

65-1,179. Permit application; public notice, comment, hearing; department action, when. (a) After receipt of an application for a permit for construction of a new swine facility or expansion of an existing swine facility, the department shall publish in the Kansas register a notice of receipt of the application which shall include but not be limited to:

- (1) The names and addresses of the operator of the facility and the owner of the property where the facility is or will be located; and
- (2) notice of the availability of the document and fact sheet prepared pursuant to subsection (b).

(b) After receipt of an application for a permit for construction of a new swine facility or expansion of an existing swine facility, the department shall prepare the following, which, at a minimum, shall be made available on the internet and shall be available for inspection and copying, in accordance with the open records act, at the department's office in the district where the swine facility is or will be located:

(1) A document containing all the requirements with which the swine facility must comply upon approval by the department and a brief explanation of the statutory or regulatory provisions on which the requirements are based;

(2) any determinations of, and explanations for, departures from any requirements otherwise applicable to the facility, including citations to the applicable guidelines, development documents or authorities for the departures; and

(3) a fact sheet containing the following information required in the application:

(A) A detailed description of the location of the facility, including the section, township and range, with reference to any applicable comprehensive land use plan or zoning requirements;

(B) a map showing water wells located on the facility's property, landmarks in the vicinity and nearby streams and bodies of water;

(C) a description of the facility, including the swine waste management system and facilities and any areas designated by the applicant for future expansion as provided for by subsection (k) of K.S.A. 65-171d and amendments thereto;

(D) a nutrient application plan, if required by K.S.A. 65-1,182, including base-line soil tests for a new facility or new field to which wastes will be applied, and a crop rotation plan; and

(E) a statement that the applicant will consult with the county extension agent or a qualified agronomist or individual trained in crop protection to ensure that correct agronomic rates of application are used and records of those consultations will be maintained by the applicant.

(c) The secretary shall establish by rules and regulations the form of public notice that is required for receipt of a completed application for a permit for construction of a new swine facility or expansion of an existing swine facility. Such notice shall be by publication in a newspaper of general circulation in the county where the facility is or will be located, direct notification of residents in the vicinity of the facility and notification of local government officials.

(d) The public notice required by subsection (c) shall contain the following:

(1) The name, address and telephone number of the official at the department who is responsible for processing the application and the locations where further information and copies of documents can be reviewed, which locations shall be in the county where the facility is or will be located;

(2) the names and addresses of the operator of the facility and the owner of the property where the facility is or will be located;

(3) a statement of the tentative determination of the department to approve the issuance of the permit;

(4) a brief description of the procedures and schedule for making the final determination of approval or disapproval;

(5) notice of availability of the document and fact sheet prepared pursuant to subsection (b);

(6) a request for public comment on the tentative decision to approve the issuance of the permit and the requirements for the facility described in the document prepared pursuant to subsection (b)(1); and

(7) a description of the procedures for providing public comment.

(e) The department shall provide a period of 30 days from the date of the public notice required by subsection (c) for submission of public comments.

(f) The department, in its discretion, may hold a public meeting or hearing within 60 days after the conclusion of the comment period required by subsection (e) to receive further public comment if the department determines that significant environmental or technical concerns or issues have been raised during the comment period. The department shall hold a public hearing within 60 days after the conclusion of the comment period required by subsection (e) to receive further public comment if a hearing is requested by any owner of a habitable structure within the applicable separation distance. Public meetings and hearings held pursuant to this subsection shall address only those matters for which the secretary has authority.

(g) The department shall not make a determination to approve the issuance of a permit until completion of the procedures required by this section. The department may disapprove at any time the issuance of a permit without completing the procedures required by this section.

(h) The department shall make the determination to approve or disapprove the issuance of a permit not later than 180 days after the completed application is filed with the department.

(i) An operator of a swine facility shall submit a registration or application to the department before initiating construction or operation of either a swine facility or a swine waste management system. When the department finds no permit is required, construction or operation of the swine facility may be initiated upon issuance, by the department, of a certification. When the department determines a permit or permit modification is required for the swine facility, construction may be initiated upon approval of the application, construction plans, specifications and swine waste management plan. Operation and stocking of a swine facility for which a permit is required shall not be initiated until the department issues the permit. An operator of a swine facility for which a permit modification is required because of a proposed facility expansion shall not increase the number of swine at the facility beyond that authorized by the permit until the department issues the modified permit.

History: L. 1998, ch. 143, § 3; May 7.