

040 "Person" means any individual, partnership, limited liability company, association, public or private corporation, trustee, receiver, assignee, agent, municipality or other governmental subdivision, public agency, other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or any other legal entity.

041 "Process wastewater" means water directly or indirectly used in the operation of the animal feeding operation for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other animal feeding operation facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes spent foot bath water and any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.

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042 "Production area" means that part of an animal feeding operation that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement areas includes but is not limited to open lots, housed lots, feedlot, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions that separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.

043 "Settling basin" shall mean an individually designed low gradient, broad, flat channel with a supporting ridge on the lower side, which functions to trap and store settleable solids, both manure and sediment, for subsequent removal.

044 "Small animal feeding operation" means an animal feeding operation with fewer animals than a medium animal feeding operation.

045 "Small concentrated animal feeding operation" means an animal feeding operation that is designated as a concentrated animal feeding operation and is not a medium or large concentrated animal feeding operation.

046 "Surface water" means all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, springs, canal systems, drainage systems, and all other bodies or accumulations of water, natural or artificial, public or private, situated wholly or partly within, or bordering upon, the State. Impounded waters in this definition do not include areas designated by the Department as wastewater treatment or wastewater retention facilities or irrigation reuse pits.

047 "Totally housed animal feeding operation" means an operation that is totally under roof where animals are housed, rainfall is prevented from becoming process wastewater, and all manure, litter, and process wastewater is contained. The roofed structure may or may not be enclosed on the sides.

048 "25-year, 24-hour rainfall event" means a rainfall event with a probable recurrence interval of one in twenty-five (25) years.

049 "Water pollution" means the man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

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050 "Waters of the State" means all waters within the jurisdiction of this State including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State.

Enabling Legislation: Neb. Rev. Stat. § 81-1504(13); § 81-1502; §§ 54-2416 to 54-2438; § 21-2606(1)(g)

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