

CS for EHB 3015

1 THE STATE SENATE  
2 Monday, April 10, 2006

3 Committee Substitute for  
4 ENGROSSED  
5 House Bill No. 3015

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 3015 - By: ARMES,  
7 DENNEY, DeWITT, BLACKWELL, ELLIS, GLENN, BILLY, ROGGOW, HICKMAN,  
8 PRUETT, WALKER, BRANNON and SMITHSON of the House and LERBLANCE of  
9 the Senate.

10 An Act relating to the Oklahoma Concentrated Animal Feeding  
11 Operations Act; amending 2 O.S. 2001, Section 9-205.4, as  
12 renumbered by Section 25, Chapter 292, O.S.L. 2005, (2 O.S.  
13 Supp. 2005, Section 20-12), which relates to groundwater  
14 protection; defining certain water discharge; requiring  
15 certain liners be used in Concentrated Animal Feeding  
16 Operations; requiring certain approval by licensed engineer;  
17 removing authority of certain federal agency engineers to  
18 issue certain statements; authorizing the Board of  
19 Agriculture to establish standards for retention structures;  
20 requiring certain feeding operations to install and maintain  
21 leak detection systems; requiring testing by certain  
22 approved environmental laboratories; requiring sampling  
23 procedures for certain dry wells; stating procedures for  
24 baseline data requirements; modifying design and  
25 construction requirements for certain liners; stating  
26 requirements of liner maintenance; requiring certain site  
27 evaluation; requiring Department to establish certain  
28 compliance schedule for retrofitting certain liners; and  
29 declaring an emergency.

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

31 SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-205.4, as  
32 renumbered by Section 25, Chapter 292, O.S.L. 2005, (2 O.S. Supp.  
33 2005, Section 20-12), is amended to read as follows:

1 Section 20-12. A. Any hydrologic connection between wastewater  
2 and waters of the state outside that authorized by the provisions of  
3 the Oklahoma Concentrated Animal Feeding Operations Act ~~and rules~~  
4 ~~promulgated pursuant thereto~~ shall constitute a discharge to waters  
5 of the state.

6 B. Except as otherwise provided by Section ~~9-210.2~~ 20-20 of  
7 ~~this title~~ the Oklahoma Concentrated Animal Feeding Operations Act,  
8 to prevent hydrologic connections between a retention structure and  
9 waters of the state, all swine feeding operations in this state  
10 primarily using a liquid animal waste management system whether or  
11 not such waste facilities are licensed pursuant to the Oklahoma  
12 Concentrated Animal Feeding Operations Act shall:

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

18 2. Provide documentation that there is no hydrologic connection  
19 between the waters of the state and the retention structure. This  
20 documentation shall be certified by ~~a professional~~ an environmental,  
21 agricultural, or other ~~Department~~-approved professional engineer  
22 licensed pursuant to Section 475.12 of Title 59 of the Oklahoma  
23 Statutes or a United States Department of Agriculture Natural

1 Resources Conservation Service engineer and shall include  
2 information on the hydraulic conductivity and thickness of the  
3 natural materials underlying and forming the walls of the  
4 containment structure up to the maximum operating level.

5 C. Except as ~~otherwise~~ provided by Section ~~9-210.2~~ 20-20 of  
6 ~~this title~~ the Oklahoma Concentrated Animal Feeding Operations Act  
7 and subsection E of this section, all retention structures of  
8 licensed managed feeding operations shall maintain a minimum  
9 separation of ten (10) feet between the bottom of the retention  
10 structure and the maximum historical groundwater elevation ~~which~~  
11 that is measured from the bottom of the retention structure and the  
12 highest point of the seasonal groundwater table. Documentation of a  
13 ten-foot separation shall be established by submission of a soil log  
14 from a soil boring extending a minimum of ten (10) feet below the  
15 bottom of all retention structures to ascertain the presence of  
16 groundwater or bedrock and a statement from a professional engineer  
17 ~~or a United States Department of Agriculture Natural Resources~~  
18 ~~Conservation Service engineer~~ certifying the existence of the ten-  
19 foot separation distance.

20 D. The State ~~Department~~ Board of Agriculture shall establish  
21 standards for retention structures ~~pursuant to the provisions of~~  
22 ~~this section.~~

1 E. The Department may allow a separation of less than ten (10)  
2 feet but in no event less than four (4) feet between the bottom of  
3 the retention structure and the maximum historical groundwater  
4 elevation. In determining the minimum separation to be required,  
5 the Department shall consider the following factors:

- 6 1. Soil type at the retention structure;
- 7 2. Soil tests per American Standards Testing Methods (ASTM)  
8 standards on all soils to be used as liner material;
- 9 3. Retention structure capacity;
- 10 4. Retention structure design;
- 11 5. Documentation of lack of hydrologic connection between the  
12 waters of the state and the retention structure;
- 13 6. Depth of retention structure;
- 14 7. Type and characteristics of liner to be used; and
- 15 8. Any other relevant information.

16 F. 1. Licensed managed feeding operations ~~initially licensed~~  
17 ~~on or after August 1, 1998,~~ shall install and maintain in good  
18 working order a leak detection system or sufficient monitoring wells  
19 both upgradient and downgradient around the perimeter of each  
20 retention structure prior to using the retention structure for  
21 storage of liquid waste pursuant to rules promulgated by the State  
22 ~~Department~~ Board of Agriculture.

1           2. ~~By September 1, 1999, licensed managed feeding operations~~  
2 ~~licensed prior to August 1, 1998, shall install and maintain in~~  
3 ~~working order a leak detection system or sufficient monitoring wells~~  
4 ~~both upgradient and downgradient around the perimeter of each~~  
5 ~~retention structure.~~

6           ~~3.~~

7           a.   Samples of water shall be collected by the ~~State~~  
8           Oklahoma Department of Agriculture, Food, and Forestry  
9           and submitted for testing at least annually. The  
10          analysis of the water samples shall be performed by a  
11          qualified environmental laboratory ~~certified~~ approved  
12          by the Oklahoma Department of Environmental Quality or  
13          by the relevant certification agency for the state in  
14          which the laboratory is located and approved by the  
15          ~~State~~ Oklahoma Department of Agriculture, Food, and  
16          Forestry; and the cost shall be the responsibility of  
17          the owner of the licensed managed feeding operation.

18          b.   The frequency of sampling set forth in subparagraph a  
19          of this paragraph may be reduced to once every three  
20          (3) years for those monitoring wells which have been  
21          sampled for at least three (3) consecutive years and  
22          have always been found to be dry. However, if any  
23          subsequent sampling event indicates the monitoring

1                    well is no longer dry, that monitoring well shall be  
2                    sampled pursuant to subparagraph a of this paragraph.

3            ~~4.~~ 3. Documentation, sampling data, and any other records  
4 required by this section shall be maintained on site for the life of  
5 the facility ~~with the Pollution Prevention Plan.~~

6            ~~5.~~ 4. Analysis from the sampling taken prior to the operation  
7 of the facility ~~shall~~ may be considered the baseline data and ~~must~~  
8 shall be retained on site for the life of the facility. If no  
9 sampling or other baseline data is available prior to the operation  
10 of the facility, the samples taken during the first year ~~shall~~ may  
11 be considered the baseline data and shall be retained on site for  
12 the life of the facility. Baseline data for the facility shall be  
13 determined based on the best information available.

14            ~~6.~~ 5. The Oklahoma Water Resources Board shall promulgate rules  
15 providing for plugging of monitoring wells as appropriate.

16            G. Site-specific conditions shall be considered in the design  
17 and construction of liners. Liners for retention structures shall  
18 be designed and constructed in accordance with the provisions of  
19 this section and generally accepted engineering practices  
20 established by rules of the ~~State Board of Agriculture~~ or as  
21 ~~otherwise~~ required by the federal Environmental Protection Agency.  
22 Liners for lagoons owned or operated by an animal feeding operation  
23 with less than one thousand (1,000) animal units may be designed and

1 constructed pursuant to Technical Note 716 of the United States  
2 Department of Agriculture Natural Resources Conservation Service or  
3 its current equivalent ~~or by the federal Environmental Protection~~  
4 ~~Agency~~ so long as the facility is designed by a the United States  
5 Department of Agriculture Natural Resources Conservation Service  
6 engineer.

7 H. 1. When a liner is installed to prevent hydrologic  
8 connection, the licensee or the owner ~~of such operation if~~  
9 ~~unlicensed must~~ shall maintain the liner to inhibit infiltration of  
10 wastewaters. Documentation of liner maintenance shall be maintained  
11 ~~with at the Pollution Prevention Plan~~ facility.

12 2. ~~A professional~~ An environmental, agricultural, or other  
13 ~~Department-approved~~ professional engineer licensed pursuant to  
14 Section 475.12 of Title 59 of the Oklahoma Statutes ~~or a United~~  
15 ~~States Department of Agriculture Natural Resources Conservation~~  
16 ~~Service engineer,~~ shall conduct a site evaluation every five (5)  
17 years on the retention structure of every concentrated animal  
18 feeding operation with such a structure and annually on every  
19 licensed managed feeding operation to ensure liner integrity. If  
20 the owner or operator suspects that a retention structure is  
21 leaking, the owner or operator shall report ~~such~~ suspected leakage  
22 to the Department.

1           3. The Department shall establish a compliance schedule ~~of~~ for  
2 retrofitting ~~of~~ liners ~~for~~ of waste retention structures for  
3 licensed managed feeding operations constructed prior to ~~the~~  
4 ~~effective date of this act which~~ August 1, 1998, that are located in  
5 nutrient-limited watersheds or nutrient-vulnerable groundwaters as  
6 designated by the Oklahoma Water Resources Board ~~pursuant to Section~~  
7 ~~3 of this act,~~ and ~~which~~ do not have liners meeting the  
8 specifications established in this section.

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

16           J. All new retention structures of licensed managed feeding  
17 operations shall be designed for odor abatement, groundwater  
18 protection, and nutrient conservation.

19           K. Documentation, sampling data, and any other records required  
20 by this section shall be maintained on site for as long as the  
21 facility is in operation. Samples collected during the first year  
22 of the retention structure ~~shall~~ may be considered the baseline data  
23 and ~~must~~ shall be retained on site as long as the facility is in

1 operation. Baseline data for the facility shall be determined based  
2 on the best information available.

3 SECTION 2. It being immediately necessary for the preservation  
4 of the public peace, health and safety, an emergency is hereby  
5 declared to exist, by reason whereof this act shall take effect and  
6 be in full force from and after its passage and approval.

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated 4-6-06  
8 - DO PASS, As Amended.