

CROSS-WALK OF FEDERAL AND OKLAHOMA CAFO REGULATIONS

FEDERAL REQUIREMENT/ CITATION	STATE CITATION	STATE REQUIREMENT	COMMENT
40 CFR PART 122 – EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM			
40 CFR § 122.21– PERMIT APPLICATION AND SPECIAL NPDES PROGRAM REQUIREMENTS			
122.21(a) * * * (1) * * * All concentrated animal feeding operations have a duty to seek coverage under an NPDES permit, as described in Sec. 122.23(d). * * * * *	2. § 9-204.1(A)(1) 2. §10-9.3(A)(1)	Licensure: Any animal feeding operation meeting the criteria defining concentrated animal feeding operation shall be required to obtain a license to operate pursuant to the Oklahoma CAFO Act and rules promulgated pursuant thereto. It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.	Oklahoma is not a delegated state for NPDES CAFO Permit
122.21(j) * * * (1) For concentrated animal feeding operations: (i) The name of the owner or operator; (ii) The facility location and mailing addresses; (iii) Latitude and longitude of the production area (entrance to production area); (iv) A topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of paragraph (f)(7) of this section;	2 § 9-205(B)	The application for license to operate a new or previously unlicensed AFO or expanding operation shall contain, as a minimum, the following information: <ol style="list-style-type: none"> 1. Name and address of the owner and operator of the facility; 2. Name and address of the animal feeding operation; 3. Capacity in animal units, and number and type of animals housed or confined; 4. A diagram or map and legal description showing geographical location of the facility, location of waters of the state, drainage from the facility, animal waste storage facilities and land application sites owned or leased by the applicant. 5. A copy of Pollution Prevention Plan containing an Animal Waste Management Plan, Best 	

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	2 § 10-9.5(B)	<p>Management Practices, Odor Abatement Plan or other plan as required by the Oklahoma CAFO Act.</p> <p>The application to register to operate a previously unregistered poultry operation or expanding operation shall be under oath and shall contain, as a minimum, the following information:</p> <ol style="list-style-type: none"> 1. Name and address of the owner and operator of the facility; 2. Name and address of the poultry operation; 3. Number and type of poultry housed or confined; 4. Name and address of the integrator whose poultry will be raised by the poultry feeding operation. 5. A diagram or map and legal description showing geographical location of the facility, location of waters of the state, drainage from the facility, poultry waste storage facilities and land application sites owned or leased by the applicant or which the applicant has contracted with for the application of poultry waste. 6. A copy of the Animal Waste Management Plan (AWMP), Best Management Practices (BMP) or any other plan authorized by the State Department of Agriculture. 	

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<p>(v) Specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);</p>	<p>2 § 205.B 2. § 10-9.5(B) 2 § 9-202(B)(18) 2 § 10-9.1(B)(20)</p>	<p>See requirement in § 205(B)(3) See requirement in § 10-9.5(B)(3) Defines Licensed Managed Feeding Operation (LMFO) as an animal feeding operation primarily using liquid animal waste management system, where animal are primarily housed in a roof-covered structure and which has more than the number of animals specified. Defines Poultry feeding operation as a property or facility where the following conditions are met: a. poultry have been, are or will be confined and fed or maintained for a total of 45 days or more in any twelve-month period. b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the property or facility, and producing over ten (10) tons of poultry waste per year.</p>	
<p>(vi) The type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage(tons/gallons);</p>	<p>2 § 9-205.2(F)(5)</p>	<p>A description of management controls appropriate for the facility. The management controls shall include: a. the location and a description of existing structural and nonstructural controls; b. documentation of retention structure capacity and the assumptions and calculation used in determining the appropriate volume capacity, and c. a description of the design standards for the retention facility embankment.</p>	
<p>(vii) The total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;</p>	<p>2 § 9-205.3(C)(3)</p>	<p>All calculations in determining land application rates, acreage and crops for the land application rate of both solid and liquid animal waste on <i>land owned and controlled by the licensee</i>.</p>	

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<p>viii) Estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);</p>	<p>2 § 10-9.7(C)(7)</p> <p>2 § 9-205.3(C)</p> <p>2 § 10-9.7(C)</p>	<p>Records shall be maintained of all poultry wastes applied on <i>land owned or controlled by the operator</i>.</p> <p>(3) The AWMP shall include :</p> <p>All calculations in determining land application rates, acreage and crops for the land application rate of both solid and liquid animal wastes on land owned or controlled by licensee.</p> <p>Every poultry feeding operation shall have an AWMP which shall include:</p> <ol style="list-style-type: none"> 1. The calculations and assumptions used for determining land application rates. 2. All nutrient analysis data, for soil and poultry waste testing; <p>Note: The Acts do not specifically set requirements for estimating annual production of manure, litter or process wastewater. However, to comply with the Pollution Prevention Plan (PPP), AWMP and BMP, the owner/operator must keep records of the amount of manure, litter and wastewater generated per year.</p>	<p>The Oklahoma CAFO and Poultry Act do not define <i>land application area</i></p>
<p>(ix) Estimated amount of manure, litter, and process wastewater transferred to other persons per year (tons/gallons);</p>	<p>2 § 9-205.3(E)</p>	<p>If the animal waste from a licensed managed feeding operation is sold or given away to other persons for land application or disposal, the LMFO shall maintain a log of: amount, in wet tons, dry tons or cubic yards, of animal waste removed from the animal feeding operation.</p> <p>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: amount in wet tons, dry tons or cubic yards of poultry waste removed from the poultry feeding operation.</p>	
<p>x) For CAFOs that must seek coverage under a permit after</p>	<p>2 § 10-7(C)(7)(a)</p>		<p>.</p>

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<p>handling system); or (xiii) 5,000 ducks (if the AFO uses a liquid manure handling system).</p>		<p>in roof-covered structure and which has more than the number of animals specified in any of the following categories confined:</p> <ul style="list-style-type: none"> a. 2,500 swine each weighing over 25 kilograms, approximately 55 pounds, b. 10,000 weaned swine each weighing under 25 kilograms, c. 100,000 laying hens or broilers, if the facility has continuous overflowing watering, d. 30,000 laying hens or broilers, if the facility has a liquid manure system, or e. any combination of swine weighing over 25 kilograms or under 25 kilograms which would equal one thousand (1,000) animal units 	
<p>122.23(b)(5) – Manure includes manure, bedding, compost and raw materials or other materials commingled with manure or set aside for disposal.</p>	<p>2 § 9-202.(B)(4)</p> <p>2 § 10-9.1 (B)(21)</p>	<p>Animal waste means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.</p> <p>Poultry waste means poultry excrement, poultry carcasses, feed wastes or any other waste associated with the confinement of poultry from a poultry feeding operation</p>	

<p>122.23(b)(6) – Medium CAFO includes any AFO with the type and number of animals that fall within any of the ranges listed in paragraph (b)(6)(i) of this section and which has been defined or designated as a CAFO. An AFO is defined as a Medium CAFO if: (i) The type and number of animals that it stables or confines falls within any of the following ranges:</p>	<p>2 § 9-202(B)(11) (c)</p>	<p>An animal feeding operation which meets the following criteria:</p> <p>(1) more than the number or animals specified in any of the following categories are confined.</p> <ul style="list-style-type: none"> a. 300 slaughter or feeder cattle 	
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<p>(A) 200 to 699 mature dairy cows, whether milked or dry; (B) 300 to 999 veal calves; (C) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls and cow/ calf pairs; (D) 750 to 2,499 swine each weighing 55 pounds or more; (E) 3,000 to 9,999 swine each weighing less than 55 pounds; (F) 150 to 499 horses; (G) 3,000 to 9,999 sheep or lambs; (H) 16,500 to 54,999 turkeys; (I) 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; (J) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; (K) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; (L) 10,000 to 29,999 ducks (if the AFO uses other than a liquid manure handling system); or (M) 1,500 to 4,999 ducks (if the AFO uses a liquid manure handling system); <u>and</u></p> <p>(ii) Either one of the following conditions are met:</p> <p>(A) Pollutants are discharged into waters of the United States through a man-made ditch, flushing system, or other similar man-made device; or (B) Pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.</p>		<p>b. 200 mature dairy cattle, whether milk or dry cows, c. 750 swine each weighing over 25 kilograms or approximately 55 pounds, d. 3,000 weaned swine each weighing under 25 kilograms, e. 150 horses, f. 3,000 sheep or lambs, g. 16,500 turkeys, h. 30,000 laying hens or broilers, if the facility has continuous overflow watering, i. 9,000 laying hens or broilers, if the facility has a liquid manure system, j. 1,500 ducks, or k. 300 animal units, and</p> <p>(2) either one of the following conditions are met:</p> <p>a. pollutants are discharged into waters of the state through an artificial constructed ditch, flushing system or other similar artificially constructed device, or b. pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.</p> <p>Provided, however, that no animal feeding operation pursuant to this subparagraph is a concentrated animal feeding operation if such animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or</p>	
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122.23(b)(7) – Process Wastewater mean water directly or	2 § 9-	Process wastewater means any water utilized in the facility	
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<p>indirectly used in the operation of the AFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water which comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs or bedding.</p>	<p>202,(B)(26)</p>	<p>that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product, used in or resulting from the production of animals and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing, or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste.</p>	
<p>122.23(b)(8) – Production Area means that part of an AFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes but is not limited to open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste containment area includes but is not limited to settling basins, and areas within berms and diversions which separate uncontaminated storm water. Also included in the definition of production area is any egg washing or egg processing facility, and any area used in the storage, handling, treatment, or disposal of mortalities.</p>	<p>2 § 9-202(B)(13)</p> <p>2 § 9-202(B)(15)</p> <p>2 § 9-202(B)(27)</p> <p>2 § 9-202(B)(28)</p>	<p>“Designated perimeter” means the perimeter to any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. Such structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, compostors, waste storage sites, or retention structures or appurtenances or additions thereto.</p> <p>“Facility” means any place, site or location or part thereof where animals are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and animal waste management systems.</p> <p>“Retention structures” includes but is not limited to all collection ditches, conduits and swales for the collection of runoff water and process water, and basins, ponds, and lagoons or other structures used to store animal wastes.</p> <p>“Waste facility” means any structure or combination of structures utilized to control animal waste until it be disposed of in an authorized manner. Such structures shall include but not be limited to pits, burial sites, barns, or roof-covered structures housing animals, compostors,</p>	<p>Oklahoma CAFO Act and Registered Poultry Feeding Operation Act do not use the term “production area” as defined in Part 122</p>

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	<p>2 § 10-9.1(B)(12)</p> <p>2 § 10-9.1(B)(23)</p>	<p>waste storage sites, or retention structures or appurtenances or additions thereto.</p> <p>“Facility” means any place, site or location or part thereof where poultry are kept, handled, housed or otherwise maintained including but not limited to buildings, lots, pens and poultry waste management systems</p> <p>“Poultry waste management system” means a combination of structures and practices serving a poultry feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of poultry waste.</p>	
122.23(b)(9) – Small CAFO. An AFO that is designated as a CAFO and is not a Medium CAFO.	2 § 9-202(B)(11)(d)	The Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 9-204.1 of this title.	
122.23(c) – How may an AFO be designated as a CAFO? The appropriate authority (i.e., State Director or Regional Administrator, or both, as specified in paragraph (c)(1) of this section) may designate any AFO as a CAFO upon determining that it is a significant contributor of pollutants to waters of the United States.	2 § 9-204.1(D)(1)	The State Board of Agriculture may make a case-by-case designation of concentrated animal feeding operations pursuant to this section. Any animal feeding operation may be designated as a CAFO if it is determined to be a significant contributor of pollution to the waters of the state.	
<p>122.23(c)(1) – Who may designate?</p> <p>(i) Approved States. In States that are approved or authorized by EPA under Part 123, CAFO designations may be made by the State Director. The Regional Administrator may also designate CAFOs in approved States, but only where the Regional Administrator has determined that one or more pollutants in the AFO's discharge contributes to an impairment in a downstream or adjacent State or Indian country water that is impaired for that pollutant.</p> <p>(ii) States with no approved program. The Regional</p>	2 § 9-204.1(D)(1)	The Oklahoma State Board of Agriculture may designate on a case-by-case basis. The State Department of Agriculture will make the determination after conducting an on-site inspection of the facility.	

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<p>Administrator may designate CAFOs in States that do not have an approved program and in Indian country where no entity has expressly demonstrated authority and has been expressly authorized by EPA to implement the NPDES program.</p>			
<p>122.23(c)(2) – In making this designation, the State Director or the Regional Administrator shall consider the following factors:</p> <ul style="list-style-type: none"> (i) The size of the AFO and the amount of wastes reaching waters of the United States; (ii) The location of the AFO relative to waters of the United States; (iii) The means of conveyance of animal wastes and process waste waters into waters of the United States; (iv) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes manure and process waste waters into waters of the United States; and (v) Other relevant factors. 	<p>2 § 9-204.1(D)(1)</p>	<p>In making this designation, the Board shall consider the following factors:</p> <ul style="list-style-type: none"> a. the size of the AFO and the amount of wastes reaching waters of the state, b. the location of the AFO relative to waters of the state, c. the means of conveyance of animal waste and wastewater into waters of the state, d. the method of disposal of animal waste and process wastewater disposal, e. the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the state, and f. other such factors relative to the significant of the pollution problem sought to be regulated. 	
<p>122.23(c)(3) – No AFO shall be designated under this paragraph unless the State Director or the Regional Administrator has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program. In addition, no AFO with numbers of animals below those established in paragraph (b)(6) of this section may be designated as a CAFO unless:</p> <ul style="list-style-type: none"> (i) Pollutants are discharged into waters of the United States through a manmade ditch, flushing system, or other similar manmade device; or 	<p>2 § 9-204.1(D)(2)</p>	<p>In no case shall an application for a license be required from an AFO pursuant to this subsection until there has been an on-site inspection of the operation and a determination by the State Department of Agriculture that the operation is a CAFO. Should the Department determine that the operation is a CAFO, the Department shall notify the operation of such determination and of an opportunity for the owner or operator of the facility to request an administrative hearing on the issue.</p>	

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<p>122.23(d)(3) – Information to submit with permit application. A permit application for an individual permit must include the information specified in Sec. 122.21. A notice of intent for a general permit must include the information specified in Sec. 122.21 and 122.28.</p>	<p>2 § 9-205 (B)</p> <p>2 § 10-9-5(B)</p>	<p>The information to be submitted with license application is specified in this section and Section 35:17-3-6 of the Oklahoma CAFO Permanent Rules.</p> <p>This section specified the information required for the registration of a poultry feeding operation.</p>	
<p>122.23(e) – Land application discharges from a CAFO are subject to NPDES requirements. The discharge of manure, litter or process wastewater to waters of the United States from a CAFO as a result of the application of that manure, litter or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to NPDES permit requirements, except where it is an agricultural storm water discharge as provided in 33 U.S.C. 1362(14). For purposes of this paragraph, where the manure, litter or process wastewater has been applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater, as specified in Sec. 122.42(e)(1)(vi)- (ix), a precipitation-related discharge of manure, litter or process wastewater from land areas under the control of a CAFO is an agricultural stormwater discharge.</p>	<p>2 § 9-202(B)(17)</p> <p>2 § 9-205.3(b)(1)&(2)</p> <p>OAC 35:17-3-14(b)(3)(A)</p> <p>2 § 10-9.7(B)(4)</p> <p>2 § 10-9.7(C)(5)</p> <p>OAC 35:17-3-14(B)(3)(C)</p>	<p>“Land application” means the spreading on, or incorporation of animal waste into the soil mantle primarily for beneficial purposes.</p> <p>There shall be no discharge of process wastewater to waters of the state except in accordance with the provision of the Oklahoma CAFO Act.</p> <p>Animal waste shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other structures except for a 25-year, 24-hour rainfall event.</p> <p>Runoff from animal waste is prohibited where it results in a discharge to surface or groundwater of the State. The owner shall provide controls for runoff and erosion as appropriate for site conditions.</p> <p>Poultry waste handling, treatment, management and removal shall not result in the contamination of waters of the state.</p> <p>Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and shall provide controls for runoff and erosion as appropriate for site conditions.</p> <p>It shall be considered acceptable emergency procedures for a facility which has been properly designed, constructed, and operated and is in danger of an imminent</p>	<p>Oklahoma CAFO Act and Rules do not contain provisions related to agricultural stormwater discharge</p>

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		overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or ground waters of the State.
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<p>122.23(f) – “No potential to discharge” determinations for Large CAFOs.</p> <p>122.23(f)(1) – Case-specific determination that a Large CAFO has “no potential to discharge” pollutants to waters of the United States. In making this determination, the Director must consider the potential for discharges from both the production area and any land application areas. The Director must also consider any record of prior discharges by the CAFO. In no case may the CAFO be determined to have “no potential to discharge” if it has had a discharge within the 5 years prior to the date of the request submitted under paragraph (f)(2) of this section. For purposes of this section, the term “no potential to discharge” means that there is no potential for any CAFO manure, litter or process wastewater to be added to waters of the United States under any circumstance or climatic condition. A determination that there is “no potential to discharge” for purposes of this section only relates to discharges of manure, litter and process wastewater covered by this section.</p>	<p>N.A.</p>	<p>Note: The current Oklahoma CAFO Act, Poultry Feeding Operation Act and the promulgated rules do not contain “No potential to discharge” provision. However, after the effective date of the Act (August 1, 1998) the Act requires any new LMFO to meet the prevention of hydrologic connection and setback requirements:</p> <p>2 § 9-205.4 (B)(2) states in part: “Provide documentation that there is no hydrologic connection between the waters of the state and retention structures.”</p> <p>Section 9-205.4 (C) further states: “...all retention structures of licensed managed feeding operation shall maintain a minimum separation of ten (10) feet between the bottom of the retention structure and the maximum historical groundwater elevation which is measured from the bottom of the retention structure and the highest point of the seasonal groundwater table.</p> <p>2 § 9-210.1 Setback requirements.</p> <p>Section 9-210.1(E): “No liquid animal waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.”</p> <p>Section 9-210.1(F) states in part: “... 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; (3) within three (3) miles of the high water mark of a surface</p>	<p>This provision will be incorporated in a bill to be introduced in the 2005 Legislative Session.</p>
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		<p>public water supply if the concentrated animal feeding operation is located within the drainage basin for the public water supply.</p> <p>2 § 9-210.3 (D) states in part; “No licensed managed feeding operation established after the effective date of this act which applies for a new or expanding license after March 8, 1998, shall be located: (1) within three (3) miles of any designated scenic river area; (3) within three (3) miles of a public drinking water well; (4) within one (1) mile of a waterbody specified as Outstanding Resource Waters that has recreational or ecological significance as outlined by the most current Water Quality Standards; (5) within three (3) miles of national park designated by US Department of the Interior National Park Service.</p>	
<p>122.23(f)(2) – Information to support a “no potential to discharge” request. In requesting a determination of “no potential to discharge,” the CAFO owner or operator must submit any information that would support such a determination, within the time frame provided by the Director and in accordance with paragraphs (g) and (h) of this section. Such information must include all of the information specified in Sec. 122.21(f) and (i)(1)(i) through (ix). The Director has discretion to require additional information to supplement the request, and may also gather additional information through on-site inspection of the CAFO.</p>	<p>N.A.</p>	<p>Note: Pursuant to Section 9-205.4(2) documentation of no hydrologic connection shall be certified by a professional environmental, agricultural, or other Department approved professional engineer.</p> <p>Section 9-205(B) requires an application for license to contain: “A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, animal waste storage facility and land application sites owned or leased by the applicant.</p>	
<p>122.23(f)(3) – Process for making a “no potential to discharge” determination. Before making a final decision to grant a “no potential to discharge” determination, the Director must issue a notice to the public stating that a “no potential to discharge”</p>	<p>N.A.</p>	<p>Note: Oklahoma CAFO Act and Registered Poultry Feeding Operation Act and rules promulgated pursuant thereto do not contain this provision.</p>	

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<p>request has been received. This notice must be accompanied by a fact sheet which includes, when applicable: a brief description of the type of facility or activity which is the subject of the “no potential to discharge” determination; a brief summary of the factual basis, upon which the request is based, for granting the “no potential to discharge” determination; and a description of the procedures for reaching a final decision on the “no potential to discharge” determination. The Director must base the decision to grant a “no potential to discharge” determination on the administrative record, which includes all information submitted in support of a “no potential to discharge” determination and any other supporting data gathered by the permitting authority. The Director must notify any CAFO seeking a “no potential to discharge” determination of its final determination within 90 days of receiving the request.</p>			
<p>122.23(f)(4) – What is the deadline for requesting a “no potential to discharge” determination? The owner or operator must request a “no potential to discharge” determination by the applicable permit application date specified in paragraph (g) of this section. If the Director’s final decision is to deny the “no potential to discharge” determination, the owner or operator must seek coverage under a permit within 30 days after the denial.</p>	<p>N.A.</p>	<p>Note: There is currently no state requirement.</p>	
<p>122.23(f)(5) – The “no potential to discharge” determination does not relieve the CAFO from the consequences of an actual discharge. Any unpermitted CAFO that discharges pollutants into the waters of the United States is in violation of the Clean Water Act even if it has received a “no potential to discharge” determination from the Director. Any CAFO that has received a determination of “no potential to discharge,” but who anticipates changes in circumstances that could create the potential for a discharge, should contact the Director, and apply for and obtain permit authorization prior to the change of</p>	<p>N.A.</p>	<p>Note: No state requirement at this time.</p>	

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circumstances.			
122.23(f)(6) – The Director retains authority to require a permit. Where the Director has issued a determination of “no potential to discharge,” the Director retains the authority to subsequently require NPDES permit coverage if circumstances at the facility change, if new information becomes available, or if there is another reason for the Director to determine that the CAFO has a potential to discharge.	N.A.	Note: There is currently no state requirement.	
122.23(g) – WHEN MUST A CAFO SEEK COVERAGE UNDER AN NPDES PERMIT?			
122.23(g)(1) – Operations defined as CAFOs prior to April 14, 2003. For operations that are defined as CAFOs under regulations that are in effect prior to April 14, 2003, the owner or operator must have or seek to obtain coverage under an NPDES permit as of April 14, 2003, and comply with all applicable NPDES requirements, including the duty to maintain permit coverage in accordance with paragraph (h) of this section.	2 § 9-204.1(A)(1) & (B)(2) OAC 35:17-3-5	<p>Any animal feeding operation meeting the criteria defining a CAFO shall be required to obtain license to operate pursuant to the Oklahoma CAFO Act and rules promulgated pursuant thereto.</p> <p>After September 1, 1997, any licensed managed feeding operation (LMFO) shall be required to obtain a license for any increase in excess of five percent (5 %) of the original facility’s licensed capacity.</p> <p>In addition to CAFOs, any person who has filed a Notice of Intent (NOI) to be covered under the NPDES General Permit on CAFO issued by the Environmental Protection Agency on February 8, 1993 or its replacement or possessing an NPDES Permit shall be required to obtain Oklahoma CAFO License.</p> <p>Note: Any poultry feeding operation that meets the definition of LMFO is required to obtain an Oklahoma CAFO License.</p>	The provisions in 122.23(g)(1)-(6) have not be incorporated in the current Oklahoma CAFO Act, Poultry Feeding Operations Act or the promulgated rules pursuant thereto.

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<p>122.23(g)(2) – Operations defined as CAFOs as of April 14, 2003, who were not defined as CAFOs prior to that date. For all CAFOs, the owner or operator of the CAFO must seek to obtain coverage under an NPDES permit by a date specified by the Director, but no later than February 13, 2006.</p>	<p>2 § 9-204.1(A)(1) & (B)(2) OAC 35:17-3.5</p>	<p>Note: Same provisions as stated above</p>	
<p>122.23(g)(3) – Operations that become defined as CAFOs after April 14, 2003, but which are not new sources. For newly constructed AFOS and AFOs that make changes to their operations that result in becoming defined as CAFOs for the first time, after April 14, 2003, but are not new sources, the owner or operator must seek to obtain coverage under an NPDES permit, as follows:</p> <p>(i) For newly constructed operations not subject to effluent limitations guidelines, 180 days prior to the time CAFO commences operation; or (ii) For other operations (e.g., resulting from an increase in the number of animals), as soon as possible, but no later than 90 days after becoming defined as a CAFO; except that</p> <p>(iii) If an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until April 13, 2006, or 90 days after becoming defined as a CAFO, whichever is later.</p>	<p>2 § 9-204.1(B)(2)</p>	<p>Note: Pursuant to this section, any expanding LMFO is required to obtain an Oklahoma CAFO License.</p>	
<p>122.23(g)(4) – New sources. New sources must seek to obtain coverage under a permit at least 180 days prior to the time that the CAFO commences operation.</p>	<p>2 § 9-205(D)</p>	<p>No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for such a facility or expansion has been issued by the Department.</p>	

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	2 § 9-205(F)	approval or denial of the transfer. Any suspension or revocation or non-renewal of a license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act by the Board shall be made in accordance with Section 9-211 of this title.	
40 CFR §122.28 – GENERAL PERMITS			
122.28 General permits (applicable to State NPDES programs, see Sec. 123.25). * * * * * (b) * * * (2) * * * (ii) * * * Notices of intent for coverage under a general permit for concentrated animal feeding operations must include the information specified in Sec. 122.21(i)(1), including a topographic map.	N.A.	Note: Oklahoma is not a delegated State for the NPDES CAFO Permit. Effective February 8, 1993, EPA Region 6 developed and implemented NPDES General Permit for CAFO in Oklahoma. Pursuant to OAC 35:17-3-5, in addition to CAFOs, any person who has filed a Notice of Intent to be covered under the NPDES General Permit on CAFO issued by EPA on February 8, 1993 or its replacement or possessing NPDES Permit shall be required to obtain an Oklahoma CAFO License. EPA Region 6 has drafted a CAFO General Permit for the State of Oklahoma and New Mexico.	
40 CFR §122.42 – ADDITIONAL CONDITIONS APPLICABLE TO SPECIFIED CATEGORIES OF NPDES PERMITS			

122.42(e) – Concentrated animal feeding operations (CAFOs). 122.42(e)(1) – Any permit issued to a CAFO must include: Requirements to develop and implement a nutrient management plan. At a minimum, a nutrient management plan	2 § 9-205.2(A)	A Pollution Prevention Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture pursuant thereto. The Pollution Prevention Plan (PPP) shall include, but not limited to, provisions for	The PPP, BMP and AWMP contain the basic
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<p>practices, to control runoff of pollutants to waters of the United States;</p> <p>(vii) Identify protocols for appropriate testing of manure, litter, process wastewater, and soil;</p> <p>(viii) Establish protocols to land apply manure, litter or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter or process wastewater; and</p> <p>(ix) Identify specific records that will be maintained to document the implementation and management of the minimum elements described in paragraphs (e)(1)(i) through (e)(1)(viii) of this section.</p>	<p>2 § 9-205.3(C)</p>	<p>provisions of the Oklahoma CAFO Act;</p> <p>2. Animal waste shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures except for a twenty-five-year, twenty-four-hour rainfall event;</p> <p>3.No waters of the state shall come into direct contact with the animals confined on the animal feeding operations. The Animal Waste Management Plan (AWMP) shall include at a minimum:</p> <p>1. Animal waste removal procedures.</p> <p>2. Records of inspections of retention structures, including, but not limited to, specific measurement of wastewater level;</p> <p>3. All calculations in determining land application rates, acreage and crops for the land application rate for both solid and liquid animal wastes on land owned or controlled by the licensee;</p> <p>4. Requirements including that:</p> <p>a. (1) Land application of animal waste shall not exceed the nitrogen uptake of the crop coverage or planned crop planting with any land application of wastewater or manure. Where local water quality is threatened by phosphorus, in no case shall the applicant or licensee exceed the application rates in the most current NRCS publication titled Waste Utilization Standard, and</p> <p style="padding-left: 40px;">(2) timing and rate of application shall be in response to crop needs, expected precipitation and soil conditions;</p> <p>b. land application practices shall be managed so as to reduce or minimize:</p> <p style="padding-left: 40px;">(1) the discharge of process water or animal waste to waters of the state;</p>	
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	<p>2 § 9-205.3.G</p> <p>OAC 35:17-3-11(e)</p>	<p>(2) contamination of waters of the state;</p> <p>(3) odor.</p> <p>c. facilities including waste retention structures, waste storage sites, ponds, pipes, ditches, pumps, diversion and irrigation equipment shall be maintained to ensure ability to fully comply with the provisions of the Oklahoma CAFO Act, and</p> <p>d. adequate equipment and land application area shall be available for removal of such waste and wastewater as required to maintain the proper operating volume of the retention structure</p> <p>Soils in areas in which animal waste is applied shall be analyzed, annually, for phosphate, nitrates and soil pH prior to the first application of the animal waste in the calendar year.</p> <p>(2) Testing of groundwater, nitrogen as nitrate, total phosphorus, and fecal coliform bacteria levels shall be performed by an Oklahoma Department of Environmental Quality (DEQ) certified independent laboratory at least annually.</p> <p>(3) Soil tests from land application sites shall be performed by an Oklahoma DEQ certified testing laboratory at least annually.</p> <p>(4) Sufficient testing of wastewater in waste storage facilities shall be required at least every three (3) and performed by a qualified independent testing laboratory. All owners of LMFOs shall sample waste retention structure contents annually prior to the first land application of the calendar year. Owners of LMFOs shall sample waste retention structure contents for ammonium-nitrogen, nitrate-nitrogen, total phosphorus, electrical conductivity, pH, sodium, potassium, calcium, magnesium, total nitrogen, and total solids. Additional</p>	
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	<p>2 § 10-9.7(F)</p>	<p>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 State Department of Agriculture to implement the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.</p> <p>Every poultry feeding operation shall have an AWMP which shall include at a minimum:</p> <ol style="list-style-type: none"> 1. A description of poultry waste handling procedure 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 phosphorus content of the poultry waste and shall provide controls for runoff and erosion as appropriate for site conditions. <p>1. Poultry feeding operations shall develop a plan for the disposal of carcasses 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 State Department of Agriculture may approve, in writing, an alternate method of disposal of carcasses or the storage of poultry waste</p>	
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<p>122.42(4) – Annual reporting requirements for CAFOs. The permittee must submit an annual report to the Director. The annual report must include:</p> <p>(i) The number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);</p> <p>(ii) Estimated amount of total manure, litter and process wastewater generated by the CAFO in the previous 12 months (tons/ gallons);</p> <p>(iii) Estimated amount of total manure, litter and process wastewater transferred to other person by the CAFO in the previous 12 months (tons/gallons);</p> <p>(iv) Total number of acres for land application covered by the nutrient management plan developed in accordance with paragraph (e)(1) of this section;</p> <p>(v) Total number of acres under control of the CAFO that were used for land application of manure, litter and process wastewater in the previous 12 months;</p> <p>(vi) Summary of all manure, litter and process wastewater discharges from the production area that have occurred in the previous 12 months, including date, time, and approximate volume; and</p> <p>(vii) A statement indicating whether the current version of the CAFO's nutrient management plan was developed or approved</p>	<p>OAC 35:17-3-19(d)</p> <p>2 § 10-9.18(A) & D</p>	<p>Note: The current Oklahoma Concentrated Animal Feeding Operations Act does not contain annual report requirements as specified in 122.42(4).</p> <p>In addition to the Department annual inspection, a complete inspection of the facility shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared, which includes the operative status of the check valves system on applicable wells. The inspection shall be conducted by the authorized person named in the PPP to verify that the description of potential pollutant sources is accurate, the drainage map has been updated or otherwise modified to reflect current conditions and the controls outlined in the PPP to reduce pollutants are being implemented and are adequate.</p> <p>A. Every certified poultry waste applicator (as defined in 2 § 10-9.1.B.5) shall file by December 31 of each year an annual report with the State Department of Agriculture regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year. Such report shall contain the following information:</p> <ol style="list-style-type: none"> 1. The legal description and conservation district where the poultry waste was produced; 2. The legal description and conservation district where the poultry waste was land applied; 3. Date of each application; 4. Total and per acre amount of each application; 5. Name and address of the person for whom poultry waste was applied; 6. The most recent soil test results obtained; and 7. Such other information as may be required by the State 	
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<p>by a certified nutrient management planner.</p>		<p>Board of Agriculture.</p> <p>D. The State Department of Agriculture shall provide such reports to the Oklahoma Conservation Commission. The Commission shall publish an annual report containing the following information:</p> <ol style="list-style-type: none"> 1. The total amount of poultry produced in each conservation district; and 2. The total amount of poultry waste land applied by a certified applicator when land applied in each conservation district. 	
<p>40 CFR 123.36 – ESTABLISHMENT OF TECHNICAL STANDARDS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS</p>			
<p>If the State has not already established technical standards for nutrient management that are consistent with 40 CFR 412.4(c)(2), the Director shall establish such standards by the date specified in § 123.62(e).</p>		<p>Note: The Oklahoma Department of Agriculture, Food, and Forestry, Agricultural Environmental Management Services has recently drafted a Nutrient Management Technical Guidance for CAFO that is consistent with 40 CFR 122.42(e)(1) and 412.4(c)(2).</p>	