



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

## **Applicator Certification & Education Statutes & Regulations**

**Oklahoma**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



## Applicator Certification & Education

### STATE OF OKLAHOMA

- 1) 2 Okl. St. §§ 2-10-9.16—.21; O.A.C. §§ 35:17-7-1—4, 8, 11
- 2) 2 Okl. St. §§ 2-10-9.5, 9.6; O.A.C. § 35:17-5-11
- 3) 2 Okl. St. §§ 2-20-1—4, 7, 9; O.A.C. §§ 35:17-3-18
- 4) 2 Ok. St. §§ 2-20-40, 41, 42, 47; O.A.C. § 35:17-4-14

*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. §§ 2-10-9.16—.21; O.A.C. §§ 35:17-7-1—4, 8, 11

##### **§ 10-9.16. Short Title**

Sections 10-9.16 through 10-9.21 of this title shall be known and may cited as the “Oklahoma Poultry Waste Applicators Certification Act”.

##### **§ 10-9.17. Certificate Requirement**

A. It shall be unlawful and a misdemeanor punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) for any person to act, operate, or do business or advertise as a commercial poultry waste applicator or to land-apply poultry waste as a private poultry waste applicator unless such person has obtained a valid applicator’s certificate issued by the State Board of Agriculture.

B. Applicator’s certificates shall be issued by the Board, to applicants who qualify under the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

C. Certificates shall be issued only upon application therefor to the Board on a form of application prescribed by the Board. The application shall contain information regarding the applicant’s qualifications and proposed operations and such other information as may be specified by the Board.

D. A certificate shall be issued only after satisfactory completion of such certification standards as determined by the Board.

E.

1. All commercial applicator certificates shall expire on the thirty-first day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty, if a properly completed application is filed with the Board not later than the first day of January of each year. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application.

2. All private applicator certificates shall be in effect for five (5) years and may be renewed by application. A registration fee of Fifteen Dollars (\$15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars (\$15.00) shall accompany every renewal application. The Fifteen Dollar (\$15.00) registration and renewal fee shall be waived if the private applicator is also registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

3. All such fees shall be deposited in the Agriculture Regulation Revolving Fund to be used for the purpose of implementing the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

F. Any person issued an applicator's certificate shall comply with the education provisions of subsection F of Section 10-9.5 of this title.

#### **§ 10-9.18. Annual Report of Certified Poultry Waste Applicator**

A. Every certified poultry waste applicator shall file by September 1 of each year an annual report with the Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator 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 legal description and county where the poultry waste was produced;
2. The legal description and county where the poultry waste was land-applied;
3. Date of each application;
4. Total and per-acre amount of each application;
5. Name, address, and telephone number of the person for whom poultry waste was applied;
6. The most recent soil test results obtained; and
7. Such other information as may be required by the State Board of Agriculture.

B. The Department shall make available forms to be used in making such report.

C. Applicators who seek to obtain a renewal certificate shall submit the report with their application for renewal. No renewal certificate may be issued without submission of this report.

#### **§ 10-9.19. Poultry Waste—Soil and Poultry Waste Tests—Records**

1. Prior to any land application of poultry waste by a certified poultry waste applicator, the applicator shall obtain the most recent soil and poultry waste tests as required by the Oklahoma Poultry Waste Applicators Certification Act.

2. Land application of poultry waste in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall not be made at any rate which exceeds the most recently published United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards.

3. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules pursuant to the Administrative Procedures Act which will prohibit the land application of poultry waste in nutrient-limited watersheds and nutrient-vulnerable groundwaters based upon lower soil phosphorous levels than are allowed in this section for non-nutrient-limited watersheds and non-nutrient-vulnerable groundwaters.

#### **§ 10-9.19a. Land Application of Poultry Waste**

Land application of poultry waste, whether performed by a private or commercial poultry waste applicator, shall comply at all times with the provisions set forth in:

1. The Nutrient Management Plan, if application is conducted on land operated by a registered poultry feeding operation; and
2. The Conservation Plan, if application is conducted on land operated by entities not regulated pursuant to the Oklahoma Registered Poultry Feeding Operations Act and is located in a nutrient-limited watershed.

#### **§ 10-9.20. Administration and Enforcement of Act's Provisions**

A. The Oklahoma Department of Agriculture, Food, and Forestry shall administer and enforce the provisions of the Oklahoma Poultry Waste Applicators Certification Act and shall promulgate rules and standards for the application of poultry waste, work performance, the certification of applicators of poultry waste, recertification of applicators, procedures, and best management practices.

B. The State Board of Agriculture shall have the authority to negotiate reciprocal agreements with the federal government or any state, or any department or agency of

either for the purpose of fulfilling the intent of the Oklahoma Poultry Waste Applicators Certification Act.

C. The Department may take samples of poultry waste and soil at application sites in order to determine their concentration. The work of each applicator may be inspected at the application site of each applicator to determine whether or not the work is performed according to the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

**§ 10-9.21. Suspension, Cancellation, Denial, or Revocation of Certificate—Reasons**

A. Any certificate issued pursuant to the Oklahoma Poultry Waste Applicators Certification Act may be suspended, canceled, denied, or revoked by the Oklahoma Department of Agriculture, Food, and Forestry after notice and an opportunity to be heard has been given to the holder of the certificate.

B. Suspension, cancellation, denial or revocation of a certificate may be made if the Department finds the holder of the certificate:

1. Has used methods of poultry waste not suitable or safe for the land-application site for which they shall have been employed;
2. Has failed or refused to furnish the Oklahoma Department of Agriculture, Food, and Forestry, upon request, true information regarding methods and safety measures used, work performed, or other information deemed essential by the Department, or has made any false statement or representation in such person's application for issuance or renewal of a certificate;
3. Has violated any state law, rule, or standard prescribed or order issued by the State Board of Agriculture;
4. Has failed or refused to file annual reports as specified in the Oklahoma Poultry Waste Applicators Certification Act;
5. Has failed to perform work according to minimum standards authorized by the Oklahoma Poultry Waste Applicators Certification Act;
6. Has acted, operated, done business, or advertised as a commercial applicator without having obtained a valid certificate issued by the Department;
7. Has acted or operated as a private applicator without having obtained a valid private poultry waste applicator certificate issued by the Department;
8. Has not complied with the education provisions of subsection F of Section 10-9.5 of this title; or

9. Has been convicted in any court of a violation of the Oklahoma Poultry Waste Applicators Certification Act.

### **35:17-7-1 Purpose**

These rules provide a mechanism for poultry waste applicators to obtain an applicator's certificate issued by the State Board of Agriculture pursuant to the Oklahoma Poultry Waste Applicators Certification Act found at Section 10-9.16 et seq. of Title 2 of the Oklahoma Statutes.

### **35:17-7-2 Definitions**

In addition to the terms defined in Section 10-9.1 of Title 2 of the Oklahoma Statutes, the following terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

“Commercial poultry waste applicator” means any person who engages in commercial land application of more than ten (10) tons of poultry waste per year. Any farmer while working for a neighbor in agricultural production, and not advertising, nor holding themselves out to be in the business of land applying poultry waste, shall not be classified as a commercial poultry waste applicator, but as a private poultry waste applicator.

“Discharge” means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State of Oklahoma.

“Private poultry waste applicator” means any person who is not a commercial poultry waste applicator but engages in the land application of more than ten (10) tons of poultry waste per year for purposes including, but not limited to, producing any agricultural commodity on property owned or rented by the person or the person's employer, or if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

“Runoff” means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

### **35:17-7-3 Commercial poultry waste applicator's certificate**

(a) Any person who acts, operates, conducts business, or advertises as a commercial poultry waste applicator shall obtain a valid applicator's certificate issued by the Board.

(b) All existing commercial poultry waste applicators shall apply for a commercial poultry waste applicator's certificate prior to January 1, 2001. All new commercial

poultry waste applicators shall apply for a commercial poultry waste applicator's certificate prior to doing business or advertising in Oklahoma. Education requirements shall be completed within one year of obtaining the commercial poultry waste applicator's certificate.

(c) A certified commercial poultry waste applicator may allow employees and other applicators over which direct control is exercised by the applicator to land apply poultry waste without obtaining a commercial poultry waste applicators certificate so long as the following conditions exist:

(1) The land application is supervised by the certified commercial poultry waste applicator;

(2) The certified commercial poultry waste applicator is the responsible person for all aspects of the land application; and

(3) The certified commercial poultry waste applicator is responsible for ensuring employees and other applicators are properly trained regarding poultry waste handling and application.

(d) A certified commercial poultry waste applicator shall notify the owner or lessee of the property where poultry waste is land applied of all requirements of the Oklahoma Poultry Waste Applicators Certification Act and rules which apply to the landowner. A certified commercial poultry waste applicator shall upon request provide all necessary records to the owner or lessee of the property where poultry waste is land applied.

(e) Every certified commercial poultry waste applicator shall file an annual report as required by Section 10-9.18 of Title 2 of the Oklahoma Statutes.

#### **35:17-7-4 Private poultry waste applicators certificate**

(a) Any person who land applies poultry waste as a private poultry waste applicator shall obtain a valid applicator's certificate issued by the Board.

(b) All new private poultry waste applicators shall apply for a private poultry waste applicator's certificate prior to land applying poultry waste in Oklahoma. Education requirements shall be completed within one year of obtaining the private poultry waste applicator's certificate.

(c) A certified private poultry waste applicator may allow employees and other applicators over which direct control is exercised by the certified private poultry waste applicator to land apply poultry waste without obtaining a private poultry waste applicators certificate so long as the following conditions exist:

(1) The land application is supervised by the certified private poultry waste applicator;

(2) The certified private poultry waste applicator is the responsible person for all aspects of the land application; and

(3) The certified private poultry waste applicator is responsible for ensuring employees and other applicators are properly trained regarding poultry waste handling and application.

(d) Every certified private poultry waste applicator shall file an annual report pursuant to 2 O.S. § 10-9.18.

### **35:17-7-8 Education requirements**

(a) All certified poultry waste applicators shall attend educational courses on poultry waste handling provided by Oklahoma Cooperative Extension Service.

(b) All poultry waste applicators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the applicator has received a total of nineteen (19) hours of training. Any applicator may attend more hours than are required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the applicator then shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) Courses for poultry waste management shall include the following topics:

(A) Environmental process relevant to protecting water quality in poultry production;

(B) Basic handling systems to manage poultry waste from all types of poultry operations;

(C) Nutrient management, including sampling procedures, application rate determination, equipment calibration, and record keeping systems;

(D) Relevant laws and rules applicable to poultry waste management in the State of Oklahoma; and

(E) Any other related subject as determined by Oklahoma Cooperative Extension Service in consultation with the Department.



(d) At the completion of each course, the certified poultry waste applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

(e) Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Poultry Waste Applicators Certification Act.

(f) All applicators shall obtain the required education no later than December 31<sup>st</sup> of each calendar year.

(g) Any certified poultry waste applicator that has completed education requirements of the Oklahoma Registered Poultry Feeding Operations Act shall be deemed to be in compliance with the education requirements of this section.

### **35:17-7-11 Reciprocal agreement with state and federal agencies**

Reciprocal agreements which allow the federal government, any state, any department, or agency to obtain a commercial or private poultry waste applicators certificate shall assist in fulfilling the intent of the Oklahoma Poultry Waste Applicators Certification Act.

## **2) 2 Okl. St. §§ 2-10-9.5, 9.6; O.A.C. § 35:17-5-11**

### **§ 10-9.5. Application to Register or Expand Poultry Operation—Educational Credits**

A. The State Board of Agriculture shall provide the necessary forms and applications for any person desiring or required to register a poultry feeding operation or expanding operation.

B. The application to register to operate a new or previously unregistered poultry feeding operation or expanding operation shall contain, at a minimum, the following information:

1. Name and address of the owner and operator of the facility;
2. Name and address of the poultry feeding operation;
3. Number and type of poultry housed or confined;
4. Name and address of the integrator whose poultry will be raised by the poultry feeding operation;
5. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, poultry waste

storage facilities, and land-application sites owned or leased by the applicant or which the applicant has contracted with for the application of poultry waste;

6. A copy of the Nutrient Management Plan, or proof of application for such plan, Best Management Practices or any other plans authorized by the Oklahoma Department of Agriculture, Food, and Forestry;

7. A statement of ownership.

a. If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

b. If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

c. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

8. The name and address of the person having day-to-day control of the operation, if such person is not the applicant and is acting as agent for the applicant;

9. An environmental history from the past three (3) years of any poultry feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state;

10. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

11. Any other information or records required by the Department for purposes of implementing the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated pursuant thereto.

C. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for registration shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each such violation.

D. The owner of a poultry feeding operation shall be responsible for sending written notification to the Department upon changing integrators.

E. For a transfer of registration to a new owner, the new owner shall register the operation pursuant to the rules of the Department.

F.

1. All operators of poultry feeding operations and poultry waste applicators shall attend educational courses on poultry waste handling. All such operators and applicators shall attend educational training on poultry waste management as provided by Oklahoma State University through the Oklahoma Cooperative Extension Service. All current and new operators and applicators shall receive the initial nine (9) hours of training in the first year and two (2) hours of continuing education every year until the operator or applicator has received a total of nineteen (19) hours of training. Any operator or applicator may attend more hours than is required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator or applicator shall be required to receive two (2) hours of continuing education every three (3) years. The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification. Curricula for the training course will include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent. Courses for poultry waste management shall include the following topics:

- a. environmental process relevant to protecting water quality in poultry production,
- b. basic handling systems to manage poultry waste from all types of poultry operations,
- c. nutrient management, including sampling procedures, application rate determination, equipment calibration, and record-keeping systems,
- d. relevant laws and rules applicable to poultry waste management in the State of Oklahoma, and
- e. any other related subject as determined by Oklahoma State University in consultation with the Department.

2. At the completion of each course, the operator or applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

3. Failure to obtain the initial nine-hour training and any continuing education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act for operators and the Oklahoma Poultry Waste Applicators Certification Act for applicators.

4. All operators or applicators shall meet the educational requirements of this section no later than December 31 of each year.

G. No integrator shall enter into any contract with an operator of a poultry feeding operation who is not in compliance with the education requirements of subsection F of this section.

#### **§ 10-9.6. Poultry Waste Education Revolving Fund**

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the “Poultry Waste Education Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies donated to the fund, and any other monies deposited in the fund pursuant to law.

B. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry to contract with Oklahoma State University to provide the educational courses required by the Oklahoma Poultry Waste Applicators Certification Act.

C. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

#### **35:17-5-11 Education**

(a) All operators of poultry feeding operations shall attend educational courses on poultry waste handling provided by the Oklahoma Cooperative Extension Service.

(b) All operators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the operator has received a total of nineteen (19) hours of training. Any operator may attend more hours than are required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator will graduate from the program but shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) Courses for poultry waste management shall include the following topics:

(A) Environmental process relevant to protecting water quality in poultry production;

(B) Basic handling systems to manage poultry waste from all types of poultry operations;

(C) Nutrient management, including sampling procedures, application rate determination, equipment calibration, and record keeping systems;

(D) Relevant laws and rules applicable to poultry waste management in the State of Oklahoma; and

(E) Any other related subject as determined by Oklahoma Cooperative Extension Service in consultation with the Department.

(d) At the completion of each course, the operator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

(e) Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act.

(f) No integrator shall enter into any contract with an operator of a poultry feeding operation who is not in compliance with the education requirements of this section.

(g) All operators shall obtain the required education no later than December 31<sup>st</sup> of each calendar year.

(h) Oklahoma Cooperative Extension Service education courses previously taken by an operator pursuant to rules promulgated by the State Board of Agriculture for Commercial Poultry Operations shall count towards the mandatory education requirements contained in the Oklahoma Registered Poultry Feeding Operations Act.

### **3) 2 Okl. St. §§ 2-20-1—4, 7, 9; O.A.C. §§ 35:17-3-18**

#### **§ 20-1. Intent of Legislature**

It is the intent of the Legislature that the law contained in the Oklahoma Swine Feeding Operations Act shall only apply to swine and operations which house swine.

#### **§ 20-2. Short Title—Purpose**

A. Sections 20-1 through 20-29 of this title shall be known and may be cited as the “Oklahoma Swine Feeding Operations Act”.

B. The purpose of the Oklahoma Swine Feeding Operations Act is to provide for environmentally responsible construction and expansion of swine feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of a swine feeding operation.

### § 20-3. Definitions

A. Concentrated swine feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma Swine Feeding Operations Act.

B. As used in the Oklahoma Swine Feeding Operations Act:

1. “Affected property owner” means a surface landowner within:

a. one (1) mile of the designated perimeter of a swine feeding operation which:

(1) does not meet the definition of a licensed managed feeding operation, or

(2) is previously unlicensed or an expanding licensed managed feeding operation with a capacity of two thousand (2,000) or less swine animal units, or

b. two (2) miles of the designated perimeter of a licensed managed feeding operation or an expanding operation with a capacity of more than two thousand (2,000) swine animal units for which a license is being sought;

2. “Swine feeding operation” means a lot or facility where the following conditions are met:

a. swine have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility;

3. “Swine animal unit” means a unit of measurement for any swine feeding operation calculated by adding the following numbers: The number of swine weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds, multiplied by four-tenths (0.4), plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (0.1);

4. “Swine waste” means swine excrement, swine carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of swine from a swine feeding operation;

5. “Swine Waste Management Plan” or “Nutrient Management Plan” means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of a swine feeding operation as required by the Department pursuant to the provisions of Section 20-10 of this title;

6. “Swine waste management system” means a combination of structures and nonstructural practices serving a swine feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of swine waste;

7. “Artificially constructed” means constructed by humans;

8. “Best Management Practices” means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 20-10 of this title;

9. “Board” means the State Board of Agriculture;

10. “Common ownership” includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. “Concentrated swine feeding operation” means:

a. a licensed managed feeding operation,

b. a swine feeding operation which meets the following criteria:

(1) more than the number of swine specified in any of the following categories are confined:

(a) 750 swine each weighing over 25 kilograms or approximately 55 pounds,

(b) 3,000 weaned swine each weighing under 25 kilograms,  
or

(c) 300 swine animal units, and

(2) either one of the following conditions are met:

(a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or

(b) pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the swine confined in the operation.

Provided, however, that no swine feeding operation pursuant to this subparagraph is a concentrated swine feeding operation if the swine feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event,

c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 20-6 of this title, or

d. any new swine feeding operation established after November 1, 2011, with more than one hundred (100) animal units;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner. Structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing swine, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Expanding operation" means:

a. a facility that either increases its swine animal unit capacity to a number that causes the facility to initially meet the definition of a licensed managed feeding operation, or

b. a licensed managed feeding operation that seeks to increase its licensed capacity in excess of five percent (5%) of the original facility's licensed capacity;

15. "Facility" means any place, site, or location or part thereof where swine are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and swine waste management systems;

16. "Interested party" means an affected property owner found to meet the burden of proof pursuant to the provisions of Section 20-8 of this title;



17. "Land application" means the spreading on, or incorporation of swine waste into the soil mantle primarily for beneficial purposes;

18. "Licensed managed feeding operations" means a swine feeding operation primarily using a liquid swine waste management system, where swine are primarily housed in a roof-covered structure and which has more than the number of swine specified in any of the following categories confined:

a. 2,500 swine each weighing over 55 pounds,

b. 10,000 weaned swine each weighing under 55 pounds, or

c. any combination of swine weighing over 55 pounds or under 55 pounds which would equal one thousand (1,000) swine animal units;

19. "Liquid swine waste management system" means any swine waste management system which uses water as the primary carrier of swine waste into a primary retention structure;

20. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

21. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

22. "Odor Abatement Plan" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce odor as established by the Department pursuant to Section 20-11 of the Oklahoma Swine Feeding Operations Act;

23. "Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions and:

a. is not readily mobile,

b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

c. is occupied as a residence;

24. "Pollution Prevention Plan" means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of a swine feeding operation as required pursuant to Section 20-9 of this title;

25. “Process wastewater” means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from swine watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of swine; and dust control and any precipitation which comes into contact with swine or swine waste;

26. “Retention structures” means, but is not limited to, all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store swine wastes;

27. “Spill” means the release from a swine feeding operation of any process wastewater or manure that does not reach waters of the state;

28. “Waste facility” means any structure or combination of structures utilized to control swine waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing swine, composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

29. “Waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds and lagoons designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated pursuant thereto, are not waters of the state.

#### **§ 20-4. Rules—Personnel and Agents**

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation, and enforcement of the Oklahoma Swine Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

#### **§ 20-7. License Application**

A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed swine feeding operation or expanding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed swine feeding operation or expanding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;
2. Name and address of the swine feeding operation;
3. Capacity in swine animal units, and number and type of swine housed or confined;
4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, swine waste storage facilities and land application sites owned or leased by the applicant;
5. A copy of the Pollution Prevention Plan containing a Swine Waste Management Plan, Best Management Practices, Odor Abatement Plan or such other plan authorized by the Oklahoma Swine Feeding Operations Act and approved by the Department;
6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Sections 20-19 and 20-21 of this title; and
7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

C.

1. An application for renewal of a license to operate a swine feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.
2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for the facility or expansion has been issued by the Department.

E. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;
2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

- a. the new owner or operator cannot comply with the requirements of transfer,

- b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the swine feeding operation,

- c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto, or

- d. the new owner or operator has failed to meet the requirements of Section 20-25 of this title; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

F. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Swine Feeding Operations Act by the Board shall be made in accordance with Section 20-25 of this title.

G. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated swine feeding operation shall contain the following information:

- 1.

- a. A statement of ownership.

- (1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3.

a. An environmental history from the past three (3) years of any concentrated animal feeding operation or concentrated swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal feeding operation or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto.

H.

1. All employees of a proposed licensed managed feeding operation whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.
2. All employees of a licensed managed feeding operation whose duties include treatment, storage or application of animal waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control.
3. The Department shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include treatment, storage, or application of swine waste.
4. After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.
5. Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.
6. Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

I.

1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars (\$10,000.00) for each violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.
2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

**§ 20-9. Development of Pollution Prevention Plan**

- A. A Pollution Prevention Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of this

section and rules promulgated by the State Board of Agriculture pursuant thereto. The Pollution Prevention Plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of Best Management Practices, an approved plan for the disposal of swine waste and recordkeeping provisions.

B. A swine feeding operation licensed pursuant to the provisions of the Oklahoma Swine Feeding Operations Act, other than a licensed managed feeding operation, shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Swine Waste Management Plan prepared pursuant to Section 20-10 of this title. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service may be substituted for the documentation of design capacity and construction requirements.

C.

1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on-site.

2. The swine feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance, which has significant effect on the potential for the discharge of pollutants to the waters of the state.

D. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the swine feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

E. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

F. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;
4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and swine waste nutrient sampling;
5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:
  - a. the location and a description of existing structural and nonstructural controls,
  - b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and
  - c. a description of the design standards for the retention facility embankments;
6. A description of the design standards for any retention facilities;
7. Training requirements for employees;
8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section 20-12 of this title; and
9. Requirements that all irrigation systems into which any swine waste will be injected shall be equipped as specified by Section 20-13 of this title.

G. The Oklahoma Department of Agriculture, Food, and Forestry shall develop a record retention schedule for the following records:

1. Water level in the retention structure;
2. Daily precipitation records from on-site rain gauge;
3. Incident reports such as spills and other discharges;
4. Inspection and maintenance reports;
5. Findings from annual inspections of the entire facility;
6. Log of preventive maintenance and employee training that was completed;
7. Log of removal of swine waste sold or given to other persons for disposal;



8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the federal Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection I of this section.

H. Any analyses required by the provisions of the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a qualified independent testing laboratory certified by the Department of Environmental Quality and approved by the Department.

I. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

### **35:17-3-18 Employee education and training**

(a) Employees responsible for work activities which relate to compliance shall be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Employee training shall inform personnel at all levels of the general components and goals of the Pollution Prevention Plan. A log of employee training shall be maintained at the site. Training shall include but not be limited to the following topics:

(1) Proper operation and maintenance of waste retention structures, including proper water level maintenance.

(2) Land application of wastes, proper operation, and maintenance of the facility.

(3) Good housekeeping and material management practices.

(4) Necessary record keeping requirements.

(5) Spill response and clean up.

(b) The owner is responsible for determining the appropriate training frequency for different levels of personnel and the PPP shall identify periodic dates for training.

(c) All LMFOs with employees whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education and training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.

(d) ODAFF shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include the treatment, storage, or application of swine waste.

(e) After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.

(f) Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.

(g) Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

#### **4) 2 Ok. St. §§ 2-20-40, 41, 42, 47; O.A.C. § 35:17-4-14**

##### **§ 20-40. Short Title—Purpose**

A. Sections 28 through 50 of this act shall be known and may be cited as the “Oklahoma Concentrated Animal Feeding Operations Act”

B. The purpose of the Oklahoma Concentrated Animal Feeding Operations Act is to provide for environmentally responsible construction and expansion of animal feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of an animal feeding operation.

##### **§ 20-41. Definitions**

A. Concentrated animal feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act.

B. As used in the Oklahoma Concentrated Animal Feeding Operations Act:

1. “Affected property owner” means a surface landowner within one (1) mile of the designated perimeter of an animal feeding operation;

2. “Animal feeding operation” means a lot or facility where the following conditions are met:

a. animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

The term “animal feeding operation” shall not include a racetrack licensed by the Oklahoma Horse Racing Commission to hold pari-mutuel race meetings pursuant to the Oklahoma Horse Racing Act if the facility discharges to a publicly owned treatment works, or an aquatic animal production facility;

3. “Animal unit” means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by one (1), plus the number of mature dairy cattle multiplied by one and four-tenths (1.4), plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2);

4. “Animal waste” means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation;

5. “Animal Waste Management Plan” or “Nutrient Management Plan” means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of an animal feeding operation as required by the Department pursuant to the provisions of Section 20-48 of this title;

6. “Animal waste management system” means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste;

7. “Artificially constructed” means constructed by humans;

8. “Best Management Practices” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or

reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 20-48 of this title;

9. "Board" means the State Board of Agriculture;

10. "Common ownership" includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. "Concentrated animal feeding operation" means:

a. an animal feeding operation which meets the following criteria:

(1) more than the number of animals specified in any of the following categories are confined:

- (a) 1,000 slaughter and feeder cattle,
- (b) 700 mature dairy cattle, whether milk or dry cows,
- (c) 500 horses,
- (d) 10,000 sheep or lambs,
- (e) 55,000 turkeys,
- (f) 100,000 laying hens or broilers, if the facility has continuous overflow watering,
- (g) 30,000 laying hens or broilers, if the facility has a liquid manure system,
- (h) 5,000 ducks, or
- (i) 1,000 animal units, and

(2) pollutants are discharged into waters of the state. Provided, no animal feeding operation pursuant to this subparagraph shall be construed to be a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

b. an animal feeding operation which meets the following criteria:

(1) more than the number of animals specified in any of the following categories are confined:

- (a) 300 slaughter or feeder cattle,
- (b) 200 mature dairy cattle, whether milk or dry cows,
- (c) 150 horses,
- (d) 3,000 sheep or lambs,
- (e) 16,500 turkeys,
- (f) 30,000 laying hens or broilers, if the facility has continuous overflow watering,
- (g) 9,000 laying hens or broilers, if the facility has a liquid manure system,
- (h) 1,500 ducks, or
- (i) 300 animal units, and

(2) either one of the following conditions are met:

- (a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or
- (b) pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

Provided, however, that no animal feeding operation pursuant to this subparagraph is a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 20-44 of this title;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Facility" means any place, site or location or part thereof where animals are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and animal waste management systems;

15. "Interested party" means an affected property owner found to meet the burden of proof pursuant to the provisions of Section 20-46 of this title;

16. "Land application" means the spreading on, or incorporation of, animal waste into the soil mantle primarily for beneficial purposes;

17. "Liquid animal waste management system" means any animal waste management system which uses water as the primary carrier of the waste into a primary retention structure;

18. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

19. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

20. "Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions which:

a. is not readily mobile,

b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

c. is occupied as a residence;

21. "Pollution Prevention Plan" means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of an animal feeding operation as required pursuant to Section 20-47 of this title;

22. "Process wastewater" means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of animals and any products directly or indirectly used in the operation of a facility, such as spillage or

overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste;

23. “Retention structures” includes but is not limited to all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store animal wastes;

24. “Waste facility” means any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

25. “Waters of the state” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds and lagoons, designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated pursuant thereto are not waters of the state.

#### **§ 20-42. Authority of State Board of Agriculture—Rules—Personnel**

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation, and enforcement of the Oklahoma Concentrated Animal Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required with the funds available.

#### **§ 20-47. Pollution Prevention Plan**

A. An animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Animal Waste Management Plan prepared pursuant to Section 36 of this act. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service, may be substituted for the documentation of design capacity and construction requirements.

B.

1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on site.

2. The animal feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance which has significant effect on the potential for the discharge of pollutants to the waters of the state.

C. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the animal feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

D. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

E. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;

4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and animal waste nutrient sampling;

5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:

- a. the location and a description of existing structural and nonstructural controls,

- b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and



c. a description of the design standards for the retention facility embankments;

6. A description of the design standards for any retention facilities;

7. Training requirements for employees;

8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section 37 of this act; and

9. Requirements that all irrigation systems into which any animal waste will be injected shall be equipped as specified by Section 38 of this act.

F. The following records shall be maintained at the site as long as the facility is in operation:

1. Water level in the retention structure;

2. Daily precipitation records from on-site rain gauge;

3. Incident reports such as spills and other discharges;

4. Inspection and maintenance reports;

5. Findings from annual inspections of the entire facility;

6. Log of preventive maintenance and employee training that was completed;

7. Log of removal of animal waste sold or given to other persons for disposal;

8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the United States Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection H of this section.

G. Any analyses required by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a

qualified independent testing laboratory certified by the Oklahoma Department of Environmental Quality and approved by the Department.

H. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

### **35:17-4-14 Employee education and training**

(a) Employees responsible for work activities which relate to compliance shall be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Employee training shall inform personnel at all levels of the general components and goals of the Pollution Prevention Plan. Training shall include but not be limited to the following topics:

- (1) Proper operation and maintenance of waste retention structures, including proper water level maintenance.
- (2) Land application of wastes, proper operation, and maintenance of the facility.
- (3) Good housekeeping and material management practices.
- (4) Necessary record keeping requirements.
- (5) Spill response and clean up.

(b) The owner is responsible for determining the appropriate training frequency for different levels of personnel and the PPP shall identify periodic dates for training.

(c) Curricula and course content shall be developed under the supervision of Oklahoma State University Cooperative Extension Service and topics shall include:

- (1) Proper operation and management of waste retention structures.
- (2) Animal waste nutrient management, including land application of waste.
- (3) Air quality and odor control.
- (4) Regulation and record keeping requirements.
- (5) Water quality.