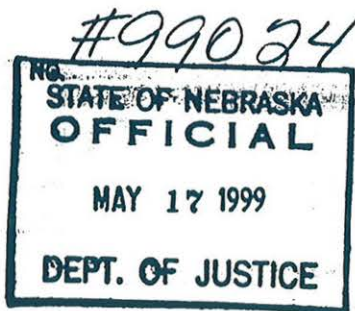




STATE OF NEBRASKA  
Office of the Attorney General

2115 STATE CAPITOL BUILDING  
LINCOLN, NE 68509-8920  
(402) 471-2682  
TDD (402) 471-2682  
CAPITOL FAX (402) 471-3297  
1235 K ST. FAX (402) 471-4725

DON STENBERG  
ATTORNEY GENERAL



STEVE GRASZ  
LAURIE SMITH CAMP  
DEPUTY ATTORNEYS GENERAL

DATE: May 13, 1999  
SUBJECT: Poultry Processing Plants - Electrical Inspection  
REQUESTED BY: Terry L. Carlson, Executive Director  
WRITTEN BY: Don Stenberg, Attorney General  
Mark D. Starr, Assistant Attorney General

You have asked whether poultry feeder buildings are subject to inspection pursuant to the State Electrical Act. Each of the buildings you describe will house approximately 40,000 young chickens until they are ready for processing. Two such buildings have been erected at a site near Tecumseh and plans are to build about six more such buildings on the site. The poultry processing company reportedly does not own the buildings; only the chickens. The company contracts with investors to raise the chickens to processing weight.

The company also proposes to contract with area farmers to raise the company's chickens in the same type of buildings. The farmers are apparently to have the necessary buildings constructed. The company will not own these buildings.

The company also may have plans to have such buildings constructed on its own land.

Nebraska. Rev. Stat. § 81-2124 (1) (1994), provides that "[a]ll new electrical installations for commercial or industrial applications, including installations both inside and outside of the buildings, and for public-use buildings and facilities and any installation at the request of the owner shall be subject to the inspection and enforcement provisions of the State Electrical Act."

David K. Arterburn  
L. Jay Bartel  
Kristine D. Brenneis  
J. Kirk Brown  
David T. Bydalek  
Dale A. Comer  
Suzanna Glover-Etrich  
Royce N. Harper

Jason W. Hayes  
Amber F. Herrick  
Lauren L. Hill  
Amy Hollenbeck  
William L. Howland  
Marilyn B. Hutchinson  
Therese N. James  
Kimberly A. Klein

Jennifer S. Lilledahl  
Charles E. Lowe  
Lisa D. Martin-Price  
Lynn A. Melson  
Donald J. B. Miller  
Ronald D. Moravec  
Fredrick F. Neid  
Marie C. Pawol

Perry A. Pirsch  
Paul N. Potadle  
Mark D. Raffety  
Carla Heathershaw Risko  
Hobert B. Rupe  
James D. Smith  
James H. Spears

Mark D. Starr  
Martin Swanson  
John R. Thompson  
Barry Waid  
Terri M. Weeks  
Melanie J. Whittamore-Mantzios  
Linda L. Willard

Terry L. Carlson  
May 13, 1999  
Page -2-

Neb. Rev. Stat. § 81-2102 (9) (1994), defines a commercial installation as one intended for commerce or for a family dwelling in excess of a single-family living unit.

Neb. Rev. Stat. § 81-2102 (12) (1994), defines an industrial installation as one "intended for use in the manufacture or processing of products involving systematic labor or habitual employment and shall include installations in which agricultural or other products are habitually or customarily processed or stored for others, either by buying or reselling on a fee basis." (Emphasis added.)


Nebraska. Rev. Stat. § 81-2121 (5) (1994), provides that "[n]othing in the State Electrical Act shall be construed to: (p)rohibit an owner of property from performing work on his or her principal residence or farm property, excluding commercial or industrial installations or installations in public-use buildings or facilities, or require such owner to be licensed under the act."

Although the statute just quoted has to do more with when licensing is required of the installer, we mention it because it appears to contemplate that some farm installations may also be "commercial or industrial" in nature so as to trigger regulatory oversight. But on the other hand, it also suggests that the legislature envisioned that there would be some electrical installations on farm property apart from those on the farmer's personal residence which would not be considered commercial or industrial in nature.

Under the facts presented, the buildings at issue are installations in which large numbers of poultry are being fed and stored for others. This falls within the statutory definition of industrial installation at Neb. Rev. Stat. § 81-2102(12). If the number of poultry were not of a substantial size, a feeding operation would not rise to the level of an industrial installation. Likewise, if a farmer were feeding his own poultry, that installation would not fall within the statutory definition of an industrial installation.

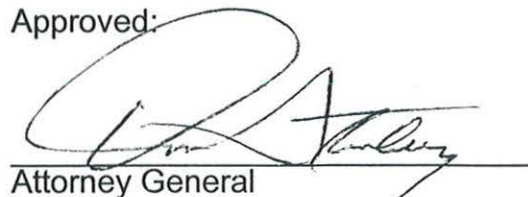
Sincerely,

DON STENBERG  
Attorney General



Mark D. Starr  
Assistant Attorney General

Approved:



Attorney General