



University of Arkansas Division of Agriculture

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Application Restrictions Statutes & Regulations

Oklahoma

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Application Restrictions

STATE OF OKLAHOMA

- 1) 2 Okl. St. §§ 2-20-19, 20; O.A.C. § 35:17-4-4(a)(12)
- 2) 2 Okl. St. § 2-10-9.7
- 3) 2 Okl. St. §§ 2-20-57, 58, 59; O.A.C. § 35:17-3-6(a)(12)(13), (d)

The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Oklahoma Legislative Information Services.

1) 2 Okl. St. §§ 2-20-19, 20; O.A.C. § 35:17-4-4(a)(12)

§ 20-19. Setback Requirements for Concentrated Swine Feeding Operations

A. Except as authorized by this subsection, no liquid swine waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the swine feeding operation.

B. Except as otherwise provided by Section 20-20 of this title, no concentrated swine feeding operation shall be established within one (1) mile of ten or more residences that are occupied residences at the time of the establishment of the concentrated swine feeding operation.

C. The proscription contained in subsections A and B of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the swine feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections A and B of this section. A change in ownership of the applicable property or change in the ownership of the property on which the swine feeding operation is located shall not affect the validity of the waiver.

D. No liquid swine waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

E. Except as provided by Section 20-20 of this title, no concentrated swine feeding operation shall be established if located:

1. Within three (3) miles of a state park or resort;

2. On land within three (3) miles of the incorporated limits of any municipality, unless the municipality's governing body executes a written waiver of the setback for the particular swine feeding operation. A change in ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver; or

3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated swine feeding operation is located within the drainage basin for the public water supply.

F. All distances between occupied residences and swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Department. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

§ 20-20. Compliance Timetable

A. The provisions of Section 20-19 of this title relating to setback requirements and the provisions of subsections B and C of Section 20-12 of this title relating to utilization of liners in retention structures or documentation of no hydrologic connection and to a minimum separation of ten (10) feet between the bottom of the retention structure and the maximum groundwater elevation shall not apply to any concentrated swine feeding operation that is licensed by or submitted a substantially completed application on or before September 1, 1997.

B. Any expanding operations shall be in accordance with the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

35:17-4-4 License application for new facilities or operations

(a) In addition to the items required by the Oklahoma Concentrated Animal Feeding Operations Act, the application for a CAFO license of a new facility or an operation shall contain, as a minimum, the following information:

[. . .]

(12) If applicable, a copy of the written waiver by a property owner, municipality, or governing body releasing specified setback requirements as provided by the Act.

[. . .]

2) 2 Okl. St. § 2-10-9.7

§ 10-9.7. Best Management Practices—Requirement of Nutrient Management Plan

A. All poultry feeding operations shall utilize Best Management Practices and shall meet the conditions and requirements established by subsection B of this section and by rules promulgated by the State Board of Agriculture pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rules by the Board and shall include, but not be limited to, the following:

1. There shall be no discharge of poultry waste to waters of the state;
2. Stored poultry waste shall be isolated from outside surface drainage by covers, ditches, dikes, berms, terraces or other such structures;
3. No waters of the state shall come into direct contact with the poultry confined on the poultry feeding operation;
4. Poultry waste handling, treatment, management, and removal shall:
 - a. not create an environmental or a public health hazard,
 - b. not result in the contamination of waters of the state, and
 - c. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

The rules promulgated by the Board pursuant to this section shall provide for exceptions to the storage requirements for poultry waste in emergency situations. Such exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. In such situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

C. Every poultry feeding operation shall have a Nutrient Management Plan which shall include at a minimum:

1. A description of poultry waste handling procedures and availability of equipment and type of equipment to be used;

2. The calculations and assumptions used for determining land-application rates;
3. All nutrient analysis data, for soil and poultry waste testing;
4. Legal description of lands to be used by an operation for land-application;
5. Land-application rates of poultry waste shall be based on the available nitrogen and phosphorous content of the poultry waste and shall provide controls for runoff and erosion as appropriate for site conditions;
6. The procedures documented in the Nutrient Management Plan shall ensure that the handling and utilization of poultry waste complies with the following requirements:
 - a. adequate poultry waste storage shall be provided consistent with rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to subsection B of this section,
 - b. poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen except in conformance with the Nutrient Management Plan,
 - c. poultry waste shall only be applied to suitable land at appropriate times and rates. Discharge or runoff of waste from the application site is prohibited. Timing and rate of applications shall be based on assimilation capacity of the soil profile, assuming usual nutrient losses, expected precipitation, and soil conditions, and
 - d. poultry waste application shall be prohibited on land subject to excessive erosion;
7. Records shall be maintained of all poultry wastes applied on land owned or controlled by the operator, and sold or given to other persons:
 - a. if the poultry waste is sold or given to other persons for land application or other use, the poultry feeding operation shall maintain a log of: date of removal from the poultry feeding operation; name of recipient the poultry waste is sold or given to; and amount in wet tons, dry tons or cubic yards of poultry waste removed from the poultry feeding operation, and
 - b. the poultry feeding operation shall make available to the recipient any nutrient sample analysis from that year;
8. Any analysis required by the provisions of the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated thereto shall be performed by a

qualified environmental testing laboratory certified by the Department of Environmental Quality and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and

9. Such other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

D. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules providing voluntary fees charged to registered poultry feeding operations for the development and writing of Nutrient Management Plans;

E. Every poultry feeding operation located in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall perform soil testing on each land-application area and poultry waste testing at least once every three (3) years to determine:

1. Soil pH and plant-available nutrients including, at a minimum, nitrogen, phosphorous and potassium;

2. Poultry waste nutrient concentrations and moisture; and

3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

F. Every poultry feeding operation located in a nutrient-limited watershed and nutrient-vulnerable groundwater shall perform an annual soil test on each land-application area prior to the first application of the calendar year. Poultry waste testing shall be performed annually prior to the first application of the calendar year. Soil and poultry waste testing shall be performed to determine:

1. Soil pH and plant-available nutrients including at least nitrogen, phosphorous and potassium;

2. Poultry waste nutrient concentrations and moisture; and

3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

G.

1. Soil and poultry waste analysis data shall be retained by the poultry feeding operation for a minimum of six (6) years.

2. All soil and poultry waste analysis data shall be dated prior to land application.

H.

1. Poultry feeding operations shall develop a plan for the disposal of carcasses associated with normal mortality.

2. In the event there is an outbreak of a major disease or other emergency resulting in deaths significantly higher than normal mortality rates, the Oklahoma Department of Agriculture, Food, and Forestry may approve, in writing, an alternate method of disposal of carcasses or the storage of poultry waste during the emergency period.

I. Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year. The report shall contain the following information:

1. The date and amount of poultry waste removed from or land-applied at the facility;

2. The type of poultry waste removed or land-applied, whether a cake out, full clean out, in-house windrow or compost, poultry waste stack shed, or other type;

3. The county and, if applicable, the name of the Nutrient Limited Watershed where the poultry waste was produced; and

4. The location where the poultry waste is removed to:

- a. if land-applied on site, provide the following:

- (1) the date of the land-application,

- (2) the total amount of poultry waste land-applied in wet tons, dry tons, or cubic yards,

- (3) the name, mailing address, and telephone number of the poultry waste applicator, and

- (4) the number of acres under the control of the poultry feeding operation for land-application of poultry waste, or

b. if removed off site, provide the following:

- (1) the date of the removal off site,
- (2) the amount of poultry waste removed in wet tons, dry tons, or cubic yards,
- (3) the name, mailing address, and telephone number of the person the poultry waste is sold or transferred to,
- (4) the name, mailing address, telephone number, and poultry waste applicator license number of the poultry waste applicator, if known, and
- (5) the name, mailing address, and telephone number of the hauler of the poultry waste.

3) 2 Okl. St. §§ 2-20-57, 58, 59; O.A.C. § 35:17-3-6(a)(12)(13), (d)

§ 20-57. Distance of Liquid Animal Waste and Animal Feeding Operations from Residences, Drinking Water Wells, Parks, and Other Facilities and Areas

A. Except as authorized by this subsection, no liquid animal waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the animal feeding operation.

B. Except as provided by Section 20-58 of this title, no concentrated animal feeding operation shall be established after September 1, 1997, which is within one (1) mile of ten or more residences that are occupied residences at the time of the establishment of the concentrated animal feeding operation.

C. The proscription contained in subsections A and B of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the animal feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections A and B of this section. A change in ownership of the applicable property or change in the ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver.

D. No liquid animal waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

E. Except as provided by Section 20-58 of this title, no concentrated animal feeding operation shall be established after September 1, 1997, which is located:

1. Within three (3) miles of a state park or resort;
2. On land within three (3) miles of the incorporated limits of any municipality, unless the municipality's governing body executes a written waiver of the setback for the particular animal feeding operation. A change in ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver;
3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated animal feeding operation is located within the drainage basin for the public water supply.

F. All distances between occupied residences and animal feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

§ 20-58. Setback Requirements —Applicability to Certain Existing Operations

Animal feeding operations, other than a concentrated animal feeding operation, not licensed pursuant to the provisions of the Oklahoma Feed Yards Act in operation on the effective date of this act shall not be subject to any setback requirements not in effect on the date of past construction.

§ 20-59. Applications for Permits for Construction of Concentrated Animal Feeding Operation Within One Mile Upstream of Pensacola Project Boundary

The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for construction of any concentrated animal feeding operation to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the Grand River Dam Authority and the Federal Emergency Management Agency. Any operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

35:17-3-6 License application for new facilities or expanding operations

(a) In addition to the items required by the Oklahoma Swine Feeding Operations Act, the application for a swine feeding operation license of a new facility or an expanding operation shall contain, as a minimum, the following information:

[. . .]

(12) All LMFOs shall submit an affidavit certifying compliance with applicable setbacks found in Sections 20-19 and 20-21 of Title 2 of the Oklahoma Statutes.

(13) If applicable, a copy of the written waiver by a property owner, municipality, or governing body releasing specified setback requirements as provided by the Act.

[. . .]

(d) A change in location of a waste retention structure for an LMFO after the initial application date shall result in a new application date assigned to that application and all requirements in effect at the new application date shall apply, including setbacks. A reconfiguration of barns or waste retention structures shall not be considered a change, but a new presite approval shall be obtained prior to the change. If the change in location is required by the Department, the initial application date continues to apply.