

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.

Local Siting Approval for Solid Waste Management Facilities

An application for a new solid waste disposal area or compost facility must contain proper documentation demonstrating local siting approval pursuant to Neb. Rev. Stat. Sections 13-1701 to 13-1714 for private owners and Neb. Rev. Stat. Section 13-2035 for owners who are government entities. These statutes may be found at <http://nebraskalegislature.gov/>. Applications received without the proper documentation will be considered incomplete and will not be reviewed.

Privately owned facilities follow these steps:

1. The owner provides written notification of the request for siting approval to be served in person or by registered or certified mail to adjacent property owners and publishes in a local newspaper notice of the intent to request local siting approval from the appropriate governing body pursuant to Neb. Rev. Stat. Section 13-1704.
2. No sooner than 14 calendar days after notification of property owners, the proposed facility owner may submit a request for local siting approval to the appropriate governing body, demonstrating compliance with the criteria found in Neb. Rev. Stat. Section 13-1703 which is summarized as follows:
 - The facility is necessary to meet the solid waste needs of the area;
 - The facility is designed, located, and proposed to be operated so that the health, safety, and welfare of the local population will be protected;
 - The facility is located to minimize incompatibility with the surrounding area and has been reviewed by the appropriate planning commission;
 - The plan minimizes danger from fire, spills, or other operational accidents;
 - Traffic patterns are designed to minimize impact on existing traffic flows; and
 - Private facility owners must also submit information regarding previous operating experience and show a lack of criminal history.
3. The request and all documents must be made available to the public at the local governing body's office. This provides the public an opportunity to comment in writing at any time up to 30 calendar days after the last public hearing regarding this issue.

4. The governing body receives the request at a regular meeting and determines if it is appropriate to proceed. If so, it sets a hearing date for at least one public hearing, no sooner than 90 calendar days but no later than 120 calendar days after the receipt of the request for local siting.
5. Notice of the public hearing is published in a local newspaper pursuant to Neb. Rev. Stat. Section 13-1706.
6. A public hearing is conducted sufficient to develop a record to form the basis of an appeal of the decision. Comments received in writing will be accepted up to 30 calendar days after the last public hearing regarding this issue. Local zoning ordinances, local land use requirements and other ordinances or resolutions must be considered.
7. The governing body takes final action on the request within 180 calendar days after the filing of the request for site approval. An amended request for approval by the proposed facility owner may be filed at any time prior to completion of the presentation of factual evidence and questioning. An amended request for approval may extend this time limitation for 90 days. See Neb. Rev. Stat. Section 13-1707.
8. If approved, the application for a permit is submitted to the Nebraska Department of Environment and Energy with the following siting approval documentation:
 - Attached Certification Form;
 - Copy of the request for approval of local siting;
 - Copy of the letter delivered to adjacent property owners at least 14 calendar days prior to the request for siting approval;
 - Copies of all public notices;
 - Written comments, if received; and
 - Public hearing record showing the local governing body considered the required criteria. The record should show the outcome of any vote taken. If the local siting approval took place at a subsequent meeting, a copy of the minutes of that meeting should also be included.

Governmental owned facilities follow these steps:

1. The governing body makes a preliminary decision to site a facility based on criteria specified in Neb. Rev. Stat. Section 13-1703.
2. The governing body provides written notification of the request for siting approval to be served either in person or registered or certified mail to adjacent property owners at least 14 calendar days before a regular meeting at which the body intends to set a public hearing date pursuant to Neb. Rev. Stat. Section 13-1704. The governing body publishes notice of its intent to locate the facility at the chosen site in a local newspaper.
3. At the scheduled regular meeting (the one specified after the 14 calendar day notice), a public hearing date is set and notice is provided pursuant to the Open Meetings Act. Neb. Rev. Stat. Sections 84-1407 to 84-1414.

4. The NDEE recommends that all documents be made available to the public for viewing purposes. This provides the public an opportunity to review and make comments.
5. If siting approval is granted, the governing body submits the application for a permit to the Nebraska Department of Environment and Energy with the following local siting approval documentation:
 - Attached Certification Form;
 - Copy of the letter delivered to adjacent property owners at least 14 calendar days prior to the request for siting approval;
 - Copies of all public notices;
 - Written comments, if received; and
 - Public hearing record showing the governing body considered the required criteria. The record should show the outcome of any vote taken. If the local siting approval took place at a subsequent meeting, a copy of the minutes of that meeting should also be included.

Questions and Answers

1. Which facilities are covered by these local siting approval rules?

Answer: All types of solid waste disposal areas, and incinerators and compost plants receiving material, other than yard waste, in quantities greater than one thousand cubic yards annually. Privately owned facilities must meet the requirements of Neb. Rev. Stat. Sections 13-1701 to 13-1714. If the facility is owned by a government entity they must meet the requirements of Neb. Rev. Stat. Section 13-2035.

2. Does a renewal of an existing permit require local siting approval?

Answer: No.

3. Does a new application for a facility to be located within an existing permitted facility need local siting approval?

Answer: Yes. For example, if a new application is submitted for a C& D Landfill to be located on the property of an existing permitted facility, the applicant would be required to obtain Local Siting Approval.

4. Who are the adjacent landowners that need to be notified?

Answer: Adjacent landowners are those who own property within 1000 feet of the property line if the proposed facility is within three miles of a city or village. If outside the three mile limit, adjacent property owners are those within two miles of the proposed facility.

5. When is a governing body exempt from siting approval requirements of Sections 13-1701 to 13-1714?

Answer: When the county, municipality or agency are to be the owner and the facility is to be (1) located in a county where unincorporated areas in that county are going to be served, or (2) located in a county where a municipality in that county is going to be served.

RESOURCES:

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

Contacts:

- NDEE Waste Management Section (402) 471-4210
- NDEE Toll Free Number (877) 253-2603
- NDEE Hazardous Waste Compliance Assistant (402) 471-8308
- Email questions to: NDEE.moreinfo@nebraska.gov

NDEE Publications:

- [Title 128 – Nebraska Hazardous Waste Regulations](#)
- [Title 132 – Integrated Solid Waste Management Regulations](#)
Titles are available on the NDEE Home Page under “Laws/Regs & EQC”, “Rules & Regulations”

Produced by: Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, NE 68509-8922; phone (402) 471-2186. To view this, and other information related to our agency, visit our web site at <http://dee.ne.gov>.

Certification of Compliance with Local Siting Requirements

Name of Facility: _____

Mailing Address: _____

City/State/Zip: _____ Tele #: _____

Legal Description: (NE/SE/NW/SW) Quarter, (NE/SE/NW/SW) Quarter,

Section _____ Township _____ (N) (S), Range _____ (E)(W). County: _____

Mark one of the following:

I certify that the above-referenced solid waste management facility **HAS RECEIVED** local siting approval in accordance with Neb. Rev. Stat. Sections 13-1701 to 13-1714, or with Section 13-2035, as applicable.

I certify that the above-referenced-solid waste management facility **DOES NOT REQUIRE** local siting approval in accordance with Neb. Rev. Stat. Sections 13-1701 to 13-1714, or with Section 13-2035, as applicable.

Name of Authorized Local Government Official (Please print) Title

Signature of Authorized Local Government Official Date

Representing _____
(Name of County or Municipality)