

This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

24-008

March 2024

## Is It a Major Modification or Not under Title 130?

### Regulation

Title 130, Chapter 1, Part 028 defines a major modification as:

*An expansion or increase to the lot area or feeding area; change in the location of the animal feeding operation; change in the methods of waste treatment, waste storage, or land application of waste; increase in the number of animals; change in animal species; or change in the size or location of the livestock waste control facility.*

Requirements for a major modification application can be found in Title 130, Chapter 4, Part 002. The submission must include an application fee and will be public noticed.

Title 130, Chapter 14, Section 005 requires permittees to notify the Director if there are any modifications to a nutrient management plan previously submitted. The Department will review the changes and follow the procedure laid out in Section 005. A nutrient management plan must include the elements described in Title 130, Chapter 14, Section 001, and any change to the operation that would change one or more of those elements requires the permittee to follow the procedure described in Title 130, Chapter 14, Section 005.

### General Guidelines

Changes not meeting the definition of a major modification as described above do not need to go through the major modification procedure. However, changes not meeting the definition of “major modification”, may impact important elements of the livestock waste control facility which are beneficial to be updated in the facility file. Such changes may include, but not limited to, updating the stage storage tables and staff gauges. Having the most up to date information about the animal feeding operation and the livestock waste control facility helps to assure smoother compliance inspections and permitting processes. Should the owner or operator want the Department to verify that Title 130 requirements are still being met whenever changes are being planned, information may be requested including, but not limited to, forms, plans, calculations, drawings, and specifications. Such submissions should be in writing and will be reviewed by the Department.

Changing species, permitted headcount, structure type, structure count, or lot/feeding area requires an update and re-issuance of the facility’s permit to maintain accurate information for our records and the operations’.

The terms “expansion” and “increase” are used for “lot area” and “feeding area” in the definition of a major modification. Decreasing those areas would not be considered a major modification. The same applies with a decrease in the number of animals. Thus, when “change” is referenced for the size of a livestock waste control facility, it includes both an increase and decrease. If the headcount or lot/feeding area is decreased and changed in the permit, increasing back to the original numbers later would still require a major modification. Changes to the facility which affect the storage capacity or capability of waste control structures could be considered a major modification.

Installation of any new erosion protection measures requires Department review and approval regardless of if it meets the definition of a major modification. If it does meet the definition, then an application will need to be submitted (Title 130, Chapter 4, Part 008). In the event of a failure of an existing livestock waste control structure, an evaluation of the design may be required and may cause a major modification to be required (Title 130, Chapter 4, Part 009).

## Examples

The following lists are intended as general guidance and are not meant to cover all circumstances. Each operation has its own unique circumstances and is responsible for assuring compliance with Title 130 and submitting a major modification when it is required. It is best to contact the Department when there is uncertainty about the determination.

Changes that would require a major modification:

- Increasing the lot/feeding area.
- Changing location of an animal feeding operation (AFO).
- Changing method of waste treatment.
- Changing method of waste storage.
- Changing method of land application. For example, between flood and sprinkler methods.
- Adding in flood or sprinkler methods that have not been previously described.
- Increasing the permitted animal headcount.
- Changing animal species. This includes a change between swine greater than 55lbs and less than 55lbs.
- Changing size or location of a livestock waste control facility (beyond what the tolerances specified).
- Changing basin type (Debris Basin to Wet Basin or vice versa).
- Changing the structure type (Holding Pond to Lagoon, Lagoon to Holding Pond, etc.).
- Removing a debris basin.
- Combining holding structures.
- Installing or modifying a lift station.

Changes that do not require a major modification:

- Decreasing the lot/feeding area.
- Decreasing the permitted animal headcount, such as from a large animal feeding operation designation to a medium, or small.

- Putting a bed pack barn within an approved pen space.
- Adding a clean water diversion that reduces contributing runoff entering a livestock waste control facility.
- Adding pump-out ports onto a deep pit barn.
- Changing from a portable pump to a permanent pump of equal capacity.
- Routine repairs (Title 130, Chapter 4, Part 007).
- Adding risers into existing debris basins.

Changes that would require a case-by-case evaluation:

- Changing critical levels within a livestock waste control facility.
- Re-directing contributing runoff from one livestock waste control facility to another (by grading, diversions, etc.).
- Adding contributing area (including feed storage area). This may be subject to a Department of Natural Resources approval if the contributing area exceeds 25 acres (N.R.S. 54-2430).
- Changing the liner type.
- Lining an existing livestock waste control structure.
- Changing the surface type of open lot pens (dirt to paved or vice versa).

**Regardless of whether the change is a major modification or not, information must be submitted to the Department for review and official determination. The Department cannot make a determination about applicability without an official submission from the owner and/or operator.**

---

## Questions?

### Contact:

Nebraska Department of Environment and Energy  
245 Fallbrook Blvd  
Lincoln, NE 68509-8922  
Phone: (402) 471-2436  
Toll-free: (877) 253-2603

---

Visit our website: <http://dee.ne.gov>

---

This material is intended for guidance purposes only. It is not meant to substitute for the regulations specified in the document, or any other applicable Nebraska environmental regulations.