

**65-1,181. Manure management plan; lagoon standards; monitoring wells, when.** (a) Each applicant for a permit for construction of a new swine facility having an animal unit capacity of 1,000 or more or expansion of an existing swine facility to an animal unit capacity of 1,000 or more shall submit with the application for a permit a manure management plan and shall comply with the plan when the permit is issued by the department.

(b) Each existing swine facility that has an animal unit capacity of 1,000 or more on the effective date of this act shall submit to the department, within six months after the rules and regulations implementing this act are adopted, a manure management plan for approval by the department and shall comply with the plan as soon thereafter as practicable.

(c) Each manure management plan required by this section shall describe the methods for, and account for, the disposal of all manure and wastewater generated by the swine facility. If the methods of disposal of the manure or wastewater include land application, the facility also shall prepare a nutrient utilization plan, as required by subsection (b) of K.S.A. 65-1,182, and amendments thereto.

(d) Each swine facility that is required by this section to have a manure management plan shall amend such plan whenever warranted by changes in the facility or in other conditions affecting the facility.

(e) The secretary shall establish by rules and regulations the circumstances under which amendments to manure management plans must be submitted to the department for the department's approval.

(f) Each swine facility that is required by this section to have a manure management plan shall maintain such plan in accordance with K.S.A. 65-1,185, and amendments thereto.

(g) As a condition of approval of any permit for a swine facility that is required by this section to have a manure management plan, the department shall require that, if the operator of the facility does not own the swine at the facility, the operator shall execute with the owner of the swine a contract that specifies responsibility for management of the manure and wastewater generated at the facility.

(h) If a swine facility is required by this section to have a manure management plan and such facility generates manure or wastewater, or both, that is sold or given to a person who is not employed by the facility and is to be disposed of by means other than land application on areas covered by the facility's nutrient utilization plan, the department shall require that:

(1) The facility shall maintain a log of removal of the manure or wastewater from the facility and such log shall contain the following:

(A) The name and address of each person to whom the manure or wastewater is sold or given and of each hauler of the manure or wastewater;

(B) the date of the removal of the manure or wastewater; and

(C) the volume of the removed manure or wastewater; and

(2) the facility shall provide to the hauler of the removed manure or wastewater the most recent manure nutrient analysis conducted pursuant to subsection (c) of K.S.A. 65-1,182 and amendments thereto, if the removed manure or wastewater are to be land applied.

(i) (1) Except as provided by subsection (i)(5), if a swine waste retention lagoon or pond is utilized by a swine facility that has an animal unit capacity of 3,725 or more and is located where the groundwater is at a depth of 25 feet or less from the underneath side of the liner of the lagoon or pond:

(A) The sides and bottom of such lagoon or pond shall be lined with:

(i) A compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/8 inch per day; or

(ii) an impermeable liner on top of a compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/4 inch per day; and

(B) the facility operator shall be required to install not fewer than one upstream and two downstream groundwater monitoring wells for each such single cell lagoon or pond and for the primary cell of each such multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary.

(2) Except as provided by subsections (i)(3),(4) and (5), if a swine waste retention lagoon or pond is utilized by a swine facility that has an animal unit capacity of 3,725 or more and is located where the groundwater is at a depth of more than 25 feet from the underneath side of the liner of the lagoon or pond, the sides and bottom of such lagoon or pond shall be lined with:

(A) A compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/8 inch per day; or

(B) an impermeable liner on top of a compacted soil liner with a minimum depth of one foot and maximum seepage rate of 1/4 inch per day.

(3) If the compacted soil liner requirements of subsection (i)(2) cannot be met for one or more waste retention lagoons or ponds to which such subsection applies:

(A) The sides and bottom of such lagoons or ponds shall be lined with an impermeable liner on top of a soil liner compacted to the extent possible; and

(B) if the groundwater is at a depth of 150 feet or less from the surface of the land at the place where such lagoons or ponds are located, the facility operator shall be required to install not fewer than one upstream and two downstream groundwater monitoring wells for each such single cell lagoon or pond and for the primary cell of each such multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary.

(4) Any swine waste retention lagoons or ponds existing on the effective date of this act and utilized by a swine facility that has an animal unit capacity of 3,725 or more shall not be required to meet the requirements of subsection (i)(1), (2) or (3) but the facility operator shall be required to install, before January 1, 2000, not fewer than one upstream and two downstream groundwater monitoring wells for each such single cell lagoon or pond and for the primary cell of each such multiple cell lagoon or pond, or employ equivalent technology, as provided by rules and regulations of the secretary, if the groundwater is at a depth of 150 feet or less from the surface of the land at the place where such lagoons or ponds are located unless: (A) The groundwater is at a depth of more than 25 feet from the underneath side of the liner of the lagoons or ponds; and (B) the facility operator submits to the department engineering or field data that proves compliance with the requirements of subsection (i)(2).

(5) On or after January 1, 2000, if the secretary determines, based on scientific evidence, that the standards imposed by subsections (i)(1), (2), (3) and (4) are not required to protect the groundwater, the secretary may increase the animal unit capacity at which such standards apply.

(j) The secretary may require installation and sampling of groundwater monitoring wells in the vicinity of any swine waste retention lagoon or pond when the secretary determines necessary, or the secretary may allow the use of equivalent technology, as provided by rules and regulations of the secretary. The locations and design of such monitoring wells shall be subject to approval by the secretary.

(k) The secretary may require, as a condition of issuance or renewal of a permit for a swine facility having an animal unit capacity of 1,000 or more, that trees be planted as vegetative screening to control odor. [\*]

(l) The secretary may adopt by rules and regulations such additional standards for location and construction of swine waste retention lagoons and ponds utilized by swine facilities having an animal unit capacity of 1,000 or more as the secretary determines necessary to protect the waters and soils of the state and the public health.

(m) Before issuing any permit for a swine facility that will utilize a swine waste retention lagoon or pond or approving any plans for a swine waste retention lagoon or pond, the department shall make a determination, after consultation with the state corporation commission, that there is no unplugged oil or gas well at the planned location of such lagoon or pond. If, during construction of any swine waste retention lagoon or pond, an unplugged well is discovered at the location of such lagoon or pond, the facility owner and the facility operator shall have the duty to report the discovery to the department immediately.

**History:** L. 1998, ch. 143, § 5; May 7.

\* Odor control plan required under 65-1,187.