

Title 126 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 1 - DEFINITIONS

Unless the context otherwise requires:

001 "Affected Environment" means any portion of the waters of the State or land which has been altered either physically, chemically or biologically due to the release of an oil or hazardous substance.

002 "Application rate" means the concentration of the paunch manure administered to the soil.

003 "Best Management Plan" means a plan which describes Best Management Practices intended to prevent or minimize the potential for pollution of waters, air or land of the state and to prevent or minimize health problems resulting from the operation.

004 "Best Management Practices (BMP's)" means treatment requirements, operating and maintenance procedures, schedules of activities, prohibitions of activities, and other management practices to control site runoff, spillage, leaks, sludge or waste disposal or drainage from raw material or waste storage.

005 "Cleanup" means the physical removal or on-site treatment of an oil or hazardous substance release. This may include, but not be limited to, controlling public access and monitoring activities to determine the effectiveness of removal or treatment activities.

006 "Commence New Source Construction" means the owner or operator has:

006.01 Begun, or caused to begin as part of a continuous onsite construction program:

006.01A Any placement, assembly, or installation of facilities or equipment;

006.01B 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

006.02 Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time and which cannot be terminated or modified without substantial loss.

007 "Container" means any device, excluding a lagoon, in which a material is stored, transported, treated, disposed of, or otherwise handled.

008 "Council" means the Nebraska Environmental Quality Council.

009 "Crop" means a plant or plant product grown for harvest including grazing by domesticated livestock.

010 "Dedicated paunch manure application site" means land where materials are applied at a high rate (more than ten (10) dry tons per acre cropping season) primarily as a solution to a waste problem. It would include both land treatment and on-site storage.

011 "Department" means the Nebraska Department of Environmental Quality.

012 "Dewatering" means the process of removing water from paunch manure.

013 "Director" means the director of the Nebraska Department of Environmental Quality.

014 "Discharge", when used without qualification, means a discharge of a pollutant, and a discharge of pollutants.

015 "Discharge of a pollutant" and "discharge of pollutants" each means any addition of any pollutant or combination of pollutants to waters of the state from any point or nonpoint source. This includes discharge into waters of the state from surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances, owned by a state, municipality or other party which do not lead to treatment systems.

016 "Dry ton" means a theoretical weight of 2000 pounds of material at 0% moisture used in calculating an actual amount of material for land application or other purposes. For sample calculations and actual amounts of material at various moisture contents see Appendix II.

017 "Existing Source" means any source which is not a new source or a new discharger.

018 "Free Product" means an oil or hazardous substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

019 "Generator" means any person, by site, whose act or process produces sludges or paunch manure.

020 "Ground water" means water occurring beneath the surface of the ground that fills available openings in rock or soil materials such that they may be considered saturated.

021 "Hazardous Substance" means any substance or mixture of substances other than oil and petroleum related products or radioactive substances which, when released into the environment, presents an imminent and substantial hazard to the public health or welfare, including but not limited to, fish, shellfish or other wildlife, and:

021.01 Any substance designated pursuant to Chapter 4, 002 through 005 of the Rules and Regulations Governing Hazardous Waste Management in Nebraska;

021.02 Any substance designated by the United States Environmental Protection Agency pursuant to Sections 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or Section 329(3) of the Emergency Planning and Community Right-to-Know Act of 1986.

022 "Hazardous Waste" shall be consistent with the definitions found in Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska.

023 "Incorporated" means to work a material into the surface of the soil by plowing, discing or other means.

024 "Land" means any natural or man-made surfaces of the earth, excluding water.

025 "Land treatment" means the application onto or incorporation of a waste into the soil surface

for the purpose of biologically or chemically changing it to a more useable form.

026 "Metropolitan city" means any municipality in the state of Nebraska having a population greater than 300,000.

027 "Municipality" means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act, 33 U.S.C. 1251 et seq.

028 "New source" means any source that has not commenced new source construction prior to the effective date of these regulations.

029 "Non-dedicated paunch manure application site" means land where paunch manure is applied at a low rate (less than ten (10) dry tons per acre per cropping season) with the primary purpose of enhancing crop growth and on-site storage is not practiced. Such sites need not be permitted.

030 "Oil" means oil of any kind or in any form, including, but not limited to:

- 030.01 Petroleum, fuel oil, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the Federal Clean Water Act) and;
- 030.02 Fats and oils from animals and vegetable sources.

031 "Owner" means the person who owns a facility or land or part of a facility or land.

032 "Paunch manure" means partially digested material taken from an animal at the time of slaughter.

033 "Permit" means any permit issued by the Director under Neb. Rev. Stat. §§ 81-1501 through 81-1533 (Reissue 1981).

034 "Person" means any federal agency, individual, partnership, association, public or private corporation, trustee, receiver, assignee, agent, municipality, or governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision or public agency, or any other legal entity except the Department.

035 "Recycling" means the process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

036 "Release" means, but is not limited to, any discharging, spilling, leaking, pumping, emitting, emptying or dumping of oil or hazardous substances upon land, beneath the surface of the land, or into waters of the State, either by accident or otherwise.

037 "Remedial action" means any immediate or long-term response to a release or suspected release of an oil or hazardous substance, including precision testing of tanks and lines, site investigation, drilling, cleanup, restoration, mitigation, and any other action which the Department determines is reasonable and necessary.

038 "Responsible Person" means any person producing, handling, storing, transporting, refining, or disposing of an oil or hazardous substance when a release occurs, either by accident or otherwise. This includes carriers and any other person in control of an oil or hazardous substance

when a release occurs, whether they own the oil or hazardous substances or are operating under a lease, contract, or other agreement with the legal owner thereof.

039 "Reuse" means the reintroduction of a commodity into the economic stream without change.

040 "Schedule of Compliance" means a schedule of remedial measures contained within the permit including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard, or other permit requirement.

041 "Sludge" means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.

042 "Storage" means the leaving or placing of a material in a location or position other than where it will ultimately reside or be used.

043 "Water table" means the surface of underground gravity-controlled water and shall include that water found in the saturated zone beneath the surface of the land.

044 "Watercourse" means a natural or man-made channel through which water flows; a stream of water (as a river, brook or underground stream).

045 "Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

046 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances to support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

047 "Windrow" means a row of sludge or paunch manure placed to dry before being processed.

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