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Overview of NDEE Air, AFO, and Wastewater Permitting Programs

Do you own a business or plan on starting a new business? Are you expanding, installing new equipment, or making changes to your existing business? If so, you may need to apply for environmental permits issued by the Nebraska Department of Environment and Energy (NDEE).

Permits are often required for facility construction, as well as water discharges and air emissions that exceed regulatory thresholds. Some permits must be obtained before starting most construction activities. This document summarizes information about possible air, wastewater, and animal feeding operation (AFO) permits that may pertain to your facility.

Permits Issued by the Air Quality Division

NDEE's Air Quality Division issues two types of permits – air construction permits for new or modified construction of air contaminant sources or emission units and air operating permits for the operation of sources of certain air pollutants. Both permits are covered by [Nebraska Title 129 – Air Quality Regulations](#).

State air construction permits cover common process activities and units, which have the potential to generate emissions of regulated air pollutants above thresholds found in [Chapter 17 of Title 129](#). For most application submittals, expect permit issuance to take six to 15 months. The application process includes a public comment period of 30 days. Federal air construction permits can take 15 to 18 months for issuance as an additional review by the U.S. Environmental Protection Agency is required.

For most applications paper submittal is required. However, general air construction permitting for common activities or processes, such as emergency engines, incinerators, concrete batch plants, and crushers can now be done online. To minimize the time it takes for NDEE to prepare the construction permit, the Air Quality Division strongly recommends a project planning meeting and a pre-application meeting. The pre-application meeting should occur one to three months prior to submitting the application and the application should be near completion at the time of the meeting.

Air construction permit applications range from:

- \$250 if less than 50 tons per year of any single regulated air pollutant (excluding HAPs); or less than
- 2.5 tons per year of any single hazardous air pollutant (HAP); or less than 10 tons per year of any combination of HAPs.

- \$1500 if 50 tons or more but less than 100 tons per year of any single regulated air pollutant (excluding HAPs); or 2.5 tons or more but less than 10 tons per year of any single HAP; or 10 tons or more but less than 25 tons per year of any combination of HAPs.
- \$3000 if 100 tons or more per year of any single regulated air pollutant (excluding HAPs); or 10 tons or more per year of any single HAP; or 25 tons or more per year of any combination of HAPs.

A facility may need an air operating permit if their emissions exceed the thresholds below, or if they have an incinerator (all incinerators need to obtain an operating permit regardless of the quantity of their emissions).

A Class I source or major source has the potential-to-emit (PTE) quantities greater than:

- 100 tons per year (tpy) of certain criteria air pollutants (particulate matter less than 10 microns, nitrogen oxides, sulfur oxides, carbon monoxides, volatile organic compounds);
- 10 tpy of any single hazardous air pollutant (HAP) or 25 tpy of a combination of HAPs; or
- 5 tpy of lead.

The state minor source program (also known as Class II) regulates smaller sources of air pollution. There are two classifications for minor sources: synthetic minor and natural minor. Synthetic minor sources are those that have potential emissions above Class I emission levels (see above) but have taken federally enforceable limits to keep their emissions below those Class I emission levels. Natural minor sources have potential emissions below the Class I emission levels and have actual emissions above fifty percent of Class I emission levels:

- 50 tpy of criteria pollutant except lead;
- 5 tpy of any single hazardous air pollutant (HAP) or 12.5 tons per year of a combination of HAPs; or
- 2.5 tpy of lead.

Potential emissions are based on operating the unit or source of the air pollutants 24 hours per day at maximum capacity for twelve months or 8,760 hours per year. Most operating permits take 12 to 24 months for issuance after being assigned to an NDEE permit writer.

If you need an air quality operating permit, you need to submit the appropriate application forms within 12 months after the emissions unit(s) begin operation or 12 months of becoming subject to the operating permit requirements, whichever is earlier.

Table 1: Air Permits Summary

Permit Type	Timeframe	Application Process	Application Fees	Public Comment Period
State Air Construction - Source Specific	6-15 months	paper submittal	\$250, \$1500, or \$3000	yes
Federal Air Construction - Source Specific	15-18 months	paper submittal		yes
Air Construction - General	5 days	online	New Sources: \$250 Existing Sources: \$250, \$1,500, or \$3,000	no
Air Operating Permits - Source Specific	12 to 24 months after assignment	paper submittal	\$0	yes

Permits Issued by the NPDES and State Permits Section

If a facility discharges pollutants into any waters of the state, they are required to apply for and have a permit under the National Pollutant Discharge Elimination System (NPDES). This also includes discharges by significant industrial users to a publicly owned treatment works (POTW). The state regulation pertaining to these programs is [Nebraska Title 119 - Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System](#).

An NPDES Construction Storm Water Notice-of-Intent is needed if construction disturbs more than one acre of land. The application process is done solely on-line, and typically is issued in one day unless a more detailed review by the Nebraska Game and Parks Commission is required, in which case it may take up to 30 days for issuance. Development of a storm water pollution prevention plan that addresses erosion and sediment control is a primary condition of this permit. There is no public comment period associated with this permit for individual applicants as the general permit has already gone through the public review process, and no application fees are associated with this permit.

NPDES Industrial Storm Water General Permits cover industry-specific requirements for storm water exposed to specific conditions. If your facility stores materials outdoors or has trash canisters or other sources which can potentially create water pollution, should they be exposed to rain events, you may need to obtain an Industrial Storm Water Notice-of-Intent. The permitting process typically takes 30 days and is completed via the online portal. As with construction storm water permits, the development of a storm water pollution prevention plan addressing storm water runoff and exterior housekeeping is a primary condition of this permit. Again, there is no public comment period associated with this permit for individual applicants, and no application fees are associated with this permit.

Any direct discharges of process wastewater (includes any water that comes into contact with the product, co-products that can become a wastewater, and other wash and cleaning water) and non- contact process wastewater (includes cooling water, reverse osmosis or softener reject water, boiler blow down water, or cooling tower blowdown water) to surface waters of the state of Nebraska require an NPDES Direct Discharge permit. These permits can take up to 180 days for issuance, and there are no fees associated with this permit.

An NPDES Dewatering General Permit is required for groundwater dewatering on an industrial site during construction. There is no charge for these permits, which includes a paper application process with permits being issued within 30 days of application submittal.

A General NPDES Permit Authorizing Hydrostatic Test Discharges from Pipelines and Storage Tanks. Again, there are no fees for this permit, and issuance is within 30 days of receiving an application.

If your facility is classified as a Significant Industrial User, and you are discharging to municipal treatment works, you are required to have an NPDES Pretreatment Permit. Certain Standard Industrial Classification ([SIC](#)) and North America Industry Classification System ([NAICS](#)) sources are automatically classified as Significant Industrial Users.

Additionally, if your facility supplies five percent of the daily load to a POTW or has a flow or 25,000 gallons or more per day, you will need a pretreatment permit. The application review process can take up to 180 days and is done via paper submittal. Although there are no fees associated with this permit, the application process does include a public comment period.

NPDES Discharge for Land Application permits are covered under Nebraska Title 119 - Rules and Regulations Pertaining to the Issuance of Permits under the National Pollutant Discharge Elimination System.

The permit will be issued after construction of livestock. There is no application fee for this permit application (done via paper submittal); however, there is a public comment period as part of the 180-day permit issuance timeframe. The permit will require annual soil monitoring, agronomic rate application, site approval and wastewater testing. It will also require an annual report from a certified agronomist.

Table 2: NPDES Permits Summary

Permit Type	Timeframe	Application Process	Application Fees	Public Comment Period
NPDES Direct Discharge of Wastewater	Up to 180 days	paper submittal	\$0	yes
NPDES Construction Stormwater	One day unless Game and Parks review required, then 30 days	online	\$0	no
NPDES Industrial Stormwater	30 days	online	\$0	no
NPDES Dewatering	30 days	paper submittal	\$0	no
NPDES Hydrostatic Testing	30 days	paper submittal	\$0	no
NPDES Pretreatment Program	Up to 180 days	paper submittal	\$0	yes
NPDES Discharge for Land Application – Domestic Wastewater	Up to 180 days	paper submittal	\$0	yes
NPDES Discharge for Land Application – Industrial Wastewater	Up to 180 days	paper submittal	\$0	yes

Permits Issued by the Water Quality Division Regarding Wastewater Treatment

Construction and use of any on-site wastewater treatment systems, including septic tanks, holding tanks, small lagoons, and other decentralized wastewater treatment systems not typically connected to a municipal wastewater treatment system, require a permit issued under [Nebraska Title 124 – Rules and Regulations for the Design, Operation and Maintenance of On-site Wastewater Treatment Systems](#), under any of the following conditions:

- the domestic wastewater design flow is greater than 1,000 gallons per day,
- the design flow includes any wastewater other than domestic wastewater, and
- the system does not meet all provisions for design, setback distances, and reserve area included in Title 124.

Proposed onsite wastewater treatment systems that are not subject to these conditions may be constructed under Authorization by Rule. The application process is done via paper and requires a \$450 application fee. While there is not a public comment period with issuance of this permit, professional certification by the State of Nebraska for the system installer is required.

Should your facility have an on-site wastewater system that is designed for 20 or more people or for a flow of more than 1,000 gallons per day, or receive any wastewater other than domestic wastewater, in addition to a Title 124 permit you will need to obtain an Underground Injection Class V Well Authorization, issued under [Nebraska Title 122 – Rules and Regulations for Underground Injection and Mineral Production Wells](#). The review process takes 30 days, and the Department will determine if a Class V Injection Well Permit is required. A \$500 fee applies if a permit is required. Otherwise, an Authorization has no fee.

A Wastewater Construction Permit, required under [Nebraska Title 123 – Rules And Regulations For The Design, Operation And Maintenance Of Wastewater Works](#), is required for construction of municipal, industrial, and commercial wastewater treatment facilities and sanitary sewer lines. Plans must be developed and submitted by a Professional Engineer registered in Nebraska. If direct discharging is occurring, the application must be submitted with an NPDES application. There are no fees associated with this permit, and permitting timeframe is 30 days.

Table 3: Wastewater Treatment Permits Summary

Permit Type	Timeframe	Application Process	Application Fees	Public Comment Period
On-site Wastewater (Septic)	30 days comment or approve	paper submittal	\$450	No
Underground Injection Class V Well	30 days comment or approve	paper submittal	\$500 if permit required, otherwise Authorization has no fee (\$0)	No
Wastewater Construction	30 days comment or approve	paper submittal	\$0	No

Permits Issued by the Water Quality Division Agriculture Section

An initial inspection of any proposed medium or large animal feeding operation (AFO) is required under [Nebraska Title 130 – Livestock Waste Control Regulations](#). Small AFOs are exempt from any inspection requirements, provided they do not discharge pollutants to waters of the State. The inspection application process is done via paper submittal, and every effort will be made to complete the inspection within a timeframe of approximately 30 days following receipt of the application.

The initial inspection determines whether or not livestock waste control facilities, a Construction and Operating Permit and/or NPDES Permit are required for the site.

The application for inspection submittal requires a fee as follows:

- \$500 for large AFOs,
- \$200 for medium AFOs, and
- \$100 for small AFOs.

Construction and Operating Permits for livestock waste control facilities at AFOs are covered under [Nebraska Title 130 – Livestock Waste Control Regulations](#). These permits must be issued prior to an operation starting construction. In order to issue a permit, the Department must receive an application via paper submittal, along with a \$200 application fee.

There is a permit issuance timeframe of 110 days from the receipt of a complete application, and the application review process includes a public comment period. In certain instances, a permit may not be necessary, if special conditions are met. Regardless, the operation will need to send in a 'Request for Initial Inspection' and receive confirmation that a permit is required prior to submitting an application for a Construction and Operating Permit.

NPDES permits for Concentrated Animal Feeding Operations (CAFOs) are covered under [Nebraska Title 130 – Livestock Waste Control Regulations](#). An NPDES permit cannot be issued until the construction of livestock waste control facilities has been completed and verified by the Department. Coverage under NPDES general permits are available for CAFO operations confining cattle. For CAFO operations with animal species other than cattle, truck washes, or vegetative treatment areas, an NPDES individual permit will be required. An application via paper submittal, along with a \$200 application fee, applies to either the general or individual permit. Typically, either permit will require 180 days for issuance.

Table 4: [Livestock Waste Control Program](#) Permits Summary

Permit Type	Timeframe	Application Process	Application Fees	Public Comment Period
Initial Inspection of Animal Feeding Operation	~ 30 days	paper submittal	\$500 for large CAFOs, \$200 for medium AFOs, and \$100 for small AFOs.	No
Construction and Operating Permit for Livestock Waste Control Facilities	110 days	paper submittal	\$200	Yes
NPDES General Permit for Concentrated Animal Feeding Operations Confining Cattle	180 days	paper submittal	\$200	Yes
NPDES Individual Permit for Concentrated Animal Feeding Operations	180 days	paper submittal	\$200	Yes

Resources

Contact:

Useful Websites:

NDEE Home Page – <http://dee.ne.gov>

Contacts:

NDEE Main Line	(402) 471-2186
NDEE Air Quality Permit Hotline	(877) 834-0474
NDEE Hazardous Waste Compliance Assistance	(402) 471-8308
NDEE Small Business and Public Assistance	(402) 471-8697
NDEE Agriculture Section	(402) 471-4239

To view this, and other information related to our agency, visit our website <http://dee.ne.gov>.

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