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States' Application Restrictions Statutes & Regulations: *Oklahoma*



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States' Application Restrictions Statutes & Regulations: Oklahoma

2 OK Stat § 2-20-19

2 OK Stat § 2-20-20

OK Admin Code 35:17-4-4(a)(12)

2 OK Stat § 2-10-9.7

2 OK Stat § § 2-20-57

2 OK Stat § 2-20-58

2 OK Stat § 2-20-59

OK Admin Code 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.

2 OK Stat § 2-20-19. Setback requirements.

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.

2 OK Stat § 2-20-20. Exemptions applicable to certain operations.

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.

OK Admin Code 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:

- (1) Name and address of the owner of the facility.



- (2) Name and address of the animal feeding operation, including driving directions from the nearest municipality and legal description of the facility.
- (3) Name and address of the operator if other than the owner.
- (4) Capacity in animal units and number and type of animals housed or confined.
- (5) If owner is a firm, partnership, corporation, or other legal entity, the name and address of each member with an ownership interest of ten percent (10%) or more.
- (6) If owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation.
- (7) Environmental history of the past three (3) years of any CAFO operation established or operated by the owner or any other operation with common ownership in Oklahoma or any other state, including all citations, administrative orders or penalties, civil injunctions or other civil actions, and 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 in conjunction with the operation of an animal feeding operation.
- (8) List of all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the owner.
- (9) Copy of deed, contract to purchase, or option to purchase the proposed site of the facility, waste retention structures, and land application sites. If land application sites are not owned by the applicant, provide a notarized signed copy of spreading or effluent agreement.
- (10) A map of all property owners within one (1) mile of the facility and waste retention structures and a corresponding mailing list.
- (11) A plat showing:
 - (A) Location of the facility, waste retention structures, and all land application sites.
 - (B) Location and distance of all occupied residences within one (1) mile of the facility and waste retention structures. The distances shall be measured from the nearest point of the waste retention structure to the nearest point of the occupied residence.



(C) Location and distance of all occupied residences within six-hundred (600) feet of any land application site. The distances shall be measured from the nearest point of the land application site to the nearest point of the occupied residence.

(D) Location and distance of all existing public or private drinking water wells within four-hundred (400) feet of any land application site. The distance shall be measured from the nearest point of the land application site to the nearest point of the drinking water well.

(E) All open roads surrounding the facility and all land application sites.

(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.

(13) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(A) Description of topography using a current USGS 7.5 minute topographic map highlighting the location of waters of the state within three (3) miles of the facility, waste retention structures and all land application sites, an outline of the watershed drainage area, and arrows indicating general direction of surface water drainage from the facility, waste retention sites, and land application sites.

(B) Soil map showing soil types at the facility, waste retention structure, and all land application sites.

(C) 100 year flood plain map, if applicable. In no event shall a waste storage structure be located within the 100 year flood plain as established by the Federal Emergency Management Agency (FEMA).

(14) Report from an independent soil testing laboratory containing the following:

(A) Site map showing the location of all soil borings in relation to the facility and waste retention structure.

(i) The test boring shall be in the immediate vicinity of the proposed waste retention structure.



(ii) Bore holes shall be left open for a minimum of 48 hours for the groundwater to recover.

(iii) All bore holes shall be plugged according to Oklahoma Water Resources Board requirements.

(B) Soil tests per ASTM standards on all soils to be used in construction of the liner, with the following procedures and results reported:

(i) Grain size particle distribution analysis according to ASTM standards.

(ii) A standard Proctor compaction test based on ASTM D 698 procedure.

(iii) Perform Atterberg limits test per ASTM standards (ASTM D 4318).

(iv) Permeability tests on remolded samples compacted at ninety-five percent (95%) of standard Proctor maximum dry density at optimum moisture content conducted in accordance with ASTM D-5084 for the measurement of Hydraulic Conductivity of Saturated Porous Materials using a Flexible Wall Permeameter.

(v) Laboratory tests of representative samples presented in summary tables and on boring logs.

(C) Provide a soil boring log showing lithology, the above test results, and the classification of soils based on the Unified Soil Classification system.

(D) USDA Natural Resources Conservation Service (NRCS) soil testing standards and procedures shall only be substituted if the retention structure is designed by USDA NRCS Engineers.

(15) Laboratory test reports showing the amount of Nitrogen as Nitrate and total Phosphorous contained in the following:

(A) Groundwater from all existing water wells located at the facility and land application sites.

(B) All surface water impoundments located at the facility and land application sites.

(C) Composite soil samples from each land application site.



(16) A Pollution Prevention Plan (PPP) which contains an Animal Waste Management Plan (AWMP), a carcass disposal plan, an erosion control plan, and Best Management Practices (BMPs).

(17) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the CAFO operation.

(18) A financial statement declaring the financial ability of an owner to operate an animal feeding operation with a liquid waste management system in order to comply with the surety requirements of the Act. The financial statement shall be confidential and shall not be opened to public inspection.

(19) A notarized certification signed by the person applying for a license, which states: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(20) All documentation deemed necessary and requested by the Oklahoma Department of Agriculture, Food, and Forestry to assure the quality of waters of the state are not compromised, including waste retention structure liner specifications and design plans and any other information required by the Department directly related to the construction, installation, or future modification or operation of a CAFO.

(b) All items listed in subpart (a) of this section shall be received by the Department before the application is considered complete. At the Department's discretion, no action will be taken on the application until all items have been received by the Department, including but not limited to presite inspections.

2 OK Stat § 2-10-9.7. Utilization of Best Management Practices – Nutrient management plans – Soil testing – Carcass disposal 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.

2 OK Stat § § 2-20-57. Setback requirements.

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.

2 OK Stat § 2-20-58. Setback requirements – Certain feeding operations exempt.

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.

2 OK Stat § 2-20-59. Prohibition of construction of feeding operations within certain distance 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.

OK Admin Code 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:

(1) Name and address of the owner of the facility.

(2) Name and address of the swine feeding operation, including driving directions from the nearest municipality and legal description of the facility.



- (3) Name and address of the operator if other than the owner.
- (4) Capacity in swine animal units and number and type of swine housed or confined.
- (5) If owner is a firm, partnership, corporation, or other legal entity, the name and address of each member with an ownership interest of ten percent (10%) or more.
- (6) If owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation.
- (7) Environmental history of the past three (3) years of any swine feeding operation or CAFO established or operated by the owner or any other operation with common ownership in Oklahoma or any other state, including all citations, administrative orders or penalties, civil injunctions or other civil actions, and 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 in conjunction with the operation of a swine feeding operation.
- (8) List of all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the owner.
- (9) Copy of deed, contract to purchase, or option to purchase the proposed site of the facility, waste retention structures, and land application sites. If land application sites are not owned by the applicant, provide a notarized signed copy of spreading or effluent agreement.
- (10) A map of all property owners within one (1) mile of the facility and waste retention structures and a corresponding mailing list. Applications for LMFOs with more than two thousand (2,000) swine animal units shall include a map of all property owners within two (2) miles of the facility and waste retention structures and a corresponding mailing list.
- (11) A plat showing:
 - (A) Location of the facility, waste retention structures, and all land application sites.
 - (B) Location and distance of all occupied residences within one (1) mile of the facility and waste retention structures. The distances shall be measured from the nearest point of the waste retention structure to the nearest point of the occupied residence. Applications for LMFOs with more than



two thousand (2,000) swine animal units shall include the location and distance of all occupied residences within two (2) miles of the facility and waste retention structures.

(C) Location and distance of all occupied residences within six-hundred (600) feet of any land application site. The distances shall be measured from the nearest point of the land application site to the nearest point of the occupied residence.

(D) Location and distance of all existing public or private drinking water wells within four-hundred (400) feet of any land application site. The distance shall be measured from the nearest point of the land application site to the nearest point of the drinking water well.

(E) All open roads surrounding the facility and all land application sites.

(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.

(14) To assist the Department, applications for LMFOs shall include an introductory narrative summary describing the facility and operation. The description shall include the following general information:

(A) Both narrative and legal location of the facility, including driving directions.

(B) The type of operation, including whether a BGF, nursery, finisher, or other type.

(C) The type and number of swine planned for the facility.

(D) The planned swine waste management system and structures.

(E) A general narrative description of planned swine growth and movement activities.

(F) Other general information the owner believes to be helpful to the Department in beginning review of the application.

(15) Characterization of the physical and environmental setup of the facility, including but not limited to the following:



(A) Description of topography using a current USGS 7.5 minute topographic map highlighting the location of waters of the state within three (3) miles of the facility, waste retention structures and all land application sites, an outline of the watershed drainage area, and arrows indicating general direction of surface water drainage from the facility, waste retention sites, and land application sites. Applications for LMFOs shall indicate all manmade terracing and other changes to the topography of the site.

(B) Soil map showing soil types at the facility, waste retention structure, and all land application sites. Applications for LMFOs shall provide a description of soil resources including soil survey information of the licensed area containing the following:

- (i) A map delineating different soil types on a scaled aerial photograph.
- (ii) Location of all soil sampling sites.
- (iii) Soil description of all soils used for land application pursuant to USDA description.
- (iv) An assessment of suitability of the soil for land application purposes. The assessment shall be certified by a Professional Engineer registered in the State of Oklahoma.

(C) 100 year flood plain map, if applicable. In no event shall a waste storage structure be located within the 100 year flood plain as established by the Federal Emergency Management Agency (FEMA).

(D) Applications for LMFOs shall provide a description of existing land uses and land use classification pursuant to local law or ordinance, if any, of the proposed license area and adjacent areas. The burden shall be upon the owner to comply with local and use law and ordinances.

(E) Applications for LMFOs shall provide a description of geologic information, including at a minimum:

- (i) The geology of the proposed license area down to and including the first aquifer, but not more than one hundred (100) feet below the bottom of the waste retention structure.



(ii) Geological information based on published geological literature and subsurface investigation otherwise required for the license application, including lithology from water wells on site and seismicity information. Geologic information may be provided by an agency review of the project performed by the Oklahoma Geological Survey and provided to the Department with the license application.

(F) Applications for LMFOs shall include a description of water resources, including the following:

(i) Quality of surface water resources.

(I) Identification of all surface waters of the state within a three (3) mile distance of the waste retention structure as identified on a current USGS 7.5 minute topographic map.

(II) Location, name, and description of all surface water bodies identified in (I) including streams, lakes, discharges, and impoundments within the three (3) mile radius.

(III) Beneficial uses, limitations, and remarks of all listed streams in the drainage area of the facility as listed in Appendix A of Chapter 45 of Title 785 of the Oklahoma Administrative Code.

(ii) Quality of groundwater resources.

(I) An inventory of all existing and abandoned wells, springs, and known or reasonably discoverable test holes.

(II) Groundwater description shall include a measurement of seasonal static water levels, direction of flow, and delineation of recharge areas pursuant to the Oklahoma Water Resources Board or other agency's data.

(III) Baseline sampling for ground waters accessible at the facility shall include electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.



(G) Applications for LMFOs shall include a description of the climatological factors that are representative of the proposed license area and adjacent areas as available from published sources, including average seasonal precipitation, average direction and velocity of prevailing winds, seasonal temperature changes, average evaporation rate, and other information requested by the Department.

(H) Applications for LMFOs shall include a map delineating existing vegetation types and a description of the plant communities within the proposed permit area and adjacent areas pursuant to information available from the Oklahoma Biological Survey.

(I) Applications for LMFOs shall include a description of fish and wildlife resources information for the license area and adjacent areas. The scope and level of detail to be provided may be expanded by the Department in consultation with State and Federal agencies with responsibility for fish and wildlife propagation. Site specific information necessary to address the respective species shall be required when the license area or adjacent areas are likely to include endangered or threatened species of plants or animals or their critical habitat.

(J) Applications for LMFOs shall include an identification and description of cultural and historical resources listed on the National Register and known archeological features as found in the Oklahoma Archeological Survey and Oklahoma State Historic Preservation Society of those located within the proposed license area.

(16) Report from an independent soil testing laboratory containing the following:

(A) Site map showing the location of all soil borings in relation to the facility and waste retention structure.

(i) The test boring shall be in the immediate vicinity of the proposed waste retention structure.

(ii) Bore holes shall be left open for a minimum of 48 hours for the groundwater to recover.



(iii) All bore holes shall be plugged according to Oklahoma Water Resources Board requirements.

(B) Soil tests per ASTM standards on all soils to be used in construction of the liner, with the following procedures and results reported:

(i) Grain size particle distribution analysis according to ASTM standards.

(ii) A standard Proctor compaction test based on ASTM D 698 procedure.

(iii) Perform Atterberg limits test per ASTM standards (ASTM D 4318).

(iv) Permeability tests on remolded samples compacted at ninety-five percent (95%) of standard Proctor maximum dry density at optimum moisture content conducted in accordance with ASTM D 5084 for the measurement of Hydraulic Conductivity of Saturated Porous Materials using a Flexible Wall Permeameter.

(v) Laboratory tests of representative samples presented in summary tables and on boring logs.

(vi) Applications for LMFOs shall include the basis for estimating available volume of soil (ft³) to be used in the soil liner. Estimated values shall be verified in the field during construction.

(C) Provide a soil boring log showing lithology, the above test results, and the classification of soils based on the Unified Soil Classification system.

(D) USDA Natural Resources Conservation Service (NRCS) soil testing standards and procedures shall only be substituted if the retention structure is designed by USDA NRCS Engineers.

(E) Where required by the Oklahoma Water Resources Board, all applications for LMFOs shall include a copy of a properly prepared Multi-Purpose Completion Form as submitted to the Oklahoma Water Resources Board for all soils investigation.

(17) All applications for LMFOs shall provide documentation relating to and verifying that a minimum ten (10) foot separation exists between the bottom of each waste retention structure and the



highest annual or seasonal level of groundwater elevation at the waste retention structure site based on all data available, including the perched water table and regional water table or aquifer. The perched water table shall include all local zones of saturation above the regional water table.

(A) Documentation of a ten (10) foot separation shall be established by submission of a soil log from a soil boring extending a minimum of ten (10) feet below the bottom of all waste retention structures to ascertain the presence of groundwater or bedrock.

(B) Documentation containing a statement from a Professional Engineer registered in the state of Oklahoma certifying existence of the ten (10) foot separation distance.

(18) Laboratory test reports showing the amount of Nitrogen as Nitrate and total Phosphorous contained in the following:

(A) Groundwater from all existing water wells located at the facility and land application sites.

(B) All surface water impoundments located at the facility and land application sites.

(C) Composite soil samples from each land application site. Applications for LMFOs shall, at a minimum, include analysis of soils for electrical conductivity, pH, nitrate-nitrogen, ammonium-nitrogen, organic matter, sodium, potassium, calcium, magnesium, available phosphorus, and total nitrogen. Additional parameters may be required upon request of the Department. A map showing the location of each soil sample shall be provided. All soil sampling at LMFOs shall be performed pursuant to one of the following procedures:

(i) Soil sampling shall be conducted using Oklahoma State University Fact Sheet #PT 97-37 and F-2207, or current equivalents.

(ii) A total of thirteen (13) soil samples shall be collected from each forty (40) acre land application area, one sample from each corner of a six hundred and sixty (660) foot or ten (10) acre grid, with one sample from the center of each grid. One single composite soil sample may be prepared for analysis if the proposed land application area is dominated by one soil type. Where land application is



achieved by center pivot irrigation, only those grid points within the application area shall be sampled.

(19) A Pollution Prevention Plan (PPP) which contains a Swine Waste Management Plan, a carcass disposal plan, an erosion control plan, and Best Management Practices (BMPs). Applications for LMFOs shall also include an Odor Abatement Plan (OAP), a Pest Management Plan (PMP), and any other plan required by the Department.

(20) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the swine feeding operation.

(21) All applications for LMFOs shall include a closure plan pursuant to OAR 35:17-3-25.

(22) A financial statement declaring the financial ability of an owner to operate a swine feeding operation with a liquid waste management system in order to comply with the surety requirements of the Act. The financial statement shall be confidential and shall not be opened to public inspection.

(23) A notarized certification signed by the person applying for a license, which states: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(24) All documentation deemed necessary and requested by the Oklahoma Department of Agriculture, Food, and Forestry to assure the quality of waters of the state are not compromised, including waste retention structure liner specifications and design plans providing a minimum of a ten (10) foot separation between the bottom of each liquid waste retention structure and the highest annual or seasonal elevation of groundwater for LMFOs and any other information required by the Department directly related to the construction, installation, or future modification or operation of a swine feeding operation.



(b) All items listed in subpart (a) of this section shall be received by the Department before the application is considered complete. At the Department's discretion, no action will be taken on the application until all items have been received by the Department, including but not limited to presite inspections.

(c) All supporting documentation regarding methods used for preparing the license application for an LMFO, including calculation of waste retention structure capacity and land application rates, shall be based on published methods approved by the Department. Any other methods shall be used only upon approval by the Department prior to submission of the license application.

(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.

(e) Adjacent areas for purposes of the LMFO application review shall include all property within one (1) mile of the facility, or two (2) miles if the facility is an LMFO with a capacity of more than two thousand (2,000) animal units.

