Title 35. Oklahoma Department of Agriculture, Food, and Forestry

CHAPTER 17. WATER QUALITY

SUBCHAPTER 4. CONCENTRATED ANIMAL FEEDING OPERATIONS

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 and documentation from an independent consultant utilizing soil testing analysis from an Oklahoma Department of Environmental Quality certified 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 ASTMD 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.

(E) Documentation validating a minimum ten (10) feet 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 available data, 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.

(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.

35:17-4-6. Application for license renewal

(a) An application for renewal shall be submitted prior to July 1 of each year the license is to be renewed.

(b) Any license for which a renewal application is received prior to the renewal date established by statute is considered to be valid until a final determination is made. The determination shall be made after a review by the Department.

(1) Renewals meeting the requirements shall be reissued a license unless ~~sufficent~~sufficient cause to terminate or revoke the license is shown. If corrections of the renewal application are required, the owner shall have twenty (20) working days from the date of notification to make all necessary revisions.

(2) If corrections are not made within twenty (20) working days, the license may be referred to the Board for denial. Applications shall be considered to meet the requirements for renewal if:

(A) The application is filled out completely and accurately.

(B) The correct renewal fee is paid within the time specified.

(C) All plans and amended plans for the animal feeding operation are being followed.

(D) The Department determines that there have been no significant changes in the operation since the last renewal which would require that the license be denied due to failure of the facility to meet the requirements of the Act.

(c) If an application and fee for renewal is submitted July 1 through July 31, the owner shall pay a $100 late renewal fee in addition to the renewal fee.

35:17-4-11. Criteria for liners

(a) Soil liners shall be constructed to meet the following minimum requirements:

(1) Constructed in lifts or layers no more than six (6) inches thick when compacted.

(A) Soils used in the liner shall be free of foreign material, including trash, brush, and fallen trees.

(B) All side slopes and the floor of the retention structures shall be checked after each lift to ensure proper compaction and moisture content. All readings shall be recorded and properly documented. Minimum information required for documentation shall include:

(i) Project name.

(ii) Date.

(iii) Test method used per ASTM specification.

(iv) Site name.

(v) Technician name.

(vi) Location of reading, include sketch.

(vii) Percent compaction

(viii) Wet density in pounds per cubic foot (pcf).

(ix) Dry density in pounds per cubic foot (pcf).

(x) Moisture content, percent.

(xi) Lift number.

(xii) Soils lab name, report number, and Proctor Test results used to obtain field measurements.

(2) Compaction to a minimum of ninety-five percent (95%) of Standard Proctor (ASTM D 698) at optimum or wetter moisture content.

(3) Hydraulic conductivities of no greater than 1×10^{-7} cm/sec. The field permeability of the liner shall be verified by using one of the following methods:

(A) If a sealed Double Ring Infiltrometer is used to determine the field permeability of the liner, at least one representative location on each corner and one location in the center of the waste retention structure bottom shall be selected for Double Ring Infiltrometer determination.

(B) At least four (4) representative undisturbed core samples, one from each corner of the waste retention structure bottom shall be retrieved for permeability determination in the laboratory. The permeability shall be determined using a Flexible Wall Permeameter (ASTM D 5084).

(4) Minimum thickness of one and one half (1.5) feet.

(5) Maximum hydrostatic head of ten and one half (10.5) feet.

(6) Hydrostatic head or water depth may be increased above ten and one half (10.5) feet in one of the following circumstances:

(A) Liner thickness above the minimum shall be increased by an amount needed to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity.

(B) Soils with permeabilities less than 1×10^{-7} cm/sec are used to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity. Soils which do not meet the maximum criteria of 1×10^{-7} cm/sec can be mixed with a sufficient amount of bentonite clay to achieve the desired standard.

(C) Any combination of (A) or (B). In no case shall hydraulic conductivity be used to reduce the minimum thickness of one and one half (1.5) feet or shall thickness be used to increase the maximum hydraulic conductivity of 1×10^{-7} cm/sec.

(b) The owner shall maintain the liner to inhibit infiltration of wastewaters. Liners shall be protected from burrowing and other animals by fences or other protective devices. Liners shall also be protected from the potential root zone of all trees.

(c) Any mechanical or structural damage to the liner shall be evaluated by an environmental, agricultural, or other Department approved professional engineer registered in the state of Oklahoma within thirty (30) calendar days of the damage. Documentation of liner maintenance shall be kept with the Pollution Prevention Plan.

(d) Flexible membrane or synthetic liners may be used in connection with a soil liner or as a substitute for a soil liner. Geosynthetic liners and flexible membrane liners shall be installed so as to protect waters of the State from contamination.

(1) The subgrade soil shall be prepared according to the design standards. A subgrade verification form shall be submitted with liner documentation.

(2) The surface to be lined shall be rolled and compacted and free of irregularities, undulations, protrusions, vegetation, excessive moisture, loose soil, or abrupt changes in slope.

(3) The subgrade surface shall be free of foreign material including stones, cobbles, broken pieces of wood, plastic, or glass.

(4) The owner shall provide a copy of a completed Surface Acceptance Form indicating acceptable locations. In no case shall the installer deploy any geomembrane or flexible membrane liner in areas not acceptable within these rules.

(5) If at any time during the installation the subgrade surface deteriorates or is damaged, or in any way deemed unacceptable by the regulatory authority, all work shall stop until proper repair is performed.
(6) The anchor trench shall be constructed according to the standard industry practices. The trench shall be adequately drained to prevent ponding or softening of the side walls. After installation of the liner, the trench shall be back filled, compacted, and anchored according to the standards.
(7) The liner placement plan shall take into consideration the site drainage, low lying areas, temperature, and prevailing wind velocity and direction. Field panels shall be deployed one at a time and seamed as soon as possible to minimize the risk of wind or water damage.
(8) Field panel deployment shall not proceed at an ambient temperature below forty degrees (40°) F, unless Low Temperature Welding Procedures are used. All deployed panels should be amply ballasted or sand bagged at all times to avoid wind damage.
(9) Personnel responsible for placement of the liner shall not smoke, wear damaging shoes, or engage in other activities which may cause damage to the liner. The method of deployment shall not cause scratches, crimps, or tear the liner or damage the subgrade. Adequate sand bags shall be placed on the edges of the liner to avoid wind uplifting.
(10) The installer shall visually inspect the panels as soon as possible after deployment for damage or distressed surfaces.
(11) A seam is considered a separate entity if it joins two panels. Repairs are not considered seams in this context. Seams shall be generally oriented parallel to the line of maximum slope, or along instead of across the slope. In corners and odd shaped geometric locations the number of seams should be minimized.
(12) The Extrusion Process shall be used only for repairs and patching and shall not be used for the overall operation. The Fusion Process shall be used for seaming panels together using hot-wedge type or solid wedge type automated self-propelled apparatus equipped with temperature gauges.
(13) The nondestructive seam continuity test shall be performed during daylight hours and certified ~~by the owner~~.

(e) The site evaluation on the waste retention structure, in accordance with Title 2 OS § 20-50(C)(2), shall be submitted to the Department no later than sixty (60) days after the last five (5) year site evaluation date.

(f) Every five (5) years the facility shall complete a sludge accumulation survey on the retention structure to ensure compliance with designed volumes.

(1) The sludge accumulation survey shall be submitted to the Department no later than sixty (60) days after the last five (5) year survey date. For new waste retention structures or older structures starting these surveys after September 2026, they may be conducted on and submitted on the same timeframe as the waste retention evaluation.

(2) If sludge is found to be greater than the approved, designed volume, then a plan for removal must be submitted within ninety (90) days of the survey to the Department for review and approval .

(3) Upon approval by the Department, the feeding operation shall ensure clean-out in accordance with the plan for removal.

35:17-4-13. Carcass disposal

(a) Dead animals shall be disposed of in accordance with a carcass disposal plan developed by the owner and approved by the Department which shall decrease the possibility of the spread of disease, reduce odors, and preclude contamination of ground and surface waters of the state. Dead animals shall be disposed of properly and in an environmentally safe manner in accordance with Federal, State, and local requirements. At all times the facility shall comply with the provisions of an approved carcass disposal plan.
(b) The plan shall include provisions for the disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates.
(c) Accepted methods of carcass disposal include the following:

(1) Rendering.

(A) The owner shall obtain a contract with a rendering service that insures disposal of all carcasses within a reasonable period of time. The name, address, and telephone number of the rendering service shall be provided. In addition, the frequency and schedule of carcass pickup shall be included.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(C) Sealed storage facilities shall not be required for animals weighing 300 pounds or more, but the prevention of pests and odors shall be addressed.

(2) Burial.

(A) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and the disposal plan contains specific measures and practices which are utilized to protect the ground and surface waters of the state.

(B) Prior approval by the Department is required of any carcass disposal plan l isting burial as the method of disposal.

(3) Composting.

(A) Prior approval by the Department is required of any carcass disposal plan listing composting as the method of disposal.

(B) The Department may require another method of carcass disposal other than composting if the Department determines that a more feasible and effective method of carcass disposal exists.

(4) Incineration shall only be used as method of carcass disposal if the animal feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division.

(5) Alternative methods submitted to and approved by the Department on a case by case basis.

35:17-4-16. Best Management Practices (BMPs)

(a) The owner shall document all Best Management Practices (BMPs) used to comply with the required effluent limitations. Equivalent measures contained in a site-specific AWMP prepared by NRCS may be substituted for the BMPs.
(b) The criteria for BMPs shall be established in writing by the Department and shall include but not be limited to the following:

(1) There shall be no water quality impairment to public and neighboring private drinking water wells due to waste handling at the facility. Wastewater retention structures or land

application of wastewater shall not be located within three hundred (300) feet of an existing public or private drinking water well.
(2) Animal waste handling, treatment, and management shall not knowingly or reasonably result in the destruction of endangered or threatened species or contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor shall disposal knowingly interfere with or cause harm to migratory birds. The owner shall notify the appropriate fish and wildlife agency in the event of any significant fish, wildlife, or migratory bird or endangered species kill or die-off on or near retention ponds or in fields where waste has been applied and which could reasonably have resulted from waste management at the facility.
(3) Solids, sludges, manure, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner designed to prevent pollutants from being discharged to surface or groundwaters of the State.
(4) The owner shall prevent the discharge of pesticide contaminated waters into surface or groundwaters of the State. All wastes from dipping vats, pest, and parasite control units and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner which prevents pollutants from entering the surface or groundwaters of the State.
(5) Fresh water entering into contaminated areas shall be managed to prevent contamination. Preventing the drainage of fresh surface waters into or onto waste contaminated areas shall be accomplished by one of the following:
(A) Terracing and the construction of other diversion structures to redirect fresh water drainage from entering waste contaminated areas.
(B) Rainwaters falling directly on waste contaminated areas of the facility shall be collected and dispersed as a waste.
(6) Actions as deemed necessary shall be taken to retain all animal waste on the premises until proper waste utilization is accomplished.
(c) The ~~owner~~PPP shall describe how each BMP shall be implemented and complied with at the facility.

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-2. Definitions

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

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

~~**"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 as required by the Oklahoma Department of Agriculture, Food and Forestry pursuant to the provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.~~

"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.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State. CAUSING AN ENVIRONMENTAL HAZARD

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

~~**"Waste facility"** means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.~~

35:17-5-3. Registration, Nutrient Management Plan (NMP) required

(a) **Registration.**

(1) ~~It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.~~

~~(2)~~ Every poultry feeding operation shall be required to renew the registration annually by January 1 to operate.

(2) If a poultry feeding operation remits a registration renewal and ten dollar ($10) renewal fee after January 1 but before March 1, the registered facility shall pay an additional one hundred dollar ($100.00) late fee.

(3) A poultry feeding operation renewal received March 1 or later will still be responsible for the renewal and late fee but will be deemed a violation and subject to enforcement.~~Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.~~

(4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) **Nutrient Management Plan.**

(1) Every poultry feeding operation shall ~~obtain or apply for~~maintain a current, ~~an~~ approved NMP addressing both nitrogen and phosphorus in accordance with Appendix B.

(2) All new ~~operators of~~ poultry feeding operations shall submit a Letter of Intent to prepare a NMP ~~obtain~~ or ~~apply for~~submit a NMP with the registration application prior to construction of the facility for review and approval. If a Letter of Intent is accepted, the~~The~~ NMP shall be submitted to the Department for review and approval~~completed and implemented~~ within one year of registration approval~~application~~.

(3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.

(4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans shall also be reviewed and updated in the following circumstances:

(A) When the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards. ~~or~~

(B) Upon notification of the Oklahoma Department of Agriculture, Food, and Forestry.

(C) If expected nutrient loading will change the classification of a field on the P risk assessment worksheet sooner than the final year of the plan.

(D) Prior to additions, expansions, or significant modifications to the facility or land application fields owned or operated by the facility.

(5) ~~The NMP shall be updated prior to the expansion of a facility.~~

~~(6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and Forestry.~~ In no event shall the poultry feeding operation land apply poultry waste in excess of the standards contained in Appendix ~~A~~B.

(c) **Transfer.**

(1) Owners intending to sell a registered poultry feeding operation shall submit written notification to~~notify~~ the Department at least ten (10) days prior to the final sale.

(2) Owners selling the registered poultry feeding operation shall submit -a final annual report for the current fiscal year within thirty (30) days following the final sale.

(3) New owners purchasing a registered poultry feeding operation shall have thirty (30) days to submit a transfer application on a form prescribed by the Department along with the Ten (10) Dollar nonrefundable application fee.

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns~~,~~ or other roof covered structures which house poultry; poultry waste treatment and storage sites, including, but not limited to, composters, pits, retention structures, litter sheds and other carcass disposal areas;~~, litter sheds,~~ and all appurtenances, additions, or buildings~~and other buildings~~ associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

(B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.

(C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility;

(2) Public school shall be one thousand five hundred (1,500) feet;

(3) Incorporated city limits shall be one thousand five hundred (1,500) feet;

(4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;

(5) Property line shall be one hundred and fifty (150) feet;

(6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;

(7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and

(8) Public well shall be five hundred (500) feet.

(b) The setbacks contained in subsections (a)(1), (2), (3), and (5) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry 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)(1), (2), (3), and (5) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.
(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:

(1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and

(2) Identification of all locations listed in subsection (a) within one thousand (1,000) feet of the facility.

(d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.
(e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.
(f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.

35:17-5-4. Soil and litter tests required

~~(a) All soil and poultry waste analysis data shall be dated prior to land application.~~
~~(b) Poultry waste shall be applied only by an Oklahoma certified poultry waste applicator.~~

35:17-5-5. Nutrient Management Plan

(a) The NMP shall comply with Title 2 O.S. § 10-9.1 et seq., all the requirements contained in Appendix B, and shall contain, at a minimum, the following:

(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, including soil and poultry waste testing.~~

~~(4) Legal description of lands to be used by an operation for land application.~~

~~(5)~~ Soils map with description and type or series.

~~(6)~~(2) Land application rates ~~of poultry waste shall be based on the available~~shall be based on the available total nitrogen and phosphate~~phosphorus content~~ of the poultry waste analysis results and the nitrate and phosphate (as determined by the Mehlich-III extractant, ICP analysis method) of soil analysis~~test~~ results.

~~(7)~~(3) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) ~~Adequate poultry waste storage shall be provided.~~ Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. 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. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(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 or snow covered except in conformance with the NMP.~~

~~(C)~~ Poultry waste shall only be applied ~~to suitable land at appropriate times and~~at rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

~~(D)~~(C) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.

~~(E)~~(D) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

~~(F) Poultry waste application shall be prohibited on land subject to excessive erosion.~~

~~(G)~~(E) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

~~(H)~~(F) Poultry waste shall only be applied by an Oklahoma~~a~~ certified poultry waste applicator.

(b) ~~The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates.~~ Procedures for accepted~~Accepted~~ methods of carcass disposal may include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(2) Burial shall only be approved by the Department as a method of emergency carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.

(3) Composting by methods as approved in the NMP.

(4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(5) Alternative methods submitted to and approved by the Department on a case by case basis.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants off the property owned by the operation or to waters of the State ~~or cause a water quality violation to waters of the State~~.
(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge or runoff that leaves the property or reaches waters of the State.

35:17-5-9.1. Biosecurity
~~(a)~~ Standard precautions for the prevention of the transmission of communicable diseases to humans and animals shall be used by employees of the State Department of Agriculture when inspecting poultry feeding operations pursuant to their official duties specified by the Oklahoma Registered Poultry Feeding Operations Act.
~~(b) Except for emergency situations or when enforcement of the provisions of the Oklahoma Registered Poultry Feeding Operations Act is required, the State Department of Agriculture shall observe the health standards and sanitary requirements of the facility.~~

35:17-5-11. Education
(a) All operators of poultry feeding operations shall attend educational courses on poultry waste handling provided by the Oklahoma State University (OSU)~~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~~OSU Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the ~~Oklahoma Cooperative~~OSU 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~~OSU 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 31st of each calendar year.
(h) ~~Oklahoma Cooperative~~OSU 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.

SUBCHAPTER 7. POULTRY WASTE APPLICATORS CERTIFICATION

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 or any sale or transfer, that is not directly sold from a registered Poultry Feeding Operation, 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 or transfer at no monetary cost, that is not directly transferred from a registered Poultry Feeding Operation, 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 or transferred 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 or offers for sale more than ten (10) tons in a year without a Poultry Feeding Operation registration as issued by the Department shall obtain a valid applicator's certificate issued by the Department~~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 onsite 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 or transfers more than ten (10) tons for no monetary value in a year without a Poultry Feeding Operation registration as issued by the Department shall obtain a valid applicator's certificate issued by the ~~Board~~Department.

(b) All new private poultry waste applicators shall apply for a private poultry waste applicator's certificate prior to land applying or transferring 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 onsite 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 State University (OSU)~~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~~OSU Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the ~~Oklahoma Cooperative~~OSU 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~~OSU 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 31st 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.

35:17-7-12. Land Application Sample Requirements

(a) Poultry waste shall be analyzed for total nitrogen, phosphate, potassium, pH, and moisture.
(b) Soils in areas in which animal waste is applied shall be analyzed for nitrates, phosphates (as determined by the Mehlich-III extractant, ICP analysis method), potassium, pH, and buffer index.

SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

35:17-9-3. Permit provisions and application

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department.
(b) The permit shall be renewed every five (5) years on October 1.
(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, telephone number, and email address of the owner;

(2) Name, address, and county of the facility, including the Global Positioning System (GPS) coordinates to the entry of the facility;
(3) Name, address, and telephone number of the operator, if other than the owner;
(4) A description of the proposed compost facility purpose of the facility.
(5) A composting plan that shall include but not be limited to the following:

(A) Source materials proposed for use and the estimated amount of compost produced per year;
(B) Proposed type of composting process or processes to be used at the facility, which may include windrow, static pile, or in vessel composting method;
(C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;
(ii) Soil map showing soil types at the facility; and
(iii) 100-year flood plain map.

(D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface impoundments located on the site.
(E) Design drawings and specifications for:

(i) receiving, processing, storage, disposal, or reuse areas;
(ii) leachate collection systems;
(iii) storage, treatment, and disposal of leachate and sludge;
(iv) storm water drainage;
(v) protection of groundwater from leachate;
(vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.

(F) Proposed operational parameters.
(G) Site layout and construction.
(H) Best management practices used at the site for erosion control, water pollution control, odor control, storage of the source materials, storage of the finished compost, fire prevention and control, and aesthetic enhancement. Best management practices shall be utilized to ensure environmental hazards are avoided and operations do not create nuisance conditions, including blowing of dust or waste, odor, pest, or attraction of vermin creating public health concerns or erosion.
(I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.
(J) A notarized certification signed by the person applying for the permit, stating: "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."

(K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.

(L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.

(d) The application for a new facility or a renewal shall be accompanied by an application fee of Two Hundred Dollars ($200.00).

(e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.

(f) The Department shall require closure of any facility under the following circumstances:

(1) The operator of the facility notifies the Department that the facility is no longer in operation.

(2) The facility has not accepted source material nor produced compost for a period of six (6) months.

(3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.

(g) A compost permit shall not be transferred.

(1) Upon sale of a compost facility, the new owner shall submit a new application and fee within thirty (30) days of the final sale.

(2) The former owner shall provide written notice of sale at least ten (10) days prior to finalization of the sale along with a written statement identifying plans to close or transfer the total retention storage structure.

(3) If the new owner agrees to take over responsibility of the total retention storage structure, as outlined in OAC 17-9-9(d), a signed, notarized agreement by both parties shall be submitted to the Department prior to the sale.

35:17-9-6. Leachate and storm water control

(a) The owner or operator shall provide a total retention storage structure or vegetative filter that is of sufficient size to contain or filter all leachate and contaminated storm water.

(b) If a total retention storage structure is required by the Department, the owner shall ensure:

(1) The waste retention structure shall have the volume to store runoff from a 100 year/ 24 hour storm event,

(2) One foot of freeboard is maintained, and

(3) A permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway is constructed.

(c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.

(d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

(e) The owner or operator shall conduct a minimum monthly inspection on the total retention storage structure and maintain documentation of these inspections for a minimum of five (5) years.
(f) The owner or operator shall maintain the retention storage structure to ensure the liner and embankments are free damage as well as free of of foreign material including trash, brush, tree roots, erosion and bore holes from vermin that may affect the integrity of the structure.

35:17-9-8. Existing facilities
(a) Any facility in existence on the effective date of these rules shall apply for a permit and comply with all operational requirements.
(b) Any facility in existence on the effective date of these rules shall comply with all structural requirements no later than May 11, 2016.
(c) In no case shall an existing facility discharge to waters of the state.
(d) Any licensed compost facility shall submit to the Department an updated plan prior to any changes to operation or source materials for review and approval.