

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1643

By: Blackwell

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2001, Sections 9-205.3a and 9-209, which relate to the Oklahoma Concentrated Animal Feeding Operations Act and Odor Abatement Plan; adding to certain determinations by the State Department of Agriculture; authorizing certain contracts; providing for promulgation of rules; removing requirement for certain hearings; removing obsolete language; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-205.3a, is amended to read as follows:

Section 9-205.3a A. An Odor Abatement Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of ~~this section~~ the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated by the State Board of Agriculture pursuant thereto. The Odor Abatement Plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of Best Management Practices, odor abatement and recordkeeping provisions.

B. 1. The Odor Abatement Plan shall include specific methods of odor reduction which shall be tailored to each facility and created to address each cause of odor listed in paragraph 2 of this subsection.

2. The Odor Abatement Plan shall address methods for reducing odors in relationship to animal maintenance, waste storage, land application, and carcass disposal.

3. The applicant or licensee shall examine the Odor Abatement Plan at least annually to evaluate the effectiveness of the plan, modify for changed conditions at the facility and determine if economically feasible technological advances are available and appropriate for the facility and may incorporate a new method or design approved pursuant to Section 2 of this act.

C. If, after reviewing the Odor Abatement Plan, the State Department of Agriculture determines that the plan does not adequately meet one or more of the minimum requirements, the licensed managed feeding operation shall make and implement appropriate changes to the Plan which may include the utilization of economically feasible technology designed to abate odor as required by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

D. In determining the adequacy of an odor abatement plan, the Department shall consider all relevant factors including but not limited to:

1. Whether the Odor Abatement Plan incorporates a method or design approved pursuant to Section 2 of this act;

2. Design of the facilities;

~~2.~~ 3. Odor control technology to be utilized;

~~3.~~ 4. Prevailing wind direction in relation to occupied residences;

~~4.~~ 5. Size of operation;

~~5.~~ 6. Distance from facility to occupied residences; and

~~6.~~ 7. All information contained in the application.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-205.3b of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Board of Agriculture shall contract with Oklahoma State University and Oklahoma Panhandle State University to conduct research, investigation and interpretive programs pertaining

to odor abatement, reduction and control methods for animal maintenance, waste storage, land application and carcass disposal required by Section 9-205.3a of Title 2 of the Oklahoma Statutes.

B. The Board shall develop and approve, pursuant to the Administrative Procedures Act, a test of approved odor abatement, reduction and control methods and designs which may be implemented to comply with the provisions of Section 205.3a of Title 2 of the Oklahoma Statutes.

C. If the only modification to a license issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act is the incorporation of a new method or design for odor abatement, reduction or control approved by the Board pursuant to this section, a public meeting or a hearing on the license renewal shall not be required as authorized by Section 9-209 of Title 2 of the Oklahoma Statutes and Article 2 of the Administrative Procedures Act.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 9-209, is amended to read as follows:

Section 9-209. A. Licenses issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall expire on June 30 of each year and may be renewed upon payment of the license fee set forth in subsection B of this section and continued compliance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and the rules of the Board.

B. The fees for an animal feeding operations license and annual renewal thereof shall be:

| Animal feeding operations capacity | Amount of Fee |
|--|---------------|
| Under two hundred fifty animal units | \$ 15.00 |
| Two hundred fifty to five hundred animal units | \$ 37.50 |
| Five hundred and one to three thousand animal units | \$ 75.00 |
| Three thousand and one to ten thousand animal units | \$150.00 |
| Over ten thousand animal units | \$225.00 |

~~C. For the license year ending June 30, 1999, all licensed managed feeding operations shall pay an additional license fee for original or renewal licenses in an amount equal to eighty cents (\$0.80) per licensed animal unit capacity.~~

~~For original applications pending with the State Department of Agriculture on July 1, 1998, one-half of such amount shall be due and payable no later than September 1, 1998. For all other original applications for the license year ending June 30, 1999, one-half of such amount shall be due and payable with the application.~~

~~The other half of such amount shall be due thirty (30) days from the date such application is approved. In the event the application is not approved, any amount of such fee which is in excess of the costs incurred by the Department in processing the application pursuant to the requirements of the Oklahoma Concentrated Animal Feeding Operations Act shall be refunded to the applicant.~~

~~The fee imposed by this subsection for renewal applications shall be due by September 1, 1998.~~

~~D. 1. For the a new license year ending June 30, 2000, and every year thereafter, all, a licensed managed feeding operations operation shall pay an additional a license fee for original licenses in an amount equal to eighty cents (\$0.80) per licensed animal unit capacity. One-half (1/2) of such amount shall be due and payable with the application.~~

~~2. The other half of such amount shall be due thirty (30) days from the date such application is approved. In the event the application is not approved, any amount of such fee which is in excess of the costs incurred by the Department in processing the application pursuant to the requirements of the Oklahoma Concentrated Animal Feeding Operations Act shall be refunded to the applicant.~~

~~3. For the license year ending June 30, 2000, and every year thereafter all renewal licenses, a licensed managed feeding~~

~~operations~~ operation shall pay ~~an additional~~ a license fee ~~for~~
~~renewal licenses~~ in an amount established by the Department pursuant
to rules promulgated under the Administrative Procedures Act and in
accordance with subsection ~~E~~ D of this section.

~~E.~~ D. 1. The Department is directed to review its costs
related to the administration, regulation and enforcement of
licensed managed feeding operations required by the Oklahoma
Concentrated Animal Feeding Operations Act. Based on its review the
Department shall promulgate emergency rules pursuant to the
Administrative Procedures Act which will establish a renewal fee for
licensed managed feeding operations. ~~The Department is directed to~~
~~promulgate such emergency rules on or before March 1, 1999.~~

2. The fee shall be based on the costs incurred by the
Department in salaries, travel claims and other necessary expenses
incurred in fulfilling its regulatory and administrative obligations
with regard to licensed managed feeding operations.

3. Under no circumstances shall the fee exceed eighty cents
(\$0.80) per animal unit.

~~F.~~ E. All fees received by the Board for licensure of animal
feeding operations pursuant to this section shall be deposited in
the Department of Agriculture Revolving Fund.

F. If the only modification to a license issued pursuant to the
Oklahoma Concentrated Animal Feeding Operations Act is the
incorporation of a new method or design for odor abatement,
reduction or control approved by the Board pursuant to this section,
a public meeting or a hearing on the license renewal shall not be
required as authorized by this section and Article 2 of the
Administrative Procedures Act.

SECTION 4. This act shall become effective November 1, 2003.

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