



TO: Nebraska Environmental Quality Council (EQC)

FROM: Brian McMullen, DWEE Attorney

DATE: May 11, 2026

RE: Explanatory Statement for June 24, 2026, EQC Hearing Proposing Revisions to Title 130 – *Livestock Waste Control Regulations* (Title 130)

Title 130 regulates animal feeding operations (AFOs) for the protection of surface water and groundwater quality, consistent with the legislative instruction in the Livestock Waste Management Act, Neb. Rev. Stat. §§ 54-2416 to 54-2438.

SHORT DESCRIPTION

The proposed revisions make two (2) necessary changes:

1. The agency name is updated to Nebraska Department of Water, Energy, and Environment (DWEE) throughout Title 130 in response to the passage of LB317 merging the Nebraska Department of Natural Resources (NeDNR) and Nebraska Department of Environment and Energy (NDEE).
2. Forms A through D in Title 130 related to livestock facility permit applications and nutrient management are proposed to be removed from regulation. Once removed from regulation, the forms will continue to be made available in both electronic format on the agency website and paper format on request. Form E – ‘Field Phosphorous Risk Assessment’ will be retained and renamed as Appendix A on both the form itself and in references to the form throughout Title 130. Form E must be kept in regulation due to its use as a reference document in relation to land application requirements in Chapter 5, 007.05 and Chapter 14, 001.14.

RATIONALE

At present, changing even minor information on any of the forms requires the change to be proposed to and approved by the EQC because the forms are included within the regulations. Removing the forms from Title 130 will allow these forms to be updated more easily without the need for an EQC hearing and vote to adopt the changes. Any change to permit application fee amounts will still be presented to the EQC for approval when required by applicable provisions of the Livestock Waste Management Act.¹

¹ See Neb. Rev. Stat. §§ 54-2423(1) and 54-2428(1).

The current forms also instruct permit applicants and their representatives to mail application documents and fee payments to a P.O. Box which will not be renewed after August 2026. If the forms are not removed from Title 130 by that time, application documents and fee payments could be lost in the U.S. mail.

ANALYSIS OF IMPACT

There are no impacts creating new or modifying existing regulatory requirements of livestock producers, state agencies, or political subdivisions. The proposed changes are merely to agency name references and the location of livestock facility permit application documents, i.e. the agency website versus the Nebraska Administrative Code.

CHAPTER AND SECTION DESCRIPTIONS

- All chapters and Form E/Appendix A – “Department of Environmental Quality” (agency name at time of last regulatory update) are proposed to be changed to “Department of Water, Energy, and Environment”.
- Ch. 2, 002; Ch. 4, 001.02 & 001.03, 002.02, 002.03; Ch. 5, 003.02 & 003.03, 004.02 & 004.03; Ch. 6, 003.01 & 003.02 – references to Title 130, Forms A-D are proposed to be replaced with references to Department website and paper forms being available on request.
- Ch. 4, 001.08; Ch. 5, 003.05 – references to “Nebraska Department of Natural Resources” are proposed to be replaced with “Department’s Dam Safety Division” in provisions related to dam safety approvals.
- Ch. 5, 007.05; Ch. 14, 001.14 – text references to “Appendix E – Field Phosphorous Risk Assessment” are proposed to be revised to “Appendix A – Field Phosphorous Risk Assessment” to reflect the proposed repeal of Forms A-D and retitling of Appendix E to Appendix A.
- “Appendix E – Field Phosphorous Risk Assessment” is proposed to be revised to “Appendix A – Field Phosphorous Risk Assessment”.