

NOTICE OF PUBLIC HEARINGS  
AND PUBLIC MEETING  
STATE OF NEBRASKA  
DEPARTMENT OF ENVIRONMENT AND ENERGY (NDEE)  
ENVIRONMENTAL QUALITY COUNCIL

Notice is hereby given pursuant to Neb. Rev. Stats. §81-1505(17), §84-907, and §84-1411, the Nebraska Environmental Quality Council (EQC) will hold a meeting and public hearings on November 7 and 8, 2019 beginning at 1:00 P.M. Central Time (CT) at the Cornhusker Hotel, 333 South 13<sup>th</sup> St., Lincoln, Nebraska. Preceding the hearings will be business items on the agenda. The hearings are scheduled to begin at 1:00 P.M. CT on November 7, or as soon thereafter as can reasonably be heard, and continue on November 8, 2019 if necessary. The purpose of the hearings is to take testimony and evidence about the proposed Fiscal Year 2020 Funding Percentage Allocations for the Litter Reduction and Recycling Grant Program and proposed amendment of NDEE regulations, as outlined in this notice.

The meeting agenda and a draft copy of the proposals scheduled for hearing are available at the NDEE's Lincoln office, 1200 N St., Suite 400, Lincoln, NE and on the NDEE website at <http://dee.ne.gov>. The meeting agenda and a draft copy of the proposed regulations scheduled for hearing are also available at the Office of the Secretary of State, Regulations Division, 1201 N St., Suite 120, Lincoln, NE, 68508. The description of the fiscal impact of the proposed regulations on state agencies, political subdivisions, or persons regulated is also available at these locations.

All interested persons may attend and testify orally or by written submission at the public hearing. Any person may provide advance notice of intent to testify by contacting Carla Felix, Hearing Officer, NDEE, 1200 N St., Suite 400, P.O. Box 98922, Lincoln, NE 68509-8922. Unscheduled testimony will be heard following scheduled testimony. Interested persons may also submit written comments to Carla Felix prior to the hearing, which will be entered into the hearing record if received at the Lincoln office by 5:00 P.M. CT, November 6, 2019.

Please notify the NDEE at least one week in advance of the EQC meeting if auxiliary aids or reasonable accommodations or alternate formats of materials are needed. Contact phone number is 402-471-2186. TDD users call 800-833-7352 and ask the relay operator to call us at 402-471-2186.

A public hearing will be held on the following:

1. Litter Reduction and Recycling Grant Program, 2020 Funding Percentage Allocations. The NDEE administers the Litter Reduction and Recycling Grant Fund in percentage amounts to grantees for projects within three categories: public education, cleanup, and recycling. Neb. Rev. Stat. §81-1561 requires the EQC to annually determine the percentages for each category. A statewide litter fee is the source of revenue for the fund. At this hearing, the EQC will take action on the NDEE recommendations for percentage

amounts. For the Year 2020, the NDEE recommends the following percentage allocations: recycling 20.1%, public education 75.0%, and cleanup 4.9% with additional approval to adjust these percentages by up to 20%. All persons affected by the proposed allocations are hereby notified that modifications may be offered to the proposed percentage allocations or the EQC may propose new allocations. The EQC will vote to adopt, amend or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.

2. Amendments to Title 195 – Chemigation Regulations. Chapter 1 is deleted and reference to definitions is moved to new Chapter 1, which is Chapter 2, renumbered. Changes to Chapter 2 include renumbering it to Chapter 1, addition of definitions and references, deletion of language that restates statute, updates application requirements and chemical use, and renames chapter title to include applications, certification, and duties of permit holder. Changes to Chapter 3 remove language on permit issuance, denial, and revocation that repeats statute, and deletes the chapter. Changes to Chapter 4 remove permit renewal and expiration provisions which repeat statute, relocates non-transferability of permit provision to new Chapter 1, and deletes Chapter 4. Changes to Chapter 5 remove special permit requirements which are stated in statute, moves information regarding special permit to be submitted to new Chapter 2, and deletes Chapter 5. Changes to Chapter 6 remove requirements related to emergency permits which are stated in statute, and deletes Chapter 6. Changes to Chapter 7 remove fee language that duplicates statute, moves fee payment schedule to new Chapter 2, and deletes Chapter 7. Changes to Chapter 8 update language relating to natural resource district duties, and renumbers new Chapter 2. Changes to Chapter 9 update equipment standards and installation requirements, renumbers new Chapter 3, and adds maintenance to chapter title. Changes to Chapter 10 remove certain equipment replacement requirements that duplicate statute, moves remaining standards for equipment to new Chapter 2, and deletes Chapter 10. Changes to Chapter 11 remove inspection requirements that restate statute, move provision relating to permit suspension to new Chapter 2, and deletes Chapter 11. Changes to Chapter 12 move posting requirements to new Chapter 1, and delete Chapter 12. Change to Chapter 13 remove requirements for applicator training session and certification which repeat statute, move provision affording a hearing if certification revoked to new Chapter 1, and delete Chapter 13. Changes to Chapter 14 remove certain requirements for accident reporting that duplicate statute, move language on process for reporting accidents to new Chapter 1, and delete Chapter 14. Changes to Chapter 15 remove certain requirements for investigation and remediation of accidents that duplicate statute, move remaining requirements to new Chapter 1, and delete Chapter 15. Changes to Appendix I make minor changes and updates. The EQC will vote to adopt, amend or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.

3. Amendments to Title 135 – Rules and Regulations for Mineral Exploration Holes. Chapters 9 through 12 are proposed for repeal because the language is duplicative of statute, is not needed to implement the statutorily-prescribed program, or restates general legal principles not needed in regulation. The EQC will vote to adopt, amend, or not

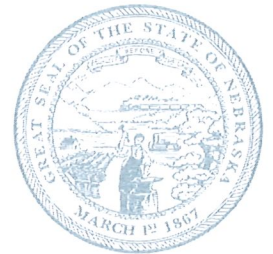
approve the NDEE proposal after hearing and considering all the testimony and written submissions.

4. Amendments to Title 200 – Petroleum Release Remedial Action Reimbursement Fund. Chapter 1, definitions, is proposed for deletion. Changes to Chapter 2 include a reference to definitions; make changes relating to the application for reimbursement; include provisions applicable to department review, bidding, reimbursement, reduction in reimbursement, auditing, and notice of department disapproval of an application currently contained in Chapter 3; include provisions relating to limitations on reimbursements currently contained in Chapter 4; include provisions on fixtures and tangible personal property currently in Chapter 5; and renumber Chapter 2 as new Chapter 1. Chapter 3 is proposed for deletion because department review provisions and requirements related to bidding, reimbursement, reduction in reimbursement, auditing, and notice of department disapproval of an application have been moved to and consolidated in new Chapter 1, and the remaining provisions are duplicative of statute or addressed in agency guidance. Chapter 4 is proposed for deletion because provisions relating to limitations on reimbursements are duplicative of statute. Chapter 5 on fixtures and tangible personal property is proposed for deletion because provisions have been moved to new Chapter 1 or have been addressed in agency guidance. Chapter 6 on department use of funds is proposed for deletion as duplicative of statute. Chapter 7 is proposed for deletion because it restates general statutory provisions relating to powers of the department, intervention, release notification, severability, appeals, and effective date of regulations. The EQC will vote to adopt, amend, or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.

5. Amendments to Title 197 – Rules and Regulations for the Certification of Wastewater Treatment Operators. Changes to Chapter 1 add, delete, and modify definitions; and include provisions related to exemptions of wastewater treatment facilities exempted from regulation currently in Chapter 2. Chapter 2 is proposed for deletion because provisions have been moved to Chapter 1 or are no longer applicable. Changes to Chapter 3 include renumbering as Chapter 2; classifications of facilities, staffing and reporting requirements have been modified and updated; and tables added for ease of use. Changes to Chapter 4 include renumbering as Chapter 3; elimination of obsolete temporary and restricted certification provisions; and changes to improve readability. Changes to Chapter 5 include renumbering as Chapter 4; adding and modifying expiration and renewal and certificate requirements currently in Chapter 7; and reciprocity requirements currently in Chapter 8. Changes to Chapter 6 include renumbering to Chapter 5; and modifying applicant education, experience; and continuing education requirements currently in Chapter 7. Chapter 7 is proposed for deletion because provisions have been moved to other chapters or are no longer needed. Chapter 8 is proposed for deletion and reciprocity provisions have been moved to new Chapter 5. Changes to Chapter 9 include renumbering to Chapter 6; and modifying provisions applicable to contract operations and operators. Minor changes have been made to Appendices A and B for readability. No change made to Appendix C. The EQC will vote to adopt, amend, or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.

6. Amendments to Title 198 – Rules and Regulations Pertaining to Agricultural Chemical Containment. Changes to Chapter 1 update add, delete, and update definitions. Changes to Chapter 2 update language for readability and delete obsolete provisions relating to when a secondary containment facility is required. Changes to Chapter 3 update language for readability and delete obsolete provisions relating to when a loadout facility is required. Changes to Chapter 4 update language for readability relating to location of secondary containment and loadout facility. Changes to Chapter 5 update language for readability relating to design requirements for secondary containment facility. Changes to Chapter 6 update language for readability relating to design requirements for loadout facilities and include an applicable date. Changes to Chapter 7 update language for readability for construction plans for secondary containment and loadout facilities. Changes to Chapter 8 update language for readability for management requirements for secondary containment and loadout facilities. Changes to Chapter 9 update language for readability and delete an obsolete provision. Appendix A is proposed to be deleted as not necessary to be included in order to implement regulatory program. The EQC will vote to adopt, amend, or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.

7. Amendments to Title 129 – Nebraska Air Quality Regulations. Chapters 25, 39, and 40 are proposed for repeal. Chapter 25 relating to nitrogen oxides previously applied to only one source which is now subject to regulatory requirements in Chapter 18. Chapter 39 addresses visible emissions testing of motor vehicles which is no longer justified. Chapter 40 relating to a lead nonattainment designation in Douglas County which is obsolete now that Nebraska has been federally designated as in attainment for lead. The EQC will vote to adopt, amend, or not approve the NDEE proposal after hearing and considering all the testimony and written submissions.



DEPT. OF ENVIRONMENT AND ENERGY

## FISCAL IMPACT STATEMENT

Agency: Nebraska Department of Environment and Energy  
Prepared by: Marty Link, P.G.  
Administrator, Water Quality Division  
Date Prepared: September 25, 2019  
Title: 195  
Chapter: 1 through 15, Appendix I  
Name: *Chemigation Regulations*  
State Status: EQC Hearing Draft

Type of Fiscal Impact:

	State Agency	Political subdivision	Regulated Public
Chapters 1 through 15, Appendix I streamlining and consolidation	No fiscal impact	No fiscal impact	No fiscal impact

Description of Impact:

**State Agency:** There is no fiscal impact related to the streamlining and consolidation proposed for Chapters 1 through 15 and Appendix I as these changes do not create new requirements or modify existing requirements.

**Political Subdivision:** There is no fiscal impact.

**Regulated Public:** There is no fiscal impact.

## NEBRASKA ADMINISTRATIVE CODE

### ~~Title 195 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

#### ~~Chapter 1 – DEFINITIONS~~

~~001~~ ~~Applicator means any person engaged in the application of chemicals by means of chemigation. Applicator shall include any person operating equipment used for chemigation whether for themselves or on behalf of the permitholder for the land on which the chemigation will take place.~~

~~002~~ ~~Chemical means any fertilizer, fungicide, herbicide, or pesticide mixed with the water supply.~~

~~003~~ ~~Chemigation means any process whereby chemicals are applied to land or crops in or with water through an onfarm irrigation distribution system.~~

~~004~~ ~~Council means the Environmental Quality Council.~~

~~005~~ ~~Department means the Department of Environmental Quality.~~

~~006~~ ~~Director means the Director of Environmental Quality.~~

~~007~~ ~~District means a natural resources district created pursuant to Chapter 2, article 32.~~

~~008~~ ~~Fertilizer means any formulation or product used as a plant nutrient which is intended to promote plant growth and contains one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication.~~

~~009~~ ~~Injection location means each site where chemicals will be applied through an irrigation distribution system.~~

~~010~~ ~~Irrigation distribution system means any device or combination of devices having a hose, pipe, or other conduit, which connects directly to any source of groundwater or surface water, through which water or a mixture of water and chemicals is drawn and applied for agricultural or horticultural purposes. Irrigation distribution system shall not include any hand-held hose sprayer or other similar device which is constructed so that an interruption in water flow automatically prevents any backflow to the water source.~~

~~011~~ ~~Open discharge system means a system in which the water is pumped or diverted directly into a ditch or canal in such a manner that the force of gravity at the point of discharge into the ditch or canal cannot cause water to flow back to the point from which the water was pumped or diverted.~~

~~012~~ Permitholder means the owner or operator of land who applies or authorizes the application of chemicals to such land by means of chemigation. The permitholder shall be the party primarily responsible for any liability arising from chemigation on the property.

~~013~~ Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, insect, rodent, nematode, fungus, weed, or other form of plant or animal life or virus, except viruses on or in living humans or animals, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

~~014~~ Restricted use pesticide means a pesticide classified as a restricted use pesticide by the United States Environmental Protection Agency, a state-limited use pesticide, or any pesticide for which an exemption under section 136p of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136, et seq., has been granted.

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1104 thru 46-1116~~

~~Legal Citation: Title 195, Ch. 1, Nebraska Department of Environmental Quality~~

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## NEBRASKA ADMINISTRATIVE CODE

### Title 195 - ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~ CHEMIGATION REGULATIONS

#### Chapter ~~21~~ - ~~PERMITS; WHEN REQUIRED~~, APPLICATIONS, CERTIFICATION ~~AUTHORIZATION BY RULE~~, DUTIES OF PERMITHOLDER

~~001 No person shall apply or authorize the application of chemicals to land or crops through the use of chemigation, unless such person obtains a permit from the district in which the well or diversion is located, except that nothing in this chapter shall require a person to obtain a chemigation permit to pump or divert water to or through an open discharge system.~~ Definitions.

001.01 Relevant definitions are located in Neb. Rev. Stat. §§ 46-1104 through 46-1116.01.

001.02 Restricted use pesticide is defined in Neb. Rev. Stat. §2-2624(38) of the Pesticide Act.

001.03 Accident means the release of a chemical by spill, leak, faulty or damaged equipment, or similar instance, onto land or into waters of the state in a quantity greater than permitted by the product label.

~~002 Applications. An application must be filed with the district for each injection location.~~ In addition to the requirements of Neb. Rev. Stat. § 46-1120, the following information is to be included with any initial or renewal application for a permit required by Neb. Rev. Stat. §§46-1117 and 46-1119 ~~the minimum requirement of the Department.~~

~~002.01 Name, address and t~~ 002.01 Telephone number of applicant.

002.02 Calendar year for which application is being made.

~~002.03 Legal description of the injection location site, defined to the quarter of quarter-section (forty-acre increment).~~

002.034 Whether the application is for an initial, renewal or emergency permit.

002.045 The name(s) of the certified chemigation applicator(s), their certification number and the expiration date of their certification.

002.056 Whether the chemical injection equipment to be used is stationary or portable.



~~002.067~~ Signature of the permit applicant and date of signing. The signature must be that of the proposed permitholder or a person holding power of attorney from the applicant.

~~002.078~~ If the application is for a renewal permit, ~~in addition to the information required in 002.01 through 002.07,~~ the applicant ~~shall~~ is to list the names and estimated amounts of all the chemicals that were used in the chemigation system the previous year.

~~003 All applications for a chemigation permit must be completed on forms provided by the Department or the district. Upon request, forms shall be made available by the Department to each district office and at such other locations as deemed advisable. Transferability. Permits are not transferrable.~~

004 Subsurface System. A person is hereby authorized by rule to inject chemicals for maintenance of a subsurface drip irrigation system once each calendar year, provided ~~such system:~~

004.01 The system ~~is~~ equipped with an irrigation pipeline check valve; ~~r~~ and

004.02 The system ~~is~~ ~~permitted~~ authorized under Title 122 – Rules and Regulations for Underground Injection and Mineral Production Wells; and.

004.03 Any chemical that is injected is done so in accordance with label restrictions.

005 Posting. Signs must be posted on chemigated fields when a restricted use pesticide or a chemical for which the label requires posting is used. The signs are to meet the following requirements:

005.01 Posted at each usual point of entry into a treated area and at the point of chemical injection if located outside the treated area. Each sign is to be posted in such a manner that it is clearly visible and legible.

005.02 Contain the words “KEEP OUT, CHEMICAL APPLICATION THROUGH IRRIGATION SYSTEM”.

005.03 The lettering clearly contrasts with the background and the letters are two and one-half inches in height.

005.04 Posted and maintained during the chemigation period and until the end of reentry period as specified by the chemical label. The sign will be posted no sooner than 48 hours

prior to the start of chemigation and be removed, covered, or otherwise made illegible, no later than 48 hours after the end of reentry period.

006 Accident Reporting. Notification of a suspected or actual accident will be made by telephone to the Department and the appropriate district during office hours, from 8 a.m. to 5 p.m., Monday through Friday. After hours and holidays, reports will be made to the Nebraska State Patrol. All information known about the accident at the time of discovery is to be included, such as time of occurrence, quantity and type of material, location, and any corrective or cleanup actions presently being taken.

006.01 The applicator or permitholder will supply any additional information requested in the course of the investigation regarding the amount and type of substance(s) involved, the well and equipment involved, and information the applicator or permitholder would reasonably be expected to know.

007 Investigation and Remediation. The procedures outlined in Title 118, - Ground Water Quality Standards and Use Classification, Appendix A, the Ground Water Remedial Action Protocol will apply to the investigation and remedial action for releases and groundwater contamination associated with chemigation systems. The remedial action workplan shall be carried out by the permitholder under the supervision of the Department or the district.

008 Certifications. Any person who has a certification revoked pursuant to Neb. Rev. Stat. § 46-1129.01 will be afforded an opportunity for a fair hearing as provided in Neb. Rev. Stat. §81-1507(2)(3). The hearing will be held upon written application to the director within thirty days after receipt of the notice from the director of such revocation. The hearing will be considered conducted as a contested case subject to Title 115, Rules of Practice and Procedure.

Enabling Legislation: Neb. Rev. Stat. §§ 46-1120~~17~~, 46-1136~~17.01~~

Legal Citation: ~~Title 195, Ch. 2, Nebraska Department of Environmental Quality~~

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~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 3 - PERMITS; ISSUANCE, DENIAL, REVOCATION, SUSPENSION~~

~~001 - Except as provided in Chapters 5 and 6, the district shall review each completed application, conduct an inspection, and approve or deny the application within forty-five days after the application is filed.~~

~~002 - No chemigation permit shall be issued or renewed by the district, except as provided in Chapter 5, if any of the following conditions occur:~~

~~002.01 - The applicant has failed to provide the required information, as specified in Chapter 2, 002, on the application form;~~

~~002.02 - The irrigation distribution system does not comply with the equipment standards of Chapters 9 and 10;~~

~~002.03 - The applicator has not been certified as a chemigation applicator by the Department; or~~

~~002.04 - Failure of the applicant to remit the appropriate fee.~~

~~003 - The permit holder shall notify the district within ten days of any changes in the information provided on the permit application.~~

~~004 - The district shall deny, suspend, refuse renewal of, or revoke a permit applied for or issued on any of the following grounds:~~

~~004.01 - Fraud or deceit was used in obtaining a permit;~~

~~004.02 - Failure to notify the district of equipment replacement or alteration within seventy-two hours;~~

~~004.03 - Failure of the applicator or permit holder to notify the district and Department of an actual or suspected spill or accident within twenty-four hours;~~

~~004.04 - Failure of the permit holder to carry out cleanup measures developed by the Department within the time specified; or~~

~~004.05~~ Violation of any other provisions of the Nebraska Chemigation Act or any standards or rules and regulations adopted pursuant to the Act.

~~005~~ The district or Department shall immediately suspend a permit if the district or Department concludes that there is an actual or imminent threat of danger to the public or the environment as a result of operation of a chemigation system.

~~006~~ The district shall notify any person found to be in violation of the Nebraska Chemigation Act or any rules or regulations issued pursuant to the Act that said person has ten days in which to comply. If the violation has not been corrected in the ten-day period then the district shall notify the Department of the violation. If after a preliminary investigation the Department determines there is a violation then the person's permit shall be revoked until compliance is met. For systems operated by a permit holder the district may establish a schedule for compliance in lieu of the ten-day compliance requirement.

Enabling Legislation: ~~Neb. Rev. Stat. §§ 46-1117, 46-1121(2), 46-1126(2), 46-1138~~

Legal Citation: ~~Title 195, Ch. 3, Nebraska Department of Environmental Quality~~

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NEBRASKA ADMINISTRATIVE CODE

Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 4 - PERMITS; EXPIRATION, RENEWAL

~~001~~ Permits issued during the calendar year shall expire on June 1 of the following year, except as provided in Chapter 6.

~~002~~ A permit may be renewed each year upon payment of the annual renewal fee and completion of an application form providing all the information requirements of Chapter 2, 002.

~~003~~ Permits not renewed on or before June 1 shall not be reinstated without filing a new application containing the information prescribed in Chapter 2, 002, payment of the initial application fee, and an inspection which shows compliance with the Chemigation Act and these regulations.

~~004~~ ~~Permits are not transferrable.~~

Enabling Legislation: ~~Neb. Rev. Stat. §§ 46-1121(2) and 46-1136(2)~~

Legal Citation: ~~Title 195, Ch. 4, Nebraska Department of Environmental Quality~~

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~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 5 – PERMITS; SPECIAL~~

~~001 If the district determines by inspection that a chemigation system does not need all of the safety equipment prescribed in Chapters 9 and 10, it shall forward such information to the Department for review. If the Department concurs with the district, the Department shall grant approval to the district to issue a special permit.~~

~~002 The following information shall be provided by the district and is the minimum requirement of the Department.~~

~~002.01 Name, address and telephone number of the applicant.~~

~~002.02 Legal description of the system location.~~

~~002.03 U.S. Geological survey map showing the system layout topographically with the location and elevation of existing equipment and injection location indicated.~~

~~002.04 Location, nominal diameter and length of all pipe in the irrigation distribution system.~~

~~003 Issuance of a special permit shall not relieve the permit holder or applicator from compliance with all other responsibilities under the Act or these regulations.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1117.01 and 46-1136(2)~~

~~Legal Citation: Title 195, Ch. 5, Nebraska Department of Environmental Quality~~

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~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 6 - PERMITS; EMERGENCY~~

~~001 A person may file an application with the district for an emergency permit. An emergency permit shall be issued in accordance with the conditions of Chapter 3, 002.~~

~~001.01 If the district has not denied an emergency permit within two working days after the application is filed, the permit shall be deemed issued. Working day shall mean Monday through Friday but shall not include Saturday, Sunday, or a federal or state holiday. In computing two working days, the day of receipt of the permit is not included and the last day of the two working days is included.~~

~~001.02 An emergency permit shall be valid for a period of forty-five days from the date of issuance.~~

~~002 Any holder of an emergency permit or an applicator applying chemicals pursuant thereto who violates any of the provisions of the Nebraska Chemigation Act or standards, rules and regulations adopted under it, shall have such permit automatically revoked by the district or the Department, without a hearing and subject to penalties as specified in the Chemigation Act.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1119(1)(3)~~

~~Legal Citation: Title 195, Ch. 6, Nebraska Department of Environmental Quality~~

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NEBRASKA ADMINISTRATIVE CODE

~~Title 195 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chapter 7 – PERMITS; FEES~~

~~001 The fee for initial application for a permit or special permit shall not exceed one hundred and fifty dollars payable to the district. The district shall transfer five dollars of this fee to the Department.~~

~~002 The annual fee for renewal of a permit or special permit shall not exceed one hundred dollars payable to the district. Two dollars of the annual fee shall be transferred by the district to the Department.~~

~~003 The application for an emergency permit shall be accompanied by a fee not to exceed five hundred dollars payable to the district. The district shall transfer ten dollars of this fee to the Department.~~

~~004 The district shall forward the appropriate fees for the first half of the calendar year to the Department by September 1 of the calendar year and the fees for the last half of the calendar year by March 1 of the following year.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1117.01, 46-1119(2), 46-1121, 46-1136(2)~~

~~Legal Citation: Title 195, Ch. 7, Nebraska Department of Environmental Quality~~



## NEBRASKA ADMINISTRATIVE CODE

### Title 195 - ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~ CHEMIGATION REGULATIONS

#### Chapter ~~82~~ - DISTRICT RESPONSIBILITIES

~~001~~ ~~The district may require additional information and adopt and promulgate rules and regulations as necessary to carry out its responsibilities under the Nebraska Chemigation Act (Secs. 46-1101 thru 46-1148). Such information requirements, and rules and regulations must be based on a justifiable need and are subject to approval by the Director. Fees. The district will forward the fees for the first half of the calendar year to the Department by September 1 of the calendar year and the fees for the last half of the calendar year by March 1 of the following year.~~

~~002~~ ~~Each district shall establish permit fees as required under the Nebraska Chemigation Act (Sec. 46-1121)~~

~~0023~~ Annual Reports. The district ~~shall~~ will submit ~~an~~ its annual report to the Department by March 1 of each year, ~~which shall include the following information for the previous year:~~ In addition to the statutory requirements, the report will include:

~~003.01~~ ~~The number of permit applications received by the district;~~

~~003.02~~ ~~The number of permit applications approved by the district;~~

~~0023.013~~ The number of chemigation system inspections made by the district at each permitted injection site and whether the inspections were initial inspections, for equipment replacement or repair, or routine monitoring; and

~~0023.024~~ The name of all chemicals and estimated amounts used in chemigation systems within the district the previous year.

~~0034~~ Retention. The district ~~shall~~ is to maintain each application or the information contained in the application for a period of five years and ~~shall~~ will provide such information to the Department upon request.

~~004~~ Special Permits. The district will provide the following information, at a minimum, to the Department when seeking a determination on a special permit as set forth in Neb. Rev. Stat. § 46-1117.01:

004.01 Name, address and telephone number of the applicant.

004.02 Legal description of the system location.

004.03 U.S. Geological survey map showing the system layout topographically with the location and elevation of existing equipment and injection location indicated.

004.04 Location, nominal diameter and length of all pipe in the irrigation distribution system.

005 Equipment. If the district finds that replaced or altered equipment does not comply with the standards set forth in this Title, the permit is to be suspended until compliance is demonstrated and approval for operation is given by the district.

Enabling Legislation: Neb. Rev. Stat. §§ ~~46-1117, 46-1123 and~~ 46-1136(2)

~~Legal Citation: Title 195, Ch. 8, Nebraska Department of Environmental Quality~~

NEBRASKA ADMINISTRATIVE CODE

Title 195 - ~~NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~ CHEMIGATION REGULATIONS

Chapter 93 - EQUIPMENT; STANDARDS, INSTALLATION, MAINTENANCE

001 Equipment. Any irrigation distribution system, except an open discharge system, through which chemigation is performed shallis to be equipped with the mechanical devices specified in paragraphs 002 through 007 of this Chapter. The equipment shallis to be installed in accordance with the manufacturer's specifications and at the location specified. This shallwill not be construed to prevent the use of portable chemigation equipment if such equipment meets the requirements ~~set forth herein~~ of this chapter.

002 Irrigation pipeline check valve. The check valve shallis to be capable of preventing a mixture of water and chemical from draining or siphoning back into the irrigation water source. It is to be located in the pipeline between the irrigation pump and the point of chemical injection into the irrigation pipeline. ~~Its purpose is to prevent a mixture of water and chemical from draining or siphoning back into the irrigation water source.~~

002.01 Existing irrigation distribution systems which, as of July 1, 1987 are equipped with a properly located check valve shallwill be considered in compliance, until repaired or replaced, if the valve provides a watertight seal against reverse flow.

002.02 Irrigation distribution systems which are not equipped with a check valve or contain a check valve which after repair cannot meet the requirement in 002.01, shallare to be equipped with a check valve as specified in Chapter ~~403, 008.~~

002.03 For check valves manufactured or assembled after July 1, 1987, the manufacturer of the valve assembly shallis to provide verification to the director that the valve model has been tested and certified by an independent laboratory as meeting the criteria specified in Appendix I.

002.04 All check valves installed on an irrigation distribution system after January 1, 1988, shallare to be models certified to the director as specified in 002.03 above.

003 Vacuum relief valve. The vacuum relief valve shallis to be located on the pipeline between the irrigation pump and the irrigation pipeline check valve. ~~Its purpose is to~~ be capable of preventing the creation of a vacuum when the water flow stops. If the valve connection will also

serve as the inspection port, the permit holder will ensure removal of the valve at the time of inspection.

004 Inspection port. The inspection port or other viewing device shallis to be located on the pipeline between the irrigation pump and the irrigation pipeline check valve. ~~In many cases the vacuum relief valve connection can serve as the inspection port.~~

004.01 The inspection port or viewing device shallis to be situated in such a manner that the inlet to the low pressure drain can be observed.

004.02 A minimum four-inch diameter orifice or viewing area is required for systems without an existing port or device after January 1, 1988.

005 Low-pressure drain. The low-pressure drain shallis to be located on the bottom of the horizontal pipe between the irrigation pump and the irrigation pipeline check valve. Its purpose is to drain any mixture of water and chemical away from the irrigation water source.

005.01 The drain shallis to be constructed of corrosion resistant material or otherwise coated or protected to prevent corrosion;

005.02 The drain shallis to have an orifice of at least three-quarter inch diameter and shallis not to extend into the horizontal pipe beyond the inside surface of the bottom of the pipe; and

005.03 When the pipeline water flow stops, the drain will automatically open. A tube, pipe or similar conduit shallis to be used to discharge the solution at least twenty feet from the irrigation water source.

006 Chemical injection line check valve. The chemical injection line check valve shallis to be located between the point of chemical injection into the irrigation pipeline and the chemical injection pump. ~~Its purpose is to prevent flow of water from the irrigation system into the chemical supply tank and to prevent gravity flow from the chemical supply tank into the irrigation pipeline.~~

006.01 The valve shallis to be constructed of chemically resistant materials;

006.02 The valve shallis to be designed to prevent irrigation water under operating pressure from entering the chemical injection line; and

006.03 The valve ~~shall~~is to be designed to have a minimum opening (cracking) pressure of ten psi. When the chemical injection pump is shut down, the valve ~~shall~~must prevent any leakage from the chemical supply tank.

006.04 As an alternative to the minimum opening pressure requirement in 006.03 above, a vacuum relief valve may be placed in the injection line between the chemical injection line check valve and chemical injection pump. The vacuum relief valve ~~shall~~is to be constructed of chemically resistant materials, ~~shall~~is to open at atmospheric pressure, ~~shall~~is to be at an elevation greater than the highest part of the chemical supply tank and ~~shall~~is also to be the highest point in the injection line.

007 Simultaneous interlock device. The irrigation pumping plant and the chemical injection pump ~~shall~~are to be interlocked so that if the pumping plant stops, the injection pump will also stop. ~~Its purpose is to prevent pumping chemicals into the irrigation pipeline after the irrigation pump stops.~~

008 Replacement equipment is to meet the requirements of this Chapter, and in the case of irrigation pipeline check valves, will meet the following minimum requirements:

008.01 The valve body and all components will be constructed of corrosion resistant materials or otherwise coated or protected to prevent corrosion;

008.02 The valve will contain a sealing mechanism designed to close prior to or at the moment water ceases to flow in the downstream direction. This mechanism will be either diaphragm-actuated by hydraulic line pressure, spring loaded or weight loaded to provide a watertight seal against reverse flow;

008.03 The valve will be designed to meet the leakage tests specified in Underwriters Laboratory, Inc., Standard UL 312, Chapter 16, Leakage Test, page 11, dated May 22, 1984. (Appendix I).

008.04 All moving components of the valve will be designed to prevent binding, distortion or misalignment during water flow; and

008.05 The valve will be designed to allow for easy repair and maintenance, including removal from the pipeline if required to perform such work.

009 Maintenance. The equipment required in these rules and regulations is to be maintained in working condition during all times of chemigation. When required, the equipment is to be repaired to its originally designed condition.

Enabling Legislation: Neb. Rev. Stat. §§ 46-1127, 46-1136~~(1)~~

~~Legal Citation: Title 195, Ch. 9, Nebraska Department of Environmental Quality~~

~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 10 - EQUIPMENT; REPLACEMENT, REPAIR~~

~~001 Any permit holder who replaces or alters or authorizes the replacement or alteration of chemigation equipment which was previously approved by the district shall notify the district within seventy-two hours of such replacement or alteration. The district shall conduct an inspection of the replaced or altered equipment to determine compliance with Chapter 9.~~

~~002 Replacement equipment shall meet the requirements of Chapter 9, and in the case of irrigation pipeline check valves, shall meet the following minimum requirements:~~

~~002.01 The valve body and all components shall be constructed of corrosion resistant materials or otherwise coated or protected to prevent corrosion;~~

~~002.02 The valve shall contain a sealing mechanism designed to close prior to or at the moment water ceases to flow in the downstream direction. This mechanism shall be either diaphragm actuated by hydraulic line pressure, spring loaded or weight loaded to provide a watertight seal against reverse flow;~~

~~002.03 The valve shall be designed to meet the leakage tests specified in Underwriters Laboratory, Inc., Standard UL 312, Chapter 16, Leakage Test, page 11, dated May 22, 1984. (Appendix I).~~

~~002.04 All moving components of the valve shall be designed to prevent binding, distortion or misalignment during water flow; and~~

~~002.05 The valve shall be designed to allow for easy repair and maintenance, including removal from the pipeline if required to perform such work.~~

~~003 The equipment required in these rules and regulations shall be maintained in working condition during all times of chemigation. When required, the equipment shall be repaired to its originally designed condition.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1136(1)~~

~~Legal Citation: Title 195, Ch. 10, Nebraska Department of Environmental Quality~~

## NEBRASKA ADMINISTRATIVE CODE

### Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Chapter 11 - INSPECTIONS, ACCESS

~~001~~ Employees of the district and the Department shall have access at all reasonable times to inspect chemigation systems and otherwise carry out their duties under the Chemigation Act.

~~002~~ The district shall conduct an inspection of each injection location for which an application for a chemigation permit has been received to determine compliance with the equipment standards of Chapters 9 and 10 except as provided for in Chapter 5.

~~002.01~~ The inspection for a permit application to be issued according to Chapters 3 and 5 shall be conducted within forty-five days after the application is filed.

~~002.02~~ For each special permit issued according to Chapter 5, an inspection shall be conducted prior to permit renewal.

~~002.03~~ For each emergency permit issued, an inspection shall be conducted during the forty-five day effective period of the permit if no inspection was conducted prior to permit issuance.

~~003~~ The district shall conduct an inspection of ~~replaced or altered equipment~~ after being notified of such changes by the permit holder to determine compliance with Chapter 10. When in compliance, the district shall approve the continuance of the permit. If not in compliance, ~~the permit shall be suspended under Chapter 3, 004.05 until compliance is demonstrated and approval for operation is given by the district.~~

~~004~~ Each application for renewal is subject to inspection of equipment and site to determine compliance with the Chemigation Act. When an inspection is made and compliance is not demonstrated, renewal shall be refused, suspended, or revoked (pursuant to Chapter 3, ~~004~~) until compliance is achieved and approval for operation given by the district.

~~005~~ The district shall carry out an areawide, selective and periodic inspection program to insure compliance with the Nebraska Chemigation Act and these rules and regulations.

Enabling Legislation: Neb. Rev. Stat. §§ 46-1117 thru 46-1119; 46-1121, 46-1122, 46-1124 and 46-1127



Title 195  
Chapter 10

~~Legal Citation: Title 195, Ch. 11, Nebraska Department of Environmental Quality~~

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Title 195  
Chapter 10

~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 12 - POSTING~~

~~001 Signs shall be posted on chemigated fields when a restricted use pesticide or a chemical for which the label requires posting is used.~~

~~002 The signs required in these rules and regulations shall meet the following requirements:~~

~~002.01 A sign shall be posted at each usual point of entry into a treated area and at the point of chemical injection if located outside the treated area. Each sign shall be posted in such a manner that it is clearly visible and legible.~~

~~002.02 The sign shall contain the words "KEEP OUT, CHEMICAL APPLICATION THROUGH IRRIGATION SYSTEM".~~

~~002.03 The lettering on the sign shall be a color which clearly contrasts with the background and the letters shall be two and one half inches in height.~~

~~002.04 Each sign shall be posted and maintained during the chemigation period and until the end of reentry period as specified by the chemical label. The sign shall be posted no sooner than 48 hours prior to the start of chemigation and shall be removed, covered, or otherwise made illegible, no later than 48 hours after the end of reentry period.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1130~~

~~Legal Citation: Title 195, Ch. 12, Nebraska Department of Environmental Quality~~

## NEBRASKA ADMINISTRATIVE CODE

### ~~Title 195 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

#### ~~Chapter 13 – CERTIFICATION AND REVOCATION PROCESS FOR CHEMIGATION APPLICATORS~~

~~001~~ The Department shall conduct or contract with the University of Nebraska Cooperative Extension Service to conduct annual statewide training sessions in the safe use of chemigation. All chemigation applicators are required to attend a training session.

~~002~~ The director shall issue a card entitled "Chemigation Applicator Certification" to those individuals who attend a training session and pass a written examination approved by the Department acknowledging his/her satisfactory competency in the use of chemigation.

~~003~~ The Chemigation Applicator Certification, shall expire on January 1 of the fourth year after the date of issuance.

~~004~~ The Chemigation Applicator Certification shall be renewed by attending a training session and passing a written examination approved by the Department.

~~005~~ A Chemigation Applicator Certification may be revoked by the Department if the applicator:

~~005.01~~ Operates a chemigation system that is known to be defective or not in compliance with permit requirements;

~~005.02~~ Fails to report any actual or suspected chemigation accident to the district and the Department;

~~005.03~~ Operates or authorizes operation of a chemigation system without the necessary permit; or

~~005.04~~ Violates any of the provisions of the Nebraska Chemigation Act or subsequent regulations or standards.

~~006~~ Any person who has a certification revoked shall be afforded an opportunity for a fair hearing as provided in Neb. Rev. Stat. §81-1507(2)(3). The hearing shall be held upon written application to the director within thirty days after receipt of the notice from the director of such revocation. On the basis of such hearing the director shall affirm, modify or revoke his or her

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~~previous determination. The hearing shall be considered conducted as a contested case subject to Title 115, Rules of Practice and Procedure.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1128, 46-1129, and 46-1129.01~~

~~Legal Citation: Title 195, Ch. 13, Nebraska Department of Environmental Quality~~

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~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 14 - ACCIDENT REPORTING~~

~~001 The applicator or permitholder shall report any actual or suspected accident related to the use of chemigation in his or her system to the Department and the appropriate district within twenty-four hours of its discovery.~~

~~002 Notification shall be made by telephone to the Department and the appropriate district during office hours, from 8 a.m. to 5 p.m., Monday through Friday. After hours and holidays, reports shall be made to the Nebraska State Patrol. All information known about the accident at the time of discovery is to be included, such as time of occurrence, quantity and type of material, location, and any corrective or cleanup actions presently being taken.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1131~~

~~Legal Citation: Title 195, Ch. 14, Nebraska Department of Environmental Quality~~

~~NEBRASKA ADMINISTRATIVE CODE~~

~~Title 195 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY~~

~~Chapter 15 - ACCIDENT INVESTIGATION AND REMEDIATION~~

~~001 Any actual or suspected accident resulting from the use of chemigation shall be investigated by the appropriate district and the Department. The applicant or permit holder shall supply any additional information requested in the course of the investigation regarding the amount and type of substance(s) involved, the well and equipment involved, and information the applicant or permit holder would reasonably be expected to know.~~

~~002 The Department shall determine any immediate action necessary according to Part I of the Ground Water Remedial Action Protocol (Title 118, Ground Water Quality Standards and Use Classification, Appendix A).~~

~~003 The Department shall perform the appropriate assessments and develop a workplan for any further (final) remedial action according to Part II of the Ground Water Remedial Action Protocol (Title 118, Appendix A). The remedial action workplan shall be carried out by the permit holder under the supervision of the Department or the district.~~

~~Enabling Legislation: Neb. Rev. Stat. §§ 46-1131~~

~~Legal Citation: Title 195, Ch. 15, Nebraska Department of Environmental Quality~~

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## Appendix I

### Leakage Test

1. A check valve ~~shall~~must withstand for 1 minute, without leakage at joints or at the valve seat, an internal hydrostatic pressure of two times the rated working pressure of the valve. Slight weeping of water at the valve seat is acceptable for metal-to-metal seats. Leakage past clappers with, or in contact with, resilient seats, is not acceptable.
2. For the purposes of the test, "slight weeping" is defined as leakage not exceeding 1 fluid ounce per hour (0.008 mL/ sec) per inch (25.4 mm) of nominal valve size.
3. A Check valve ~~shall~~must withstand for 16 hours, without leakage at the valve seat, an internal hydrostatic pressure equivalent to the head of a column of water 5 feet (1,5 m) high retained within the downstream portion of the valve body. No leakage ~~shall~~may occur as evidence by wetting of paper placed beneath the valve assembly. This test is to be conducted with the valve in both the horizontal and vertical position if intended for such use.

~~"This material is based on and taken, with permission from Underwriters Laboratories Inc. Standard for Safety for Check Valves For Fire Protection Services, UL 312, Sixth Edition dated April 21, 1980, Copyright 1975, 1985 (by Underwriters Laboratories Inc.), copies of which may be purchased from Underwriters Laboratories Inc., Publications Stock, 333 Pfingsten Road, Northbrook, IL 60062."~~

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