

PART 501 AUTHORIZATIONS

SUBPART A - REVIEW AND APPROVAL

NE501.03 COMPLIANCE OF ENGINEERING WORK WITH LAWS AND REGULATIONS

(a) Engineering technical assistance will be conducted in a manner consistent with the provisions set forth in GM 450, Part 405, Subpart A, Compliance with Laws and Regulations.

(1) Typical examples of engineering work involving compliance with laws and regulations in Nebraska.

(i) Flowage, storage, drainage, or diversion of water. Examples of some of the engineering work to which this applies are:

a) straightening of stream channels where the land upstream or downstream may be effected;

b) drainage systems, including tile and open-ditch drainage where the discharge may affect another owner's property;

c) terrace systems or spillways of dams, etc. which divert water from one drainage to another;

d) impounding water on lands owned by others;

e) construction of dams on land owned by others;

f) changing the natural drainage in developing irrigated lands so the surface drainage system enters the adjoining property at a new location or carries a much larger quantity of water than before.

(ii) Floodplain construction. Proposed activity or construction of artificial obstructions within floodways or flood plains must receive prior approval from the agency having jurisdiction within designated floodways or flood plain areas. Both a local permit and a 404 permit could be required for construction in the flood plain. County maps, indicating floodways and flood plains and the state or local agency having jurisdiction, are available in each field office.

(iii) Livestock waste control and management. The Nebraska Department of Environmental Quality (NDEQ) has regulatory responsibility of livestock waste control facilities and their management.

(iv) Irrigation system, tailwater recovery. State law provides that a landowner may reuse the groundwater irrigation runoff that originates on his own property without a permit. Any landowner intending to construct a tailwater recovery pit for irrigation runoff, which originates in whole or in part on land other than that belonging to the owner, should contact the Nebraska Department of Natural Resources (NDNR) to determine if a permit is needed.

(v)

PART 501 AUTHORIZATIONS

Dams and reservoirs. The State of Nebraska, Department of Natural Resources, Rules for Surface Water, specifies the data, format requirements, and conditions under which permits are issued prior to construction of dams or the storage of water. The service may assist the cooperators in preparing the required documentation in order for the Department of Natural Resources to determine whether a permit is needed.

(vi) Structures involving state highways. Plans for any structure to be built in whole or in part on state highway right-of-way, any structure storing water (either from permanent or temporary storage) on the right-of-way, or any structure that might affect any improvements within the right-of-way must receive written approval of the Nebraska Department of Roads, P.O. Box 94759, Lincoln, NE 68509-4759. The responsible engineer may assist the cooperators in reviewing plans with the responsible highway district engineer.

(2) Technical assistance limitations and responsibility for compliance with laws and regulations.

(i) When damage to other lands or property is evident because of the work, or where the work must extend to land beyond the ownership of the cooperators to insure a complete job, the employee shall not assist with construction layout until the necessary easements, rights of way, and other legal aspects have been resolved by the cooperators or group.

(ii) The cooperator or sponsor will be responsible for securing all necessary permits and complying with all laws or ordinances. NRCS personnel will not interpret the law. NRCS personnel will advise the cooperators, prior to designing the practice, that there are laws concerning this type of work and to obtain legal assistance as necessary.

(iii) Before assisting with a practice likely to require a permit, the individual or group should have, or agree to obtain, a valid right in accordance with state law and regulations. NRCS personnel will not give assistance under conditions where the cooperators declines to obtain a required permit or where litigation exists. NRCS personnel shall not be involved in situations where litigation exists regardless of documented evidence of a vested right. Assistance can be resumed or given after all litigation and controversial issues have been resolved.

(iv) See Subpart G, NE501.80, NE Exhibit 1, for a listing of publications of the statutes, rules, regulations requiring permits, easements, or other approvals of federal or state regulatory agencies frequently encountered in NRCS work. See Subpart G, NE501.81, Exhibit 2, for a chart of the Nebraska Department of Natural Resources' requirements for dams.

NE501.03(b) State of Nebraska engineering plan sealing requirements

(1) All projects sealed by a NRCS registered professional engineer will follow procedures outlined in the Nebraska Engineers and Architects Act for sealing design reports, construction drawings, specifications, and other engineering documents.

SUBPART A - REVIEW AND APPROVAL

NE501.03(c) Approving and sealing engineering plans

(1) Practices requiring construction permits. All engineering plans prepared by NRCS subject to approval and/or permits to construct the project by a regulatory agency, must be sealed by a registered professional engineer having appropriate job approval authority, except when exempted by that regulatory agency. When the plans and specifications, sealed by a responsible engineer, are sent directly to the regulatory agency, a copy will also be sent to the State Conservation Engineer.

(i) Examples of regulated practices to be sealed by a registered professional engineer are as follows:

a) Dams that require a permit from the Nebraska Department of Natural Resources.

b) Agricultural waste management systems submitted for a permit from the Nebraska Department of Environmental Quality (NDEQ) are to be sealed by a registered professional engineer, if required in NDEQ Rules and Regulations pertaining to Livestock Waste Control - Title 130.

(2) Practices not requiring construction permits. The following conservation practices will be designed under the direction of and approved by a registered professional engineer with appropriate job approval authority:

(i) Any conservation practice involving water for human consumption.

(ii) All job class VI – VIII practices.

(iii) All job class V practices effected by the rules and regulations listed in Subpart G, NE501.80, NE Exhibit 1.

(iv) Additionally, all job class V practices listed below:

Practice Code	Practice Name
356	Dikes
378	Pond
430	Irrigation water conveyance pipeline
522B	Irrigation regulating reservoir
568	Recreation Facilities

(3) Practices designed “under the direction of a licensed professional engineer” means that the engineer has direct professional knowledge and responsible control of the project.

(i) As soon as it is determined that a project will require a registered engineer, one will be engaged to serve as the responsible engineer in charge for the project.

PART 501 AUTHORIZATIONS

(ii) This responsible engineer will facilitate a pre-design conference onsite to preview alternatives with the active participants and decide the course of action. Investigation requirements, work assignments, and preliminary design decisions will be determined.

(iii) The responsible engineer will either design the project or be actively involved in the design decisions. Other engineers, engineering technicians, or field office personnel may do the detailed work in each of the phases. Plans, specifications, and a design report will be prepared, including the establishment of the level of construction inspection requirements.

(iv) The responsible engineer will monitor project construction to assure the project is installed as designed and that unanticipated design concerns surfacing during construction are properly addressed. As-built parameters will be documented on as-built plans and filed in the case folder.

(v) By signing/sealing the final plans, the engineer accepts responsibility for all of the decisions made during the development of the plans.

NE501.04(b)(2) Review and approval of engineering work

(i) All NRCS and non-NRCS employees operating under NRCS technical direction who provide engineering services are to be issued job approval authority on form NE ENG-14 which lists the maximum authority for design and construction certification.

(ii) Employees are encouraged to work on certain phases of projects that exceed their approval level under the guidance of more experienced employees with proper approval authority. It is not necessary or practical for the person with approval authority to perform all the steps leading to a complete job. It is expected that other employees will carry out functions (survey, design, drafting etc.) as far as their knowledge and abilities will permit. Employees are responsible for requesting guidance and review and for obtaining approval from an individual with proper authority. For example, a person with a class II approval limit can do the survey, design calculations, or drafting on a class III job, which will be approved by someone with class III authority.

(iii) The assigned engineering job approval authority is intended to reflect an employee's skill to design and inspect construction of conservation practices. Employees acquire job approval authority by working beyond their assigned level of approval and by having it reviewed by the individual who delegates their JAA.

(iv) Job approvals will reflect different levels of complexity for each of the given practices.

a) Design skills consist of analyzing the practice location, designing according to standards, and developing plans and specifications.

b) Construction skills consist of being able to determine if the practice is being built according to plans by observation, testing, and survey.

PART 501 AUTHORIZATIONS

SUBPART A – REVIEW AND APPROVAL

NE501.04(b)(3) Evaluation of individual job approval authority classifications.

(i) Initial delegation and subsequent updates of job approval authority will be discussed jointly by the employee and the engineer and, where possible, the employee's supervisor, prior to the assignment of the job approval authority. Points of suggested discussion are:

a) The current level of job approval authority for the employee (new employees will have no approval authority until they have received some training and demonstrate some proficiency).

b) The level of job approval authority needed in the employee's position to effectively manage the workload.

c) The supervisor's and the engineer's assessment of training support and experience that will bring the employee to the desired level of job approval authority.

d) Activities that would contribute to the employee's ability to maintain competence at levels of delegated job approval authority. When more than 4 years have passed since the employee designed a practice, or one with similar components, consideration should be given to reducing the level of delegated authority for that practice.

NE 501.04(b)(5) Responsibility for assignment of job approval authority

(i) The State Conservation Engineer will delegate job approval authority to all District Conservationists and Field Engineers. The Field Engineer will be responsible for the administration of job approval authority delegation to all NRCS and non-NRCS personnel working as partners under NRCS technical direction in their area of responsibility.

(ii) A Field Engineer vacating his/her position, such as due to reassignment or retirement, shall update the delegated job approval authority of all employees within his/her area of responsibility before leaving.

NE501.04(c)(3) Nebraska policy for processing of Class VI through VIII jobs.

(i) The State Conservation Engineer will coordinate the design and review of Class VI, VII and VIII jobs. Both designs and reviews will be carried out under the direction of a registered professional engineer.

(ii) Engineering Class VI, VII and VIII jobs require a formal review. Design documentation will be complete and prepared in a logical manner to aid the review process

PART 501 AUTHORIZATIONS

SUBPART A - REVIEW AND APPROVAL

NE501.05(a)(3) Review of Class I through V jobs.

(i) Review of engineering designs consists of checking for accuracy and conformance to policy and procedures.

(ii) All engineering designs will be checked for accuracy. This should be done by someone other than the one preparing them. Staff in one-person field offices can check their own work on Class I and II projects.

(iii) Engineering Class III, IV and V jobs will be reviewed by a qualified person who has appropriate job approval authority.

NE501.05(b)(1) Post reviews

(i) Quality assurance reviews will be conducted in accordance with General Manual §450-407 and §330-NE405.3.

(ii) Special investigations for problems and deficiencies will follow policies in NEM §504.