STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 3015 By: Armes

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2001, Section 9-205.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2005, Section 20-10), which relates to the Oklahoma Concentrated Animal Feeding Operations Act; updating language; limiting certain liability; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-205.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2005, Section 20-10), is amended to read as follows:

Section 20-10. A. 1. All licensed managed feeding operations shall utilize Best Management Practices meeting the conditions and requirements established by ~~subsection B of~~ this section and by rules promulgated by the State Board of Agriculture pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

2. Animal feeding operations ~~licensed~~ permitted pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act other than licensed managed feeding operations shall utilize Best Management Practices, or may substitute ~~for best management practice~~ equivalent measures contained in a site-specific Animal Waste Management Plan meeting the conditions and requirements established by ~~subsection C of~~ this section and by rules promulgated by the Board pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rule by the Board, based upon existing physical and

economic conditions, opportunities and constraints and shall include, but not be limited to, the following:

1. There shall be no discharge of ~~process wastewater~~ animal waste to waters of the state except in accordance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act;

2. Animal waste shall be isolated from outside surface drainage by ditches, dikes, berms, terraces or other such structures except for a twenty-five-year, twenty-four-hour rainfall event;

3. No waters of the state shall come into direct contact with the animals confined on the animal feeding operation;

4. Animal waste handling, treatment, management and removal shall:

a. not create an environmental or a public health hazard,

b. not result in the contamination of public or private drinking water supplies,

c. conform with Oklahoma Water Quality Standards,

d. comply with the Odor Abatement Plan for licensed managed feeding operations and shall not ~~otherwise~~ create unnecessary and unreasonable odors. Odors are unnecessary and unreasonable if ~~such~~ the odors may be reduced by more efficient management practices at a reasonable expense,

e. not violate any state or federal laws relating to endangered or threatened species of plant, fish or wildlife or to migratory birds,

f. conform to the Pest Management ~~Plans~~ Plan for licensed managed feeding operations as required by rules promulgated by the ~~State~~ Board ~~of Agriculture~~,

g. conform to ~~such~~ other handling, treatment, and management and removal requirements deemed necessary by the ~~State~~ Department ~~of Agriculture to implement~~

~~the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto~~, and

h. ensure that watersheds and groundwater are adequately protected; and

5. If, for any reason, there is a discharge, the licensee ~~is required to~~ operator shall make immediate notification to the Department. The report of the discharge shall include:

a. a description and cause of the discharge, including a description of the flow path to the receiving water body,

b. an estimation of the flow rate and volume discharged,

c. the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,

d. steps taken to reduce, eliminate and prevent recurrence of the discharge, and

e. test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or ~~such~~ other required parameters ~~as required by the Department which~~ that the Department has reason to believe could be in the discharge.

C. The Animal Waste Management Plan shall include at a minimum:

1. Animal waste removal procedures;

2. Records of inspections of retention structures, including, but not limited to, specific measurement of wastewater level;

3. All calculations in determining land application rates, acreage and crops for the land application rate of both solid and liquid animal wastes on land owned or controlled by the licensee;

4. Requirements including that:

a. (1) land application of animal waste shall not exceed the nitrogen uptake of the crop coverage or planned crop planting ~~with any land application of wastewater or manure~~. Where local water quality is threatened by phosphorous, in no case shall the applicant or licensee operator exceed the application rates in the most current United States Department of Agriculture Natural Resources Conservation ~~publication titled Waste Utilization Standard~~ Service Publications, and

(2) timing and rate of applications shall be in response to crop needs, expected precipitation and soil conditions,

b. land application practices shall be managed so as to reduce or minimize:

(1) the discharge of process water or animal waste to waters of the state,

(2) contamination of waters of the state, and

(3) odor,

c. facilities including waste retention structures, animal waste ~~storage sites~~ management systems, ponds, pipes, ditches, pumps, diversion, and irrigation equipment shall be maintained to ensure ability to fully comply with the terms of the Oklahoma Concentrated Animal Feeding Operations Act, and

d. adequate equipment and land application area shall be available for removal of ~~such~~ animal waste ~~and wastewater~~ as required to maintain the proper operating volume of the retention structure;

5. ~~Such~~ Any other information deemed necessary by the Department to administer ~~the provisions of~~ the Oklahoma Concentrated

Animal Feeding Operations Act ~~and rules promulgated pursuant thereto~~.

D. Records shall be maintained of all animal wastes applied on land owned or controlled by the licensee operator, and sold or given to other persons for disposal.

E. If the animal waste from a licensed managed feeding operation is sold or given to other persons for land application or disposal, the licensed managed feeding operation shall maintain a log of: date of removal from the animal feeding operation; ~~names of such other~~ name and address of persons purchasing or taking the waste; and amount, in wet tons, dry tons, or cubic yards, of animal waste removed from the animal feeding operation.

F. 1. If the animal waste is to be land applied by other persons, a licensed managed feeding operation shall make available ~~to such other person~~ the most current sample analysis of the animal waste.

2. In addition, ~~the~~ a licensed managed feeding operation shall notify, in writing, any person to whom the animal waste is sold or given of the land application disposal requirements for animal waste as specified by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated thereto.

~~3. The licensed managed feeding operation shall remain liable and responsible for compliance with all rules promulgated by the Board regarding proper handling and disposing of animal waste even if such disposal or application is performed by persons not employed or controlled by the licensed managed feeding operation.~~

G. Soils in areas ~~in which~~ where animal waste is applied shall be analyzed~~,~~ annually~~,~~ for phosphates, nitrates, and soil pH prior to the first application of the animal waste in the calendar year. A copy of the results of the analysis shall be submitted to the Department upon request ~~by the Department~~. ~~Such~~ The analysis shall

be retained by the animal feeding operation as long as the facility is in operation.

H. Every animal feeding operation licensed pursuant to the provisions of Oklahoma Concentrated Animal Feeding Operations Act shall develop a plan approved by the Department for the disposal of carcasses associated with normal mortality.

1. Dead animals shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee operator and approved by the Department.

2. The plan shall include provisions for the disposal of carcasses associated with normal mortality, with emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates, and other provisions ~~which~~ that will provide for a decrease in the possibility of the spread of disease and prevent the contamination of waters of the state. ~~The plan shall comply with rules promulgated by the Department.~~

SECTION 2. This act shall become effective November 1, 2006.

50-2-9097 SAB 01/17/06