

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.

Proposed Dry Litter Barn Poultry Animal Feeding Operations (AFOs)

Poultry Animal Feeding Operations (AFOs) proposing to build dry litter barns, with no liquid manure system, may be exempt from the permitting requirements included in [Title 130 - Livestock Waste Control Regulations](#) provided:

- A. The livestock waste generated at the facility is entirely contained within the building; and B. Any stockpiled waste is stored in an area that will not impact waters of the State.

According to the Nebraska Livestock Waste Management Act ([Neb. Rev. Stat. §54-2422](#)) *, a proposed small poultry AFO is exempt from any inspection and permitting requirements, provided the operation does not discharge pollutants into waters of the State and the Nebraska Department of Environment and Energy has not determined that such a discharge is more likely than not to occur. Any proposed medium or large poultry AFO desiring to build dry litter barns must request an inspection from the Department. Inspections can be requested by submitting a Title 130 [Form A - Request for Inspection](#), along with the appropriate inspection fee. Attachment 1 includes a list of items to consider prior to requesting inspection. Upon completion of the inspection, if the Department determines that the above requirements have been satisfactorily met, a letter of exemption from permitting requirements will be sent to the proposed operation.

Species	Large AFO (# of birds)	Medium AFO (# of birds)	Small AFO
Chickens - Laying Hens No liquid manure system	82,000	25,000-81,999	Small AFOs are those operations with less than the number of animals at a Medium AFO
Chickens - Other than Layers No liquid manure system	125,000	37,500-124,999	
Turkeys	55,000	16,500-54,999	

AFO Size	Inspection Fee
Large	\$500
Medium	\$200

Receiving an exemption from permitting requirements from the Department does not relieve an operation of other duties and responsibilities under the Nebraska Environmental Protection Act, the [Nebraska Livestock Waste Management Act](#) * or Title 130 (see Attachment 2). The operation is responsible for preventing the discharge of livestock waste to waters of the State and for complying with any county or local zoning regulations. An operation may be required to obtain a Construction and Operating Permit or a National Pollutant Discharge Elimination System

(NPDES) Permit for Concentrated Animal Feeding Operations if a discharge occurs or if revisions to state laws and regulations impact the status of the operation.

If an exempt operation desires to obtain permit coverage, they may submit an application requesting coverage under the NPDES Permit for Concentrated Animal Feeding Operations. The application must include the requirements described in [Title 130, Chapter 5](#). These requirements include, but are not limited to, an application fee (\$200) and a Nutrient Management Plan (see [Title 130, Chapter 14](#)). Attachment 3 includes a list of the items needed to submit a complete NPDES Permit application to the Department.

Attachment 1

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

The following is a list of items that should be considered prior to submitting a [Title 130 Form A - Request for Inspection](#). This summary is not intended to be a comprehensive list, but rather a helpful planning guide.

- Check your county zoning regulations to determine any setback requirements or other local restrictions;
- Building placement - consider the barn location in relation to surface waters, floodplains and wells. The Department recommends that livestock barns be constructed a minimum of 100 feet from domestic wells and 1,000 feet from municipal wells. If you plan to install a well less than 100 feet from the barn location, please contact the Nebraska Department of Health and Human Services to ensure compliance with all water well standards (see: <http://dhhs.ne.gov/publichealth/Pages/enhwwsindex.aspx>)*;
- An NPDES Construction Storm Water General Permit will be required if construction activity disturbs a land area of one (1) acre or more. Application for permit coverage can be made by accessing the following website: <https://ecmp.nebraska.gov/DEQ-CSW>*;
- Stockpile locations - it will be necessary to designate a location, either on-site or off-site, to stockpile poultry litter. The stockpiles must be placed in a location that will not negatively impact waters of the State. The Department strongly encourages constructing a berm around the stockpile or, when possible, placing the stockpile under roof;
- Land application - does your operation have the necessary application equipment or have alternate methods been established to properly dispose of livestock waste? The Department recommends that each operation design and execute a site specific nutrient management plan. The plan should identify an application protocol that ensures livestock waste will be land applied at a rate that does not exceed the agronomic need of the planted crop. It may be helpful to view the Department's Environmental Guidance Document titled "[Narrative Rate Approach Nutrient Management Plan Outline](#)" for additional aid in developing a site specific nutrient management plan. You can view the document by visiting the Department's website at <http://dee.ne.gov/> and typing "narrative rate" into the search box. If your operation proposes to transfer waste to another individual, the Department recommends maintaining record of: the recipient name and address, the date of transfer, the approximate amount of waste transferred and documentation indicating that a nutrient analysis was performed on the waste, with a copy of the results given to the recipient;
- Mortality management - evaluate options for the proper disposal of mortalities. This may include composting, burial or incineration. Careful thought should also be given to the operation's response to a catastrophic loss of livestock. Please be aware that the installation of an incinerator will require a permit from the Department's Air Division (see: <http://dee.ne.gov/NDEQProg.nsf/OnWeb/Hotline>). Additionally, any ash generated by incineration must be disposed of in a landfill. It may be possible to land apply the ash by requesting that the Nebraska Department of Agriculture consider it a soil conditioner. Please contact the Department of Agriculture if you wish to pursue this option (see: <http://www.nda.nebraska.gov/plant/fertilizer/index.html>)*;
- Biosecurity - will the operation have a bathroom or showering facilities on-site that will require a septic system? If a septic system is necessary, a Certified Installer must complete the installation and properly register the system. You can find a complete list of Certified Installers by visiting the Department's website at <http://dee.ne.gov/> and typing "certified installers" into the search box.

Attachment 2 NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

The following is a summary of regulatory requirements for all animal feeding operation owners or operators collected from [Title 130, Livestock Waste Control Regulations, Chapter 2](#). This summary is not intended to be a comprehensive list of requirements, but rather a helpful guide for an owner or operator to navigate their responsibilities under the [Nebraska Environmental Protection Act](#), the [Nebraska Livestock Waste Management Act](#) * and [Title 130](#). Please refer to [Title 130](#) in its entirety for a complete listing of regulatory obligations. Any person who owns or operates an animal feeding operation shall not:

- Provide or present false or misleading information to the Department or omit relevant facts when submitting reports or applications to the Department;
- Allow livestock at an animal feeding operation to come into direct contact with waters of the State, apply livestock waste on or into waters of the State or otherwise allow or cause a discharge;
- Apply manure, litter or process wastewater to land in a manner that results in a discharge to waters of the State or that is not in accordance with nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater;
- Stockpile livestock waste in a drainage way or other location where it is likely to impact waters of the State;
- Deny the Department access to an animal feeding operation, at any reasonable time, for inspection purposes or deny access to any records, at any reasonable time, required under the regulations;
- Construct an animal feeding operation or any portion thereof prior to an inspection by the Department, unless exempted from inspection by the Nebraska Environmental Protection Act, Livestock Waste Management Act or these regulations;
- Construct a livestock waste control facility without a Construction and Operating Permit or Construction Approval or not in compliance with a Construction and Operating Permit or Construction Approval issued by the Department, unless exempted from the requirements for a Construction and Operating Permit by the Nebraska Environmental Protection Act, Livestock Waste Management Act or these regulations;
- Operate an animal feeding operation prior to construction of an approved livestock waste control facility, unless exempted from the requirements for a Construction and Operating Permit by the Nebraska Environmental Protection Act, Livestock Waste Management Act or these regulations;
- Operate an animal feeding operation without a Construction Approval, Operating Permit, Construction and Operating Permit or an NPDES Permit as required in Chapter 5 of these regulations, unless exempted from permitting under these regulations;
- Discharge animal excreta, feed, bedding, spillage or overflow from water systems, wash and flushing waters, sprinkling water from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation or other materials polluted by livestock waste in violation of or without first obtaining an NPDES Permit, a Construction and Operating Permit, Construction Approval or exemption from the Department, if required by the Nebraska Environmental Protection Act, Livestock Waste Management Act or these regulations;
- Place or allow dead animals or animal parts in a livestock waste control facility. Dead animals or animal parts shall not be land applied with livestock waste except when properly composted or when dead animals have been processed by an approved means of mortality disposal;
- Dispose of chemicals in a livestock waste control facility; or
- Violate any provision of the Livestock Waste Management Act and regulations.

Any person who owns or operates an animal feeding operation shall report any discharge of manure, litter or process wastewater to the Department within twenty-four (24) hours of the event and provide a written report to the Department within five (5) days of the event.

Attachment 3 NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

A complete application for coverage under a National Pollutant Discharge Elimination System (NPDES) Permit for Concentrated Animal Feeding Operations must meet the following minimum requirements outlined in Title 130, *Livestock Waste Control Regulations*, Chapter 5, 003.

Each application for an NPDES Permit shall consist of and include at a minimum, the following:

- The appropriate application fee (\$200);
- A completed [Form B - Permit Application](#);
- A completed [Form C - Applicant Disclosure](#);
- A completed nutrient management plan** and supporting documentation as specified in Title 130, Chapter 14, unless such information has previously been submitted and is unchanged;
- Written evidence that the applicant has obtained any necessary approvals related to the animal feeding operation from the Nebraska Department of Natural Resources for any dam structures or for the storage of runoff from any non-feedlot contributing drainage area; and
- Any other relevant information required by the Department.

**See also the Department's Environmental Guidance Document titled "[Narrative Rate Approach Nutrient Management Plan Outline](#)" for additional aide in developing the required nutrient management plan.

RESOURCES:

- NDEE Home Page - <http://deg.ne.gov/>

NDEQ Publications*:

- [Title 130 - Livestock Waste Control Regulations](#)
- [NDEE Guidance Document - Animal Feeding Operation \(AFO\) Categories and Fees](#)
- [NDEE Guidance Document - Narrative Rate Approach Nutrient Management Plan Outline](#)

Contacts:

- NDEE Agriculture Section - (402) 471-4239
- NDEE Toll Free Number - (877) 253-2603

*These are available on the NDEE website or by calling the NDEE Agriculture Section.

Produced by: Agriculture Section, Water Quality Division, Nebraska Department of Environment and Energy, PO Box 98922, Lincoln, NE 68509-8922; phone (402) 471-4239. To view this, and other information related to the agency, visit our web site at <http://dee.ne.gov/>. This material is intended for guidance purposes only. It is not meant as a substitute for the regulations found in [Title 130 - Livestock Waste Control Regulations](#) or other applicable Nebraska environmental regulations.

*** This Page contains links to Non-NDEE websites, these links will open in a New Tab or Window**

