

NEBRASKA ADMINISTRATIVE CODE

Title 119 - Nebraska Department of Environmental Quality

Chapter 4 - NEW DISCHARGER AND NEW SOURCE; APPLICATION

001 A new source or new discharger wishing to discharge pollutants into waters of the state must file an NPDES application at the same time as application is made to the Department for a construction permit for a new source, not less than 180 days prior to commencement of discharge.

002 Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition of new source in this section.

002.01 It is constructed at a site at which no other source is located; or

002.02 It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

002.03 Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Director shall consider such factors as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source.

003 A source meeting the requirements of 002 above is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger.

004 Construction on a site at which an existing source is located results in a modification rather than a new source (or a new discharger) if the construction does not create a new

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building, structure, facility, or installation meeting the criteria of 002 above but otherwise alters, replaces, or adds to existing process or production equipment.

005 Construction of a new source has commenced if the owner or operator has:

005.01 Begun, or caused to begin as part of a continuous on-site construction program:

005.01A Any placement, assembly, or installation of facilities or equipment; or

005.01B Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

005.02 Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation with a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility engineering, and design studies do not constitute a contractual obligation under this section.

Enabling Legislation: Neb. Rev. Stat. §81-1505

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