

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

Chapter 5 – NPDES PERMIT: WHEN TO APPLY, APPLICATION, TERMS AND CONDITIONS,  
ANNUAL REPORT

001 An owner or operator of a concentrated animal feeding operation that discharges is required to obtain an NPDES permit. The owner or operator of a concentrated animal feeding operation which is required to obtain an NPDES permit shall apply for an individual NPDES permit or submit a request for coverage under a general NPDES permit. The owner or operator shall obtain coverage according to the following schedule:

001.01 An operation that was already defined as a concentrated animal feeding operation prior to April 14, 2003, was required to comply by April 14, 2003;

001.02 For an operation defined as a concentrated animal feeding operation as of April 14, 2003, that was not defined as a concentrated animal feeding operation prior to that date, including previously exempted or totally housed animal feeding operations, by a date specified by the Director or, if no date has been specified, by February 27, 2009;

001.03 For an operation that became defined as a concentrated animal feeding operation but is not a new source:

001.03A No less than 180 days prior to the time the operation commences operation for newly constructed operations not subject to effluent limitation guidelines; or

001.03B As soon as possible, but no later than 90 days after becoming defined as a concentrated animal feeding operation for other operations, except that the schedule is by February 27, 2009, or 90 days after becoming defined as a concentrated animal feeding operation, whichever is later, if an operational change that makes the operation a concentrated animal feeding operation would not have made it one prior to April 14, 2003.

001.04 For new sources, including any existing animal feeding operation which will be defined as a concentrated animal feeding operation following an expansion or the owner of any new concentrated animal feeding operation, at least 180 days prior to the time the concentrated animal feeding operation commences operation unless permission for a later date has been granted by the Director; or

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001.05 For operations that are designated concentrated animal feeding operations, no later than 90 days after receiving notice of designation.

002 The permittee is required to submit an application to renew an individual NPDES permit or submit a request for coverage under a NPDES general permit no later than 180 days before the expiration of the permit unless permission for submittal at a later date has been granted by the Director. The permittee does not need to apply to renew a NPDES permit or seek coverage if:

002.01 The animal feeding operation has permanently ceased operation or is no longer a concentrated animal feeding operation; and

002.02 The permittee has demonstrated to the satisfaction of the Director that any required corrective action has been completed; that all manure, litter, and process wastewater has been removed from the operation and disposed of in an agronomic manner; and there will be no further discharge of manure, litter, or associated process wastewater that was generated while the operation was a concentrated animal feeding operation, other than agricultural storm water discharge from land application areas.

003 Each application for a NPDES permit or request for coverage under a NPDES general permit shall consist of and include at a minimum, the following:

003.01 The appropriate fee;

003.02 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;

003.03 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;

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

003.05 Written evidence that the applicant has obtained any necessary approvals related to the animal feeding operation from the ~~Nebraska Department’s~~ [Dam Safety Division of Natural Resources](#) for any dam structures or for the storage of runoff from any non-feedlot contributing drainage area; and

003.06 Any other relevant information required by the Department.

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004 Each application for a major modification of a National Pollutant Discharge Elimination System permit or NPDES application shall consist of and include, at a minimum, the following:

004.01 The appropriate fee;

004.02 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;

004.03 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;

004.04 A detailed description of the major modification requested, including compliance with Section 003.06 above;

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

004.06 Any other relevant information required by the Department.

005 The Department may require an operation to obtain an individual NPDES permit, instead of coverage under a NPDES general permit, where the Department determines that the quality of waters of the State may be better protected by requiring the owner of the operation to apply for an individual NPDES permit.

006 All NPDES permit applications will be processed, and permit duration shall be determined, 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.

007 The NPDES permittee shall operate the facility in accordance with the NPDES permit, the site-specific nutrient management plan, these regulations, and any terms and conditions as determined by the Department, including the following:

007.01 The NPDES permittee shall, at any reasonable time, allow the Department access to the animal feeding operation, facility, ground water monitoring wells, and all records required under these regulations and the permit;

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007.02 There shall be no discharge of manure, litter, or process wastewater pollutants into waters of the State from the production area or land application area except as provided in the effluent limitations in Chapter 7;

007.03 Any discharge of manure, litter, or process wastewater shall be reported to the Department within 24 hours of the event and in a written report to the Department within five days of the event;

007.04 The NPDES permittee, authorized representative, or an employee of the operation shall complete a land application training program approved by the Department within 180 days of NPDES permit coverage unless such training was satisfactorily completed in the previous 5 years. Additional training is required every 5 years. The NPDES permittee is responsible for ensuring that the required training is maintained. Records of training shall be kept by the NPDES permittee;

007.05 The NPDES permittee is required to comply with the terms of the Nutrient Management Plan as described in Chapter 14. This includes, but is not limited to, protocols for land application of manure, litter, and process wastewater and shall contain all fields available for land application, field-specific rates of application, and any timing limitations of land application. In calculating the field-specific rate of application, the permittee shall follow a linear or narrative rate approach, as described in Chapter 14 Section 003 of this Title. The permittee shall also conduct a field phosphorus risk assessment prior to initial land application of manure, litter, or process wastewater and then prior to subsequent land application if the risk value of any site category listed in Table 3 of Appendix EA – 'Field Phosphorous Risk Assessment' has changed, but in no case less than once every five years;

007.06 The NPDES permittee shall submit an annual report for the previous calendar year to the Department by March 1. The annual report shall include the following

007.06A The maximum number and type of animals at the operation at any one time, whether in pen confinement or housed under roof;

007.06B Estimated amount of total manure, litter, and process wastewater generated by the operation in the previous calendar year reported in tons or gallons, as appropriate;

007.06C Estimated amount of total manure, litter, and process wastewater transferred to other persons from the operation in the previous calendar year reported in tons or gallons, as appropriate;

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007.06D Total number of acres for land application covered by the nutrient management plan;

007.06E Total number of acres under control of the operation that were used for land application of manure, litter, and process wastewater in the previous calendar year;

007.06F Summary of all manure, litter, and process wastewater discharges from the production area that occurred in the previous calendar year, including the date, time over which the discharge occurred, and the approximate volume discharged with supporting figures;

007.06G The name, address, and telephone number of the person who is primarily responsible for land application practices at the operation, whether that person is an authorized representative or employee of the operation, and the date that land application training was last completed;

007.06H A statement indicating whether the current version of the operation's nutrient management plan was developed and approved by a certified nutrient management planner; and

007.06I The actual crop(s) planted and actual yield(s) for each field, the actual nitrogen and phosphorus content of the manure, litter, and process wastewater, the results of calculations conducted in accordance with a linear or narrative rate of application as described in Chapter 14, Section 003 of this Title, and the amount of manure, litter, and process wastewater applied to each field during the previous 12 months; and for any CAFO that implements a nutrient management plan that addresses rates of application in accordance with the narrative rate approach, the results of any soil testing for nitrogen and phosphorus taken during the preceding 12 months, the data used in calculations conducted in accordance with the nutrient management plan, and the amount of any supplemental fertilizer applied during the previous 12 months.

007.07 The NPDES permittee shall submit the annual permit fee to the Department by March 1 of each year.

Enabling Legislation: Neb. Rev. Stat. §§ 81-1504(11)(12)(13)(20)(21); § 81-1505(10)(11); § 81-1510; § 81-1511; §§ 54-2416 to 54-2438

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