

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

Chapter 4 - CONSTRUCTION AND OPERATING PERMIT, CONSTRUCTION APPROVAL,  
MAJOR MODIFICATION APPLICATION: TERMS AND CONDITIONS

001 Each application for a construction and operating permit shall include the following:

001.01 The application fee;

001.02 A completed Form B – ‘Livestock Waste Control Application’, as published on the Department website (~~see Appendix B~~<https://dwee.nebraska.gov>) and available in paper form on request;

001.03 A completed Form C – ‘Applicant Disclosure’, as published on the Department website (~~see Appendix C~~<https://dwee.nebraska.gov>) and available in paper form on request;

001.04 A completed nutrient management plan and supporting documentation as specified in Chapter 14;

001.05 A description of the methods that will be implemented to ensure the facility is constructed in accordance with the applicable design criteria and these regulations. At a minimum, this shall include liner design, construction, and testing; pipe size and type of material; pipe placement verification; sealing of joints or seams in concrete, steel, or flexible membrane liners; placement of splash pads or other protective devices; and other items which may be design specific as determined by the Department, such as lift stations or manholes;

001.06 A detailed construction quality assurance plan for the construction of the livestock waste control facility for any large concentrated animal feeding operation;

001.07 Supporting geotechnical reports as necessary to support design calculations and ground water information, with appropriate copies from the source of the information;

001.08 Written evidence that any necessary approvals related to the animal feeding operation from the ~~Nebraska Department’s Dam Safety Division of Natural Resources~~ for

Title 130  
Chapter 4

any dam structures or for the storage of runoff from any non-feedlot contributing drainage area have been obtained; and

001.09 For a large concentrated animal feeding operation, a plan describing best management practices to minimize odors from the animal feeding operation, the facility, and the disposal of livestock waste. At a minimum, the plan should describe the following:

001.09A Considerations given to the location of the animal feeding operation, facility and application area;

001.09B Selection of size and type of facility to minimize odors, and facilitate management of waste;

001.09C Management procedures to be incorporated in operation of the facility; and

001.09D Methods and scheduling procedures to minimize odors during application.

001.10 Five copies of the complete application in addition to the original.

002 Each application for a major modification of an operating permit, a construction approval, or a construction and operating permit or an application for a construction and operating permit shall include the following:

002.01 The application fee;

002.02 A completed Form B – ‘Livestock Waste Control Application’, as published on the [Department website](https://dwee.nebraska.gov) (see Appendix B) and available in paper form on request;

002.03 A completed Form C – ‘Applicant Disclosure’, as published on the [Department website](https://dwee.nebraska.gov) (see Appendix C) and available in paper form on request;

002.04 A detailed description of the major modification requested. For a major modification involving construction, include the appropriate construction details listed in Section 001.06 through Section 001.09 above;

Title 130  
Chapter 4

002.05 A completed nutrient management plan and supporting documentation as specified in Chapter 14, unless such information has been previously submitted and is unchanged;

002.06 Five copies of the application in addition to the original.

003 An application submitted prior to an initial inspection will be returned to the applicant without review. An application for a construction and operating permit for a large concentrated animal feeding operation or a National Pollutant Discharge Elimination System permit is subject to the requirements of the Engineers and Architects Regulation Act. An application, requiring the proper seal and signature of a Nebraska registered professional engineer, submitted without the proper seal will be returned to the applicant without review.

004 The applicant may request that the Department delay review of an application for construction and operating permit or major modification until an application for an individual NPDES permit is submitted. When such a delay is requested, the application for construction and operating permit or major modification and the application for a NPDES permit will be reviewed simultaneously in accordance with the processes and timelines for review of an individual NPDES permit as provided for in Title 119 (Nebraska Administrative Code) - Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System.

005 In the event the Department determines that a NPDES permit is not required or the applicant requests that the review of the application for construction and operating permit or major modification proceed independent of the NPDES permit application, the review will proceed as provided for in the Livestock Waste Management Act.

006 Any person who obtains or has obtained a construction approval or a construction and operating permit shall:

006.01 Comply with any construction or compliance schedule established by the Department;

006.02 Submit reports and supporting documentation, as required by the Department, to verify compliance with any approved plan;

006.03 Certify, and ensure that the designer, if applicable, likewise certifies, that the facility was constructed pursuant to the application approved by the Department;

Title 130  
Chapter 4

006.04 Comply with the nutrient management plan, as described in Chapter 14 of this Title;

006.05 Submit plans for the design, installation and operation of a ground water monitoring system, when required by the Department;

006.06 Implement ground water monitoring within the timeframe approved by the Department and continue monitoring, if required by the Department pursuant to Chapter 13, until the Department determines it is no longer necessary;

006.07 Follow any additional terms or conditions deemed necessary by the Department to ensure compliance with these regulations; and

006.08 If required by the permit, complete, individually or through an authorized representative or employee, a land application training program approved by the Department within 180 days of construction approval or permit coverage unless such training was satisfactorily completed in the previous 5 years. Additional training is required every 5 years. The approval- or permit-holder is responsible for ensuring that the required training is maintained. Records of training shall be kept by the approval- or permit-holder.

007 Routine repairs or minor maintenance of facility side-slope erosion may be considered repair work, without requiring a major modification or issuance of a construction and operating permit. Appropriate records shall be maintained. Items that are considered routine or minor include the repair or replacement of piping or erosion protection devices to original specification and repair of berms above the freeboard level in livestock waste control facilities.

008 The Department shall be notified and approval obtained prior to the installation of any new erosion protection measures, such as splash pads or wave protection devices. Any major modification would require a new application and construction approval.

009 The Department shall be notified if sloughing, slope failure, or excessive erosion of a facility occurs, or where other failure has occurred. The owner or permittee may be required to provide an engineering evaluation and any other information the Department determines necessary to ensure that the design and construction is acceptable such that the excessive erosion or other failure is not likely to recur. In the event the existing design or construction is determined to be

Title 130  
Chapter 4

inadequate, the owner or permittee may be required to submit an application for a major modification.

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(10)(11)(12)(13)(20)(21); § 81-1505(10)(11); § 81-3447; §§ 54-2416 to 54-2438

Legal Citation: Title 130, Ch. 4, Nebraska Department of Water, Energy, and Environmental~~Quality~~

Title 130  
Chapter 4

This page intentionally left blank