

Nebraska Department of Water, Energy, and Environment

State Industrial and Construction Stormwater Permits, renewal changes and T&E species

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National Pollutant Discharge Elimination System

The NPDES program regulates the discharge of pollutants into U.S. waters by issuing permits that set limits and conditions to protect water quality and public health.

This also includes stormwater discharges from construction sites, industrial facilities, and municipal separate stormwater systems (MS4s).

DWEE issues general permits for construction and industrial stormwater discharges, and small MS4s.

Construction Stormwater General Permit

- Required for land disturbances of one acre or more, or part of a larger common plan of development
- Permit conditions have a basis in 40 CFR Part 450, Construction and Development Point Source Category
- Requires the development of a stormwater pollution prevention plan (SWPPP)
- The focus of a SWPPP is erosion and sediment control, routine inspection, and stabilization

Construction Stormwater General Permit

- The current general permit renews in November of this year
- Renewal changes include:
 - Single lot authorization
 - Example/model SWPPP
 - Groundwater dewatering

Industrial Stormwater General Permit

- Industries included in 40 CFR Part 122.26 must obtain an authorization
 - Standard Industrial Classification
- DWEE may use residual designation authority to request coverage for facilities not listed in 40 CFR
- Includes the ability for a facility to qualify for a no-exposure certification

Industrial Stormwater General Permit

- Requires the development of a site specific SWPPP
- Industrial stormwater SWPPPs focus on:
 - Minimizing exposure of pollutants to stormwater
 - Routine monitoring/inspection
 - Housekeeping
 - Spills and loadouts

Industrial Stormwater General Permit

- Renewal scheduled for March 2027
- Currently reviewing existing permit requirements
- The focus of the review is to potentially:
 - Clarify and consolidate monitoring requirements
 - Clarify and simplify Additional Implementation Measures (AIM)

Threatened and Endangered Species

- Nongame and Endangered Species Conservation Act (NESCA)
- Nebraska's Title 163, Chapter 4, Section 163-4-012 implements state obligations under the federal Endangered Species Act (ESA) and Nebraska's Game Law. It applies to **all state actions** that may affect listed species or critical habitat, including those funded, authorized, or carried out by state agencies

Threatened and Endangered Species

Although applicable to other state permitting actions, construction stormwater is the program where consultation with the Nebraska Game and Parks Commission has the most probability for impacts.

Informal consultation is initiated through the online notice of intent process where the applicant is directed to the Conservation and Environmental Review Tool (CERT).

Threatened and Endangered Species

The CERT tool is an interactive web-based tool for expediting NGPC environmental reviews. The tool is used to determine the presence of T&E species and potential impacts. Potential outcomes include:

Unlikely Will Negatively Impact – No significant impacts are expected; no further consultation is needed, but you may still need to document findings.

Threatened and Endangered Species

Further Review is Required – The project may have potential negative impacts; NGPC will require additional data, surveys, or conservation measures before approval. This often triggers an informal consultation to clarify next steps.

Proceed to the Questions and Conservation Measures – The project may have potential impacts; NGPC will provide specific species questions and conservation measures you must address.

Informal consultation

This is a process that includes all contacts, correspondence, or discussions between the State agency or the State agency's designated representative and the Commission, prior to formal consultation, to determine whether a proposed State action may affect listed species or critical habitat.

Informal consultation

This process may involve, but is not limited to, discussions and correspondence regarding the listed species (distribution, occurrence, habitat of listed species), a Conservation Environmental Review Tool Environmental Review Report and/or a biological assessment, discussions on state actions or projects and their possible impacts on listed species.

Formal Consultation

This is a process between the Commission and DWEE which we initiate after it is determined that the action may affect listed species or critical habitat. The formal consultation process is initiated by a written request to the Commission and submittal of a complete biological assessment, or by written request from the Commission to DWEE to engage in formal consultation. This process concludes with the issuance of a biological opinion written by the Commission.

Questions?

