



PERMITTING & CONSTRUCTING

ANIMAL FEEDING OPERATIONS IN NEBRASKA

A whitepaper by:

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The regulations for animal feeding operations (AFO) in Nebraska (NE) are very comparable to the federal Environmental Protection Agency (EPA) regulations. The Nebraska Department of Environmental Quality (NDEQ) reviews and issues the permits required for all proposed AFOs in NE. There are two permits issued to AFOs in NE: the state Construction and Operating Permit and the federal National Pollutant Discharge Elimination System (NPDES) Permit.

Proposed AFOs and existing operations planning to expand or construct livestock facilities must first request an initial inspection with NDEQ prior to starting construction. This initial inspection should be scheduled immediately after determining a livestock facility will be constructed. After conducting the inspection the NDEQ will notify the producer if and/or what permits are required.

The federal EPA regulations have one major objective: eliminate waste discharges to waters of the United States. Contaminated runoff must be contained, and, if structures cannot be constructed to completely eliminate the potential to discharge, then the site may need to obtain an NPDES permit that will allow the site to discharge runoff during exceptionally large precipitation events.

The type of housing doesn't play a role in the regulations and construction permit requirements—instead it is the number of animals that determines the site's size. All concentrated animal feeding operations in NE are required to have an Operating Permit, and either apply for a National Pollution Discharge Elimination System (NPDES) Permit or prove to the NDEQ that there is no potential to discharge from the site.

Each county in NE can also have different construction and zoning requirements and setbacks to follow on top of the state requirements. Separate county approval and permitting processes can also be required for proposed or expanding livestock facilities.

It can be a bit overwhelming to try to understand all the regulations and the permitting process, but it is important that producers realize they have options. I will be providing an overview of these options, but every site and producer is different, so I recommend contacting a consultant that specializes in animal feeding operations for site-specific details.

When you have decided that you want to build a livestock facility there are two main questions that need to be considered: 1.) How many head will use the facility? 2.) Where will the facility be located?

SITE RESTRICTIONS FOR LIVESTOCK FACILITIES

The NDEQ has very few required setbacks for livestock facilities with most of the required setbacks being addressed at the county zoning level. According to NDEQ regulations, all livestock facilities have required setbacks from cold-water class A stream watersheds, wells, and groundwater. These setbacks are very straightforward with the distances the same for all sizes of operations.

New facilities cannot be constructed within the watershed of a cold-water class A stream. Existing operations (already located within the watershed) can expand but must be located at least 1 mile from the cold-water stream, and the expansion cannot pose a threat to the stream at the DEQ's discretion. The separation distance to a domestic well is 100 feet. There is also a 4-foot separation distance to groundwater. The separation to groundwater can be less, but it comes with additional construction requirements and possible groundwater monitoring.

The location of the animal feeding operation structure is the biggest factor in determining the ease of obtaining an NDEQ Construction and Operating Permit. Since every county is different, the county zoning office should be contacted directly to determine additional county-based setbacks.

PERMIT APPLICATION REQUIREMENTS

Other than the siting requirements stated above all construction permit applications must also have a nutrient management plan (NMP) along with the construction specifications of the proposed structure. The NDEQ also has multiple permit application forms that must be completed and included in the permit applications.

The NMP shows all the land that is available for application of the manure generated from the site. The cropland must be mapped to clearly show the location for application along with recent soil sample results indicating the residual nutrient content of the soil to determine the amount of nutrients that can still be applied for crop uptake. There are many benefits to having an NMP, as commercial fertilizer is very expensive and manure is no longer considered a waste but a very valuable commodity. Over applying manure is a major mistake and wasteful. Having an NMP also allows land application to be exempt from proving a discharge.

The size of the proposed livestock facility determines the amount of construction specification detail needed to be included in the construction permit application. Smaller operations may not need NDEQ permits but may still need construction permits from the county zoning department. Larger operations are more closely reviewed by NDEQ engineers and require full engineering plans, reports, and construction technical specifications for permit submittal. For these larger operations it takes longer to complete the engineering documents for submittal and typically longer for NDEQ to review and permit the livestock facilities. Producers must figure at least 60 days for larger sites to get permitted and start construction. It is never too early to contact a professional consultant to at least start the conversation for a possible construction permit.

GRANT AND FINANCING OPTIONS AVAILABLE

There is one main option in NE for funding the construction of cattle barns. The United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) offers grant money through their Environmental Quality Incentives Program (EQIP).

The NRCS EQIP program is fairly competitive so it can take time to be approved and funded. Every county is different, but a top priority of the program is to close open lots and construct confinement barns. Producers compete with each other, so the site with the most problems and making the most improvements typically gets the highest priority. If approved the structures must have engineering design, plans and specifications, along with inspection and certification of the construction. A comprehensive nutrient management plan (CNMP) must also be completed, which is a detailed manure management plan that also includes commercial fertilizer, dead animal handling, and other details of the operation. Each county has different payment rates and funding budgets, so I encourage producers to contact the NRCS office immediately after they have discussed the possibility of a project to see if this grant money is available. Typically projects are funded only once per year in the spring and producers should be signed up by the middle of the winter to get on the list for ranking.

There are a few extra requirements but typically it is well worth the hassle.

SUMMARY

Even though mentioned above, there are a couple of statements that need to be reiterated:

- 1.) When you have decided that you want to build a livestock facility there are two main questions that need to be considered: 1.) How many head will use the facility? 2.) Where will the facility be located?
- 2.) Producers must allow at least 90-180 days for larger sites to get designed and permitted before starting construction. Producers must contact the NDEQ and the county immediately after they have decided to proceed with a proposed livestock facility. It is never too early to contact a professional consultant to at least start the conversation for a possible construction permit.
- 3.) It can be a bit overwhelming trying to understand all the regulations and the permitting process but it is important that producers realize they have options.
- 4.) Every site and producer is different so I recommend contacting a consultant that specializes in animal feeding operations for site-specific details.

For more information contact:

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