

NEBRASKA ADMINISTRATIVE CODE

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

Chapter 2 - ANIMAL FEEDING OPERATIONS: REQUIREMENTS AND PROHIBITIONS

001 Any small animal feeding operation is exempt from the inspection, and construction and operating permit requirements, unless the animal feeding operation has discharged pollutants to waters of the State, or the Department has determined that such a discharge is more likely than not to occur. Operations with animals that are in contact with, or which have direct access to, surface waters, or operations with a man-made ditch, pipe, or other conveyance from the operation to surface waters are considered to be discharging. Animal feeding operations for other species not listed (e.g. bison, elk) that confine animals with a total animal weight of less than 300,000 pounds are considered small animal feeding operations.

002 Any person owning or operating a large or medium animal feeding operation that does not have a NPDES permit, construction approval, operating permit or construction and operating permit, has not been notified that no permit is required, or any person proposing an expansion or increase to the lot area or feeding area of a large or medium animal feeding operation, shall submit a ~~completed~~ inspection request Form A – ‘Request for Inspection of Livestock Operation’ to the Department ~~as published on the Department website on a form provided by the Department~~ (see Appendix A <https://dwee.nebraska.gov>) and available in paper form on request. The inspection fee established in Chapter 3 shall accompany the inspection request.

003 A livestock waste control facility is required for an existing or proposed animal feeding operation when livestock wastes have discharged or have the potential to discharge in a manner that is not lawfully authorized by permit or these regulations.

004 When livestock waste control facilities are required by the Department, the owner or operator of the animal feeding operation is required to apply for construction and operating permit as provided in Chapter 4. In the case of an existing animal feeding operation, the owner or operator will be notified in writing following an inspection by the Department whether or not a facility is required and, if required, the applicant shall submit an application according to the compliance dates in the notification.

005 Any existing construction permit issued by the Department prior to July 16, 2004, that has not been revoked shall automatically be considered a construction approval under these regulations without further administrative action by the Department.

Title 130
Chapter 2

006 State operating permits issued pursuant to Neb. Rev. Stat. § 81-1505(11) prior to July 16, 2004, shall continue in effect until superseded by a National Pollutant Discharge Elimination System (NPDES) permit issued by the Department, unless otherwise revoked by the Department or exempted by these regulations. State operating permits issued to small or medium animal feeding operations that have not been required to seek coverage under a NPDES permit shall automatically expire at midnight on December 31, 2005, without further administrative action by the Department.

007 The Department may require an engineering evaluation or assessment of a livestock waste control facility by a licensed professional engineer where the Department determines:

007.01 The facility has visible signs of structural failure;

007.02 The facility has signs of discharge or proven discharge due to structural weakness, improper maintenance, or inadequate capacity; or

007.03 The Department has reason to believe that an existing livestock waste control facility has violated, or threatens to violate, the Environmental Protection Act, the Livestock Waste Management Act, or any rules or regulations adopted and promulgated under such acts.

008 Any person who owns or operates an animal feeding operation shall not:

008.01 Provide or present false or misleading information to the Department or omit relevant facts when submitting reports or applications to the Department;

008.02 Allow livestock at an animal feeding operation to come into direct contact with waters of the State, apply livestock waste on or into waters of the State, or to otherwise allow or cause a discharge;

008.03 Apply manure, litter, or process wastewater to land in a manner that results in a discharge to waters of the State or that is not in accordance with nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater;

008.04 Stockpile livestock waste in a drainage way or other location where it is likely to impact waters of the State;

Title 130
Chapter 2

008.05 Deny the Department access to an animal feeding operation for inspection purposes or deny access to any records required under the regulations, at any reasonable time;

008.06 Construct an animal feeding operation or any portion thereof prior to an inspection by the Department, unless exempted from inspection by the Nebraska Environmental Protection Act, Livestock Waste Management Act, or these regulations;

008.07 Construct a livestock waste control facility without a construction and operating permit, or construction approval or not in compliance with a construction and operating permit or construction approval issued by the Department, unless exempted from the requirements for a construction and operating permit by the Nebraska Environmental Protection Act, Livestock Waste Management Act, or these regulations. The use of a borrow site for construction of other components of the animal feeding operation does not constitute construction of the livestock waste control facility;

008.08 Operate an animal feeding operation prior to construction of an approved livestock waste control facility, unless exempted from the requirements for a construction and operating permit by the Nebraska Environmental Protection Act, Livestock Waste Management Act, or these regulations;

008.09 Operate an animal feeding operation without a construction approval, operating permit, construction and operating permit or a NPDES permit as required in Chapter 5 of these regulations, unless exempted from permitting under these regulations.

008.10 Discharge animal excreta, feed, bedding, spillage, or overflow from water systems, wash and flushing waters, sprinkling water from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, or other materials polluted by livestock waste in violation of or without first obtaining a NPDES permit, a construction and operating permit, construction approval, or exemption from the Department, if required by the Nebraska Environmental Protection Act, Livestock Waste Management Act, or these regulations;

008.11 Place or allow dead animals or animal parts in a livestock waste control facility. Dead animals or animal parts shall not be land applied with livestock waste except when properly composted or when dead animals have been processed by an approved means of mortality disposal;

008.12 Dispose of chemicals in a livestock waste control facility; or

Title 130
Chapter 2

008.13 Violate the terms of an operating permit, construction approval, construction and operating permit or NPDES permit or any provision of the Livestock Waste Management Act and regulations.

009 The owner or operator of an animal feeding operation or proposed animal feeding operation is exempt from Sections 008.07 and 008.08 above, provided that:

009.01 The animal feeding operation or proposed animal feeding operation has been inspected by the Department pursuant to this chapter; and

009.02 Based on the inspection, no livestock waste control facility is required by the Department; or

009.03 No construction and operating permit or NPDES permit is required by the Department.

010 Any person who owns or operates an animal feeding operation shall report any discharge of manure, litter, or process wastewater to the Department within 24 hours of the event and provide a written report to the Department within five days of the event.

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(10)(11)(12)(13)(20)(21); § 81-1505(10)(11); § 81-1505(16); § 81-1506(1)(a), § 81-1506(2)(a),(b),(c),(d),(e), § 81-1506(5)(a); § 81-1508.02; § 81-1510; § 81-1511; §§ 54-2416 to 54-2438

Legal Citation: Title 130, Ch. 2, Nebraska Department of Water, Energy, and Environmental
Quality