SHORT TITLE: Agriculture; requiring leak detection systems or monitoring wells; requiring reports and sampling data. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1248 By: Laughlin

AS INTRODUCED

An Act relating to agriculture; amending Section 10, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-205.4), which relates to monitoring wells or leak detection systems; clarifying reference; modifying minimum separations; requiring leak detection systems or monitoring wells for certain feeding operations; requiring certain reports and sampling data; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 10, Chapter 331, O.S.L. 1997 (2 O.S. Supp. 1997, Section 9-205.4), is amended to read as follows:

Section 9-205.4 A. Any hydrologic connection between wastewater and groundwater outside that authorized by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto shall constitute a discharge to waters of the state.

B. Except as otherwise provided by Section ~~18 of this act~~ 9-210.2 of Title 2, to prevent hydrologic connections between a retention structure and waters of the state, all animal feeding operations in this state operating a liquid animal waste management

system whether or not such waste facilities are licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall:

1. Utilize, as required by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, a natural or geometrical liner or other liner constructed of synthetic materials in any retention structure containing liquid animal waste; or

2. Documentation that there is no hydrologic connection between the waters of the state and the retention structure.

C. Except as otherwise provided by Section ~~18 of this act~~ 9-210.2 of Title 2, all retention structures shall maintain a minimum separation of ~~four (4)~~ twenty (20) feet between the bottom of the retention structure and the maximum groundwater elevation which is measured from the bottom of the retention structure and the highest point of the seasonal groundwater table.

D. 1. An animal feeding operation can document lack of hydrologic connection by either:

a. documenting that there will be no leakage from the retention structure outside that authorized pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto, or

b. documenting that any leakage from the retention structure will not migrate to waters of the state.

2. This documentation shall be certified by a professional engineer or qualified groundwater scientist and shall include information on the hydraulic conductivity and thickness of the natural materials underlying and forming the walls of the containment structure up to the maximum operating level.

E. The Department of Agriculture shall establish standards for retention structures pursuant to the provisions of this section.

F. If the Department determines that the documentation of barriers to hydrologic connections between the retention structure and waters of the state is not sufficient to establish by clear and convincing evidence that the retention structure does not constitute a threat to contamination of the waters of the state, the Department may require the applicant or licensee to install a natural or geomembrane liner or other liner constructed of synthetic material.

G. ~~If the Department determines that evidence shows a likelihood exists for the contamination of public or private drinking water, the Department shall require the licensee to install a leak detection system or monitoring wells~~ Any licensee who receives a license for a concentrated animal feeding operation on or after the effective date of this act shall install a leak detection system or monitoring wells around the perimeter of each retention structure prior to using the retention structure for storage of liquid waste. By September 1, 1999, licensees who were licensed concentrated animal feeding operations prior to the effective date of this act shall install and maintain in working order a leak detection system or monitoring wells around the perimeter of each retention structure in operation prior to the effective date of this act. Samples of water shall be collected by the Department of Agriculture and submitted for testing at least twice annually. The analysis of the soil and water samples shall be performed by a qualified environmental laboratory certified by the Department of Environmental Quality and approved by the Department of Agriculture and the cost shall be the responsibility of the owner of the Concentrated Animal Feeding Operation. Documentation, sampling data and any other records required by this section shall be maintained on site for three (3) years with the Pollution Prevention Plan. Analysis from the sampling taken prior to the operation of the facility shall be considered the baseline data and must be retained on site for the life of the facility. If the sampling is taken

after the facility has been in operation, the samples taken during the first year shall be considered the baseline data and shall be retained on site for the life of the facility.

H. Site-specific conditions shall be considered in the design and construction of liners. Liners for retention structures shall be designed and constructed in accordance with the provisions of this section and generally accepted engineering practices pursuant to Technical Note 716 of the Natural Resources Conservation Service or by the federal Environmental Protection Agency.

I. 1. When a liner is installed to prevent hydrologic connection, the licensee must maintain the liner to inhibit infiltration of wastewaters. Documentation of liner maintenance shall be maintained with the Pollution Prevention Plan.

2. A professional engineer, or qualified groundwater scientist shall conduct a site evaluation every five (5) years on the retention structure to ensure liner integrity. If the owner or operator suspects that a retention structure is leaking, the owner or operator shall report such suspected leakage to the Department.

J. All substances entering the retention structures shall be composed entirely of wastewaters from the proper operation and maintenance of an animal feeding operation and the runoff from the animal feeding operation area. The disposal of any materials, other than substances associated with proper operation and maintenance of the facility into the containment structures, including but not limited to human waste, is prohibited.

~~K. Documentation, sampling data, and any other records required by this section shall be maintained on site for three (3) years. Samples collected during the first year of the retention structure shall be considered the baseline data and must be retained on-site for the life of the retention structure.~~

SECTION 2. This act shall become effective November 1, 1998.

46-2-1851 JT