CS for HB 1796

THE HOUSE OF REPRESENTATIVES
Monday, February 26, 2007

Committee Substitute for

House Bill No. 1796

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1796 - By: ARMES of the House and WYRICK of the Senate.

An Act relating to agriculture; amending 2 O.S. 2001, Sections 9-200 and 9-201, as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-202, as renumbered by Section 25, Chapter 292, O.S.L. 2005 and as amended by Section 2, Chapter 128, O.S.L. 2006, 9-203, 9-204, 9-204.1 and 9-205, as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-205.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 and as amended by Section 2, Chapter 129, O.S.L. 2006, 9-205.2, as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-205.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005 and as amended by Section 3, Chapter 128, O.S.L. 2006, 9-205.3a, as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-205.4, as renumbered by Section 25, Chapter 292, O.S.L. 2005 and as amended by Section 1, Chapter 148, O.S.L. 2006, 9-205.5 and 9-206, as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-208, as amended by Section 22, Chapter 292, O.S.L. 2005 and as renumbered by Section 25, Chapter 292, O.S.L. 2005, 9-209, 9-209.1, 9-210, 9-210.1, 9-210.2 and 9-210.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005, Section 23, Chapter 292, O.S.L. 2005, Section 2, Chapter 31, O.S.L. 2004, as renumbered by Section 25, Chapter 292, O.S.L. 2005, and 9-211, 9-212, 9-212.1 and 9-214, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Sections 20-1, 20-2, 20-3, 20-4, 20-5, 20-6, 20-7, 20-8, 20-9, 20-10, 20-11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18, 20-19, 20-20, 20-21, 20-22, 20-23, 20-25, 20-26, 20-27 and 20-28), which relate to the Oklahoma Concentrated Animal Feeding Operations Act; amending title of act; providing for the Oklahoma Swine Feeding Operations Act; replacing animals with swine comprehensively through act; removing references to animal feeding operations comprehensively through act; amending definitions to conform to swine operations; modifying committee; modifying fees; modifying setback provisions; enacting the Oklahoma Concentrated Animal Feeding Operations Act; defining terms; authorizing State Board of Agriculture to promulgate rules; providing for a rule advisory committee; providing for licensing;

specifying application content; providing for renewal application; providing for transfer of license; providing for disclosure of certain information for all applications; establishing penalty for false statements; providing for notification to certain persons; establishing administrative hearing procedures; requiring development of a Pollution Prevention Plan; providing for review; specifying content; requirement maintenance of records; requiring Best Management Practices; providing for Animal Waste Management Plan; requiring records for animal waste; providing for disposal of dead animals; specifying discharge provisions; providing for irrigation systems; authorizing investigation of complaints; providing for inspection; providing procedure for control of communicable diseases; specifying jurisdiction; providing for expiration of license; setting fees; providing for retention structures; specifying sureties; establishing liability; specifying requirements for operation; providing setback requirements; providing for waiver; providing for over-capacity; establishing procedure for diseased animals; providing for violations; providing penalties; providing for injunctive relief; providing for recodification; 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 9-200, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-1), is amended to read as follows:

Section 20-1. It is the intent of the Legislature that the ~~amendments and the new~~ law contained in ~~this act~~ <u>the Oklahoma Swine Feeding Operations Act</u> shall only apply to swine and operations which house swine ~~except as otherwise provided by Sections 17, 18 and 19 of this act~~.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 9-201, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-2), is amended to read as follows:

Section 20-2. A. Sections ~~9-201~~ 20-1 through ~~9-215~~ 20-29 of this title shall be known and may be cited as the "Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act".

B. The purpose of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act is to provide for environmentally responsible construction and expansion of ~~animal~~ swine feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of ~~an animal~~ a swine feeding operation.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 9-202, as renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended by Section 2, Chapter 128, O.S.L. 2006 (2 O.S. Supp. 2006, Section 20-3), is amended to read as follows:

Section 20-3. A. Concentrated ~~animal~~ swine feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

B. As used in the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act:

1. "Affected property owner" means a surface landowner within:

a. one (1) mile of the designated perimeter of ~~an animal~~ a swine feeding operation which:

(1) does not meet the definition of a licensed managed feeding operation, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(2) is previously unlicensed or an expanding licensed managed feeding operation with a capacity of two thousand (2,000) or less swine animal units, or

b. two (2) miles of the designated perimeter of a licensed managed feeding operation or an expanding operation with a capacity of more than two thousand (2,000) swine animal units for which a license is being sought;

2. "~~Animal~~ Swine feeding operation" means a lot or facility where the following conditions are met:

a. ~~animals~~ swine have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility~~.~~

~~The term "animal feeding operation" shall not include a racetrack licensed by the Oklahoma Horse Racing Commission to hold pari-mutuel race meetings pursuant to the Oklahoma Horse Racing Act if such facility discharges to a publicly owned treatment works, or an aquatic animal production facility~~;

3. "~~Animal~~ Swine animal unit" means a unit of measurement for any ~~animal~~ swine feeding operation calculated by adding the following numbers: The number of ~~slaughter and feeder cattle multiplied by one (1), plus the number of mature dairy cattle multiplied~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~by one and four-tenths (1.4), plus the number of~~ swine weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds, multiplied by four-tenths (0.4), plus the number of weaned swine weighing under twenty-five (25) kilograms multiplied by one-tenth (0.1)~~, plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2)~~;

4. "~~Animal~~ Swine waste" means ~~animal~~ swine excrement, ~~animal~~ swine carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of ~~animals~~ swine from ~~an animal~~ a swine feeding operation;

5. "~~Animal~~ Swine Waste Management Plan" or ~~"AWMP"~~ "Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of ~~an animal~~ a swine feeding operation as required by the Department pursuant to the provisions of Section 20-10 of this title;

6. "~~Animal~~ Swine waste management system" means a combination of structures and nonstructural practices serving ~~an animal~~ a swine feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of ~~animal~~ swine waste;

7. "Artificially constructed" means constructed by humans;

8. "Best Management Practices" ~~or "BMPs"~~ means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 20-10 of this title;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

9. "Board" means the State Board of Agriculture;

10. "Common ownership" includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. "Concentrated ~~animal~~ swine feeding operation" ~~or "CAFO"~~ means:

a. a licensed managed feeding operation, or

b. ~~an animal feeding operation which meets the following criteria:~~

~~(1) more than the number of animals specified in any of the following categories are confined:~~

~~(a) 1,000 slaughter and feeder cattle,~~

~~(b) 700 mature dairy cattle, whether milk or dry cows,~~

~~(c) 500 horses,~~

~~(d) 10,000 sheep or lambs,~~

~~(e) 55,000 turkeys,~~

~~(f) 5,000 ducks, or~~

~~(g) 1,000 animal units, and~~

~~(2) pollutants are discharged into waters of the state. Provided, no animal feeding operation pursuant to this subparagraph shall be construed to be a concentrated animal feeding operation if such animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~c.~~ ~~an animal~~ a swine feeding operation which meets the following criteria:

(1) more than the number of ~~animals~~ swine specified in any of the following categories are confined:

(a) ~~300 slaughter or feeder cattle,~~

~~(b)~~ ~~200 mature dairy cattle, whether milk or dry cows,~~

~~(c)~~ 750 swine each weighing over 25 kilograms or approximately 55 pounds,

~~(d)~~ (b) 3,000 weaned swine each weighing under 25 kilograms,

~~(e)~~ ~~150 horses,~~

~~(f)~~ ~~3,000 sheep or lambs,~~

~~(g)~~ ~~16,500 turkeys,~~

~~(h)~~ ~~30,000 laying hens or broilers, if the facility has continuous overflow watering,~~

~~(i)~~ ~~9,000 laying hens or broilers, if the facility has a liquid manure system,~~

~~(j)~~ ~~1,500 ducks,~~ or

~~(k)~~ (c) 300 swine animal units, and

(2) either one of the following conditions are met:

(a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(b) pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the ~~animals~~ swine confined in the operation.

Provided, however, that no ~~animal~~ swine feeding operation pursuant to this subparagraph is a concentrated ~~animal~~ swine feeding operation if ~~such animal~~ the swine feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

~~d.~~ c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 20-6 of this title;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control ~~animal~~ swine waste until it can be disposed of in an authorized manner. ~~Such structures~~ Structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing ~~animals~~ swine, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Expanding operation" means:

a. a facility that either increases its swine animal unit capacity to a number that causes the facility to initially meet the definition of a licensed managed feeding operation, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

b. a licensed managed feeding operation that seeks to increase its licensed capacity in excess of five percent (5%) of the original facility's licensed capacity;

15. "Facility" means any place, site, or location or part thereof where ~~animals~~ swine are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and ~~animal~~ swine waste management systems;

16. "Interested party" means an affected property owner who validly requests an individual hearing, in accordance with the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto regarding the issuance of ~~an animal~~ a swine feeding operation license and asserts rights to relief in respect to or arising out of the same license;

17. "Land application" means the spreading on, or incorporation of ~~animal~~ swine waste into the soil mantle primarily for beneficial purposes;

18. "Licensed managed feeding operations ~~(LMFO)~~" means ~~an animal~~ a swine feeding operation primarily using a liquid ~~animal~~ swine waste management system, where ~~animals~~ swine are primarily housed in a roof-covered structure and which has more than the number of ~~animals~~ swine specified in any of the following categories confined:

a. 2,500 swine each weighing over ~~25 kilograms, approximately~~ 55 pounds,

b. 10,000 weaned swine each weighing under ~~25 kilograms~~ 55 pounds, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

c. ~~100,000 laying hens or broilers, if the facility has continuous overflow watering,~~

~~d.~~ ~~30,000 laying hens or broilers, if the facility has a liquid manure system, or~~

~~e.~~ any combination of swine weighing over ~~twenty-five (25) kilograms~~ 55 pounds or under ~~twenty-five (25) kilograms~~ 55 pounds which would equal one thousand (1,000) swine animal units;

19. "Liquid ~~animal~~ swine waste management system" means any ~~animal~~ swine waste management system which uses water as the primary carrier of ~~such~~ swine waste into a primary retention structure;

20. ~~"Managing operator" means the owner or one who is responsible for the management of each facility of a concentrated animal feeding operation or animal feeding operation;~~

~~21.~~ "Nutrient-limited watershed" means a watershed of a ~~waterbody~~ water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

~~22.~~ 21. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma Water Quality Standards;

~~23.~~ 22. "Odor Abatement Plan" ~~or "OAP"~~ means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce odor as established by the ~~Oklahoma~~ Department ~~of Agriculture, Food, and~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~Forestry~~ pursuant to Section ~~10~~ 20-11 of ~~this act~~ the Oklahoma Swine Feeding Operations Act;

~~24.~~ 23. "Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions ~~which~~ and:

a. is not readily mobile,

b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

c. is occupied as a residence;

~~25.~~ 24. "Pollution Prevention Plan" ~~or "PPP"~~ means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of ~~an animal~~ a swine feeding operation as required pursuant to Section 20-9 of this title;

~~26.~~ 25. "Process wastewater" means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of ~~animals~~ swine and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from ~~animal~~ swine watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of ~~animals~~ swine; and dust control and any precipitation which comes into contact with ~~animals~~ swine or ~~animal~~ swine waste;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~27.~~ 26. "Retention structures" ~~includes~~ means, but is not limited to, all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store ~~animal~~ swine wastes;

~~28.~~ 27. "Spill" means the release from a swine ~~animal~~ feeding operation of any process wastewater or manure that does not reach waters of the state;

~~29.~~ 28. "Waste facility" means any structure or combination of structures utilized to control ~~animal~~ swine waste until it can be disposed of in an authorized manner. ~~Such~~ The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing ~~animals~~ swine, ~~compostors~~ composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

~~30.~~ 29. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. ~~Process wastewaters shall~~ Provided, waste treatment systems, including treatment ponds and lagoons designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated pursuant thereto, are not ~~be considered as~~ waters of the state ~~if contaminated at the site~~.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 4. AMENDATORY 2 O.S. 2001, Section 9-203, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-4), is amended to read as follows:

Section 20-4. The State Board of Agriculture is authorized to promulgate rules for the administration, ~~and~~ implementation, and enforcement of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

SECTION 5. AMENDATORY 2 O.S. 2001, Section 9-204, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-5), is amended to read as follows:

Section 20-5. A. The State Board of Agriculture shall appoint a rule advisory committee who, without compensation, shall act as advisors to the Board in the formulation of the rules promulgated pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

1. The committee shall consist of:

~~1. One member who shall represent the beef cattle producers;~~

~~2. One member who shall represent the dairy producers;~~

~~3. One member~~

a. three members who shall represent ~~the~~ pork producers~~;~~,

~~4. One member who shall represent the poultry producers;~~

~~5. One~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

b. one member who shall represent the field of hydrogeology~~;~~,

~~6. One~~

c. one member who shall be a soil scientist~~;~~,

~~7. One~~

d. one member designated by the Secretary of the Environment~~;~~,

~~8. One~~

e. one member who shall be a ~~biological systems~~ professional engineer~~;~~,

~~9. One~~

f. one member who shall represent the field of water quality science~~;~~,

~~10. One~~

g. one member who shall represent the field of ecology~~;~~, and

~~11. Two~~

h. two members who shall represent the general public.

2. Of the initial members, four shall serve for one-year terms; four shall serve for two-year terms; and ~~four~~ three shall serve for three-year terms. Thereafter, all members shall serve for three-year terms; provided, all members shall serve at the pleasure of the Board.

3. At the initial meeting of the rule advisory committee, the membership shall appoint a chair, vice-chair, and secretary from its membership and thereafter as determined by the committee.

B. Except for emergency rules, ~~the State Department of Agriculture shall submit~~ proposed rules shall be submitted to the rule advisory committee at the same time as the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Department causes notice to be published in "The Oklahoma Register" pursuant to ~~subsection B of Section 303 of Title 75 of~~ the ~~Oklahoma Statutes~~ Administrative Procedures Act. Comments of the rule advisory committee shall be submitted to the members of the Board at least fifteen (15) days prior to any official action by the Board on the rules.

C. Proposed emergency rules shall be submitted ~~by the Department~~ to the rule advisory committee at least five (5) days prior to the rules being considered by the Board.

SECTION 6. AMENDATORY 2 O.S. 2001, Section 9-204.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-6), is amended to read as follows:

Section 20-6. A. 1. Any ~~animal~~ swine feeding operation meeting the criteria defining a concentrated ~~animal~~ swine feeding operation shall be required to obtain a license to operate pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

2. No ~~animal~~ swine feeding operation which voluntarily obtains a license pursuant to the ~~Concentrated Animal~~ Oklahoma Swine Feeding Operations Act shall be considered to be a concentrated ~~animal~~ swine feeding operation unless the operation meets the definition of concentrated ~~animal~~ swine feeding operation.

3. Any ~~animal~~ other swine feeding operation ~~other than a concentrated animal feeding operation~~, regardless of the number of ~~animals~~ swine, shall only be required to be licensed pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto if the State Board of

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Agriculture determines the operation to be a significant contributor of pollution to waters of the state ~~pursuant to subsection D of this section~~.

B. 1. Two or more ~~animal~~ swine feeding operations under common ownership are considered, for the purposes of licensure, to be a single ~~animal~~ swine feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

2. ~~After September 1, 1997, any~~ Any licensed managed feeding operation shall be required to obtain a license for any increase in excess of five percent (5%) of the original facility's licensed capacity.

C. Expanding operations shall be required to seek a new license prior to expansion. ~~Change in species or ratio of species mix alone shall not be defined as an expanding operation as long as the increase in animal unit capacity does not exceed five percent (5%).~~

D. 1. The ~~State~~ Board ~~of Agriculture~~ may make a case-by-case designation of concentrated ~~animal~~ swine feeding operations pursuant to this section. Any ~~animal~~ swine feeding operation may be designated as a concentrated ~~animal~~ swine feeding operation if it is determined to be a significant contributor of pollution to the waters of the state. In making this designation, the Board shall consider the following factors:

a. the size of the ~~animal~~ swine feeding operation and the amount of wastes reaching waters of the state,

b. the location of the ~~animal~~ swine feeding operation relative to waters of the state,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

c. the means of conveyance of ~~animal~~ swine waste and wastewater into waters of the state,

d. the method of disposal for ~~animal~~ swine waste and process wastewater disposal,

e. the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of ~~animal~~ swine wastes and process wastewaters into waters of the state, and

f. other ~~such~~ factors relative to the significance of the pollution problem sought to be regulated.

2. In no case shall an application for a license be required from ~~an animal~~ a swine feeding operation pursuant to this subsection until there has been an on-site inspection of the operation and a determination by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry that the operation is a concentrated ~~animal~~ swine feeding operation. Should the Department determine that the operation is a concentrated ~~animal~~ swine feeding operation, the Department shall notify the operation of ~~such~~ the determination and of an opportunity for the owner or operator of the facility to request an administrative hearing on the issue.

3. Process wastewater in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a retention structure properly designed, constructed and operated to contain all process wastewaters plus the runoff from a twenty-five-year, twenty-four-hour rainfall event for the location of the point source. There shall be no effluent

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

limitations on discharges from a waste facility constructed and properly maintained to contain the twenty-five-year, twenty-four-hour storm event; provided the proper design, construction, and operation of the retention structure shall include but not be limited to one (1) foot of free board.

E. ~~After September 1, 1997, no~~ No new concentrated ~~animal~~ swine feeding operation or expansion of a concentrated ~~animal~~ swine feeding operation requiring a license pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act shall be constructed or placed in operation unless final design plans, specifications and a Pollution Prevention Plan developed pursuant to Section ~~9-205.2~~ 20-9 of this title have been approved by the Department.

F. ~~After the effective date of this act, no~~ No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed ~~animal~~ feeding operation or expanding operation shall be placed in operation until a license for ~~such~~ the facility or expansion has been issued by the Department.

SECTION 7. AMENDATORY 2 O.S. 2001, Section 9-205, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-7), is amended to read as follows:

Section 20-7. A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed ~~animal~~ swine feeding operation or expanding operation, the necessary forms and applications.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. The application for a license to operate a new or previously unlicensed ~~animal~~ swine feeding operation or expanding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the ~~animal~~ swine feeding operation;

3. Capacity in swine animal units, and number and type of ~~animals~~ swine housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, ~~animal~~ swine waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing ~~an Animal~~ a Swine Waste Management Plan, Best Management Practices, Odor Abatement Plan or such other plan authorized by the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by ~~Section 9-210.1~~ Sections 20-19 and 20-21 of this title; and

7. Any other information deemed necessary by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

C. 1. An application for renewal of a license to operate ~~an animal~~ a swine feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for ~~such a~~ the facility or expansion has been issued by the Department.

E. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

a. the new owner or operator cannot comply with the requirements of transfer,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the ~~animal~~ swine feeding operation,

c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto, or

d. the new owner or operator has failed to meet the requirements of Section ~~9-211~~ 20-25 of this title; and

3. If a transfer is denied, written notification of ~~such~~ the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

F. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act by the Board shall be made in accordance with Section ~~9-211~~ 20-25 of this title.

G. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated ~~animal~~ swine feeding operation shall be under oath and shall contain the following information:

1. a. A statement of ownership.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3. a. An environmental history from the past three (3) years of any concentrated animal feeding operation <u>or concentrated swine feeding operation</u> established and operated by the applicant or any other operation with common ownership in this state or any other state. ~~Such~~ <u>The</u> environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

environmental law, rule, agency order, or court action relating to the operation of an animal feeding operation or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of ~~such~~ the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or rules promulgated pursuant thereto.

H. 1. ~~For licensed managed feeding operations licensed on or after August 1, 1998, all~~ All employees of a proposed licensed managed feeding operation whose duties include treatment, storage, or application of ~~animal~~ swine waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control ~~as specified by rules promulgated by the Board~~. Proof of certification of a minimum of nine (9) hours of training and education ~~must~~ shall be submitted either with the license application or within six (6) months of the date of the application for the license.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. All employees of a licensed managed feeding operation ~~licensed before August 1, 1998,~~ whose duties include treatment, storage or application of animal waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control. ~~Proof of certification of a minimum of nine (9) hours of training and education must be submitted by June 1, 1999.~~

3. The Department shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include treatment, storage, or application of ~~animal~~ swine waste.

4. Appropriate curricula and course content shall be developed under the supervision of Oklahoma State University Cooperative Extension Service, which shall provide certification to the Department.

5. Failure to obtain the prerequisite and annual training and education as required in this subsection shall be deemed a violation of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

I. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each ~~such~~ violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

SECTION 8. AMENDATORY 2 O.S. 2001, Section 9-205.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended by Section 2, Chapter 129, O.S.L. 2006 (2 O.S. Supp. 2006, Section 20-8), is amended to read as follows:

Section 20-8. A. 1. Any person applying for a license for a new or expanding ~~animal~~ swine feeding operation shall comply with the notice and hearing requirements as specified by this section and rules promulgated by the State Board of Agriculture.

2. Notice requirements shall include notice to affected property owners by certified mail, return receipt requested pursuant to subsection C of this section and public notice pursuant to subsection D of this section.

B. After submission of a completed application as provided by the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto, the Oklahoma Department of Agriculture, Food, and Forestry shall have sixty (60) working days to review the application for a new or expanding operation for physical and technical suitability.

C. 1. After review and after the applicant has submitted any additional required information to the Department, the Department shall require the applicant to notify all affected property owners of the proposed facility or expanding operation. Notice shall be sent by certified mail, return receipt requested. The notice shall identify that an application for a new or expanding ~~animal~~ swine feeding operation has been submitted to the Department, the location where the facility is to be located, that a hearing may be

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

requested pursuant to this subsection, and the date the application will be available for public review beginning no earlier than the day following the certified mailing of all the required notices, and any other information required by the Department.

2. Each affected property owner requesting a hearing shall submit, in writing, the following information:

a. the name and address of the interested party and proof of standing by showing that the interested party is an affected property owner,

b. a statement of specific allegations showing that the proposed facility or expanding operation may have a direct, substantial and immediate effect upon a legally protected interest of the interested party, and

c. the relief sought by the interested party.

3. If any of the affected property owners request an administrative hearing and all information listed in paragraph 2 of this subsection is found to be complete and adequate in the request for hearing, the scheduling conference for the hearing shall be held by the Department at a reasonable time within sixty (60) calendar days after the close of the public review period. Should the interested party have failed to provide any of the information listed in paragraph 2 of this subsection, the interested party shall have thirty (30) calendar days with which to cure any deficiencies after notice by the Department of such failure and receipt thereof in writing by the interested party. All interested parties may be joined as parties to the hearing.

4. a. In addition to any other information deemed necessary by the Department, at the hearing the Department shall hear testimony and

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

accept evidence pertaining to the physical and technical suitability of the proposed facility or expanding operations.

(1) Prior to the hearing, and after a reasonable opportunity for discovery, the interested party shall identify with specificity the reasons why the applicant has failed to show that the application should be granted.

(2) In a prehearing order, the Department shall identify the allegations that are relevant and applicable to the hearing.

(3) At the hearing, the interested party shall be afforded a reasonable opportunity to present evidence and argument in support of the allegations identified in the prehearing order and the applicant shall be afforded a reasonable opportunity to present evidence and argument to controvert those allegations.

b. For new applications submitted on and after August 1, 1998, the Department shall deny the issuance of a license to an applicant for a licensed managed feeding operation if an interested party within:

(1) one (1) mile of the designated perimeter of the proposed licensed managed feeding operation or expansion thereof, or

(2) the setback distance of an occupied residence if setback distances are greater than one (1) mile,

proves that the granting of the license will cause significant harm to the property value of the interested party.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. Any administrative hearing held pursuant to the provisions of this subsection shall comply with the Administrative Procedures Act and rules promulgated by the Board.

6. Establishment of property usage is the date the ~~animal~~ swine feeding operation application was made available for public review versus date of initial construction or placement of occupied residence and shall be given consideration when determining a contested matter between an applicant and an interested party on issues other than pollution of the waters of the state.

D. 1. In addition to the individual notice, the Department shall require the applicant to give public notice of the opportunity to comment on the granting of the license.

2. The public notice for a new or expanding operation shall be published as a legal notice prior to the date the application is available for public viewing, in at least one newspaper of general circulation in the county where the proposed facility or expanding operation is to be located.

3. The notice shall identify locations where the application shall be available for viewing. The locations shall include the office of the Department and a specific public location in the county where the proposed facility or expanding operation is to be located.

4. The application shall be available for public review during normal business hours. The copies of the application posted for public viewing shall be complete except for proprietary provisions otherwise protected by law and shall remain posted during normal business hours for at least twenty (20) working days after notice is published.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. The Department, as necessary, may hold public meetings at a location convenient to the population center nearest the proposed facility or expanding operation to address public comments on the proposed facility or expanding operation.

E. Prior to the issuance of any license for ~~an animal~~ a swine feeding operation, or expanding operation, the Department shall require the applicant to submit:

1. Documentation certifying notice has been issued to all affected property owners. A map of all affected property owners and the corresponding mailing list shall be submitted with each application; and

2. Proof of publication notice of a new or expanding application for ~~an animal~~ a swine feeding operation license.

SECTION 9. AMENDATORY 2 O.S. 2001, Section 9-205.2, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-9), is amended to read as follows:

Section 20-9. A. A Pollution Prevention Plan shall be developed by each licensed managed feeding operation prior to the submission of an application pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture pursuant thereto. The Pollution Prevention Plan shall include, but not be limited to, provisions for documentation of structural controls, documentation of Best Management Practices, an approved plan for the disposal of ~~animal~~ swine waste and recordkeeping provisions.

B. ~~An animal~~ A swine feeding operation licensed pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, other than a licensed

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

managed feeding operation, shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific ~~Animal~~ Swine Waste Management Plan prepared pursuant to Section ~~9-205.3~~ 20-10 of this title. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service~~,~~ may be substituted for the documentation of design capacity and construction requirements.

C. 1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on site.

2. The ~~animal~~ swine feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance, which has significant effect on the potential for the discharge of pollutants to the waters of the state.

D. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the ~~animal~~ swine feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

E. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

F. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;

4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and ~~animal~~ <u>swine</u> waste nutrient sampling;

5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:

a. the location and a description of existing structural and nonstructural controls,

b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and

c. a description of the design standards for the retention facility embankments;

6. A description of the design standards for any retention facilities;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

7. Training requirements for employees;

8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section ~~9-205.4~~ 20-12 of this title; and

9. Requirements that all irrigation systems into which any ~~animal~~ swine waste will be injected shall be equipped as specified by Section ~~9-205.5~~ 20-13 of this title.

G. The following records shall be maintained at the site as long as the facility is in operation:

1. Water level in the retention structure;

2. Daily precipitation records from on-site rain gauge;

3. Incident reports such as spills and other discharges;

4. Inspection and maintenance reports;

5. Findings from annual inspections of the entire facility;

6. Log of preventive maintenance and employee training that was completed;

7. Log of removal of ~~animal~~ swine waste sold or given to other persons for disposal;

8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the federal Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection I of this section.

H. Any analyses required by the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a qualified independent testing laboratory certified by the Department of Environmental Quality and approved by the Department.

I. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

SECTION 10. AMENDATORY 2 O.S. 2001, Section 9-205.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended by Section 3, Chapter 128, O.S.L. 2006 (2 O.S. Supp. 2006, 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~~ Swine Feeding Operations Act.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. ~~Animal~~ Swine feeding operations licensed pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine 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~~ Swine 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~~ Swine 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 to waters of the state except in accordance with the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act;

2. ~~Animal~~ Swine 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~~ swine confined on the ~~animal~~ swine feeding operation;

4. ~~Animal~~ Swine 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,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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~~ 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 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 Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto, and

h. ensure that watersheds and groundwater are adequately protected;

5. If, for any reason, there is a discharge other than a spill of less than ~~100~~ one hundred (100) gallons, the licensee is required to 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,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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 parameters as required by the Department which the Department has reason to believe could be in the discharge;

6. Notwithstanding the provisions of paragraph 5 of this subsection, any spill that leaves the property owned or controlled by the licensee shall be reported to the Department regardless of total number of gallons spilled; and

7. The Department shall maintain records of all discharges and shall separately maintain records of all spills.

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

1. ~~Animal~~ Swine waste removal procedures;

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

4. Requirements including that:

a. (1) land application of ~~animal~~ swine 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 exceed the application rates in the most current Natural Resources Conservation Service publication titled Waste Utilization Standard, 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~~ swine waste to waters of the state,

(2) contamination of waters of the state, and

(3) odor,

c. facilities including waste retention structures, waste storage sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to ensure the ability to fully comply with the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

terms of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, and

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

5. ~~Such other~~ Other information deemed necessary by the Department to administer the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

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

E. If the ~~animal~~ swine 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~~ swine feeding operation; names of such other persons; and amount, in wet tons, dry tons or cubic yards, of ~~animal~~ swine waste removed from the ~~animal~~ swine feeding operation.

F. 1. If the ~~animal~~ swine 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~~ swine waste.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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~~ swine 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 ~~animal~~ swine waste is applied shall be analyzed, annually, for phosphates, nitrates and soil pH prior to the first application of the ~~animal~~ swine 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 analysis shall be retained by the ~~animal~~ swine feeding operation as long as the facility is in operation.

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

1. Dead ~~animals~~ swine shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee 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~~ higher than normal mortality rates and other provisions which 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.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 11. AMENDATORY 2 O.S. 2001, Section 9-205.3a, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-11), is amended to read as follows:

Section 20-11. 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 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~~ swine 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.

C. If, after reviewing the Odor Abatement Plan, the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry determines that the plan does not adequately meet one or more of the minimum requirements, the licensed managed feeding operation shall

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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~~ Swine 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. Design of the facilities;

2. Odor control technology to be utilized;

3. Prevailing wind direction in relation to occupied residences;

4. Size of operation;

5. Distance from facility to occupied residences; and

6. All information contained in the application.

SECTION 12. AMENDATORY 2 O.S. 2001, Section 9-205.4, as renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended by Section 1, Chapter 148, O.S.L. 2006 (2 O.S. Supp. 2006, Section 20-12), is amended to read as follows:

Section 20-12. A. Any hydrologic connection between wastewater and waters of the state outside that authorized by the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act shall constitute a discharge to waters of the state.

B. Except as otherwise provided by Section 20-20 of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, to prevent hydrologic connections between a retention structure and waters of the state, all swine feeding operations in this state primarily using a liquid ~~animal~~ swine waste management system whether or not such

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

waste facilities are licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act shall:

1. Utilize a natural or geomembrane liner or other liner constructed of synthetic materials in any retention structure containing liquid ~~animal~~ swine waste; and

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

C. Except as provided by Section 20-20 of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and subsection E of this section, all retention structures of licensed managed feeding operations shall maintain a minimum separation of ten (10) feet between the bottom of the retention structure and the maximum historical groundwater elevation that is measured from the bottom of the retention structure and the highest point of the seasonal groundwater table. Documentation of a ten-foot separation shall be established by submission of a soil log from a soil boring extending a minimum of ten (10) feet below the bottom of all retention structures to ascertain the presence of groundwater or bedrock and a statement from a professional engineer certifying the existence of the ten-foot separation distance.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

D. The State Board of Agriculture shall establish standards for retention structures.

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

1. Soil type at the retention structure;

2. Soil tests per American Standards Testing Methods (ASTM) standards on all soils to be used as liner material;

3. Retention structure capacity;

4. Retention structure design;

5. Documentation of lack of hydrologic connection between the waters of the state and the retention structure;

6. Depth of retention structure;

7. Type and characteristics of liner to be used; and

8. Any other relevant information.

F. 1. Licensed managed feeding operations shall install and maintain in good working order a leak detection system or sufficient monitoring wells both upgradient and downgradient around the perimeter of each retention structure prior to using the retention structure for storage of liquid waste pursuant to rules promulgated by the State Board of Agriculture.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. a. Samples of water shall be collected by the Oklahoma Department of Agriculture, Food, and Forestry and submitted for testing at least annually. The analysis of the water samples shall be performed by a qualified environmental laboratory approved by the Oklahoma Department of Environmental Quality or by the relevant certification agency for the state in which the laboratory is located and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and the cost shall be the responsibility of the owner of the licensed managed feeding operation.

b. The frequency of sampling set forth in subparagraph a of this paragraph may be reduced to once every three (3) years for those monitoring wells which have been sampled for at least three (3) consecutive years and have always been found to be dry. However, if any subsequent sampling event indicates the monitoring well is no longer dry, that monitoring well shall be sampled pursuant to subparagraph a of this paragraph.

3. Documentation, sampling data, and any other records required by this section shall be maintained on site for the life of the facility.

4. Analysis from the sampling taken prior to the operation of the facility may be considered the baseline data and shall be retained on site for the life of the facility. If no sampling or other baseline data is available prior to the operation of the facility, the samples taken during the first year may be considered the baseline data and shall be

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

retained on site for the life of the facility. Baseline data for the facility shall be determined based on the best information available.

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

G. 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 established by rules of the Board or as required by the federal Environmental Protection Agency. Liners for lagoons owned or operated by ~~an animal~~ a swine feeding operation with less than one thousand (1,000) swine animal units may be designed and constructed pursuant to Technical Note 716 of the United States Department of Agriculture Natural Resources Conservation Service or its current equivalent so long as the facility is designed by the United States Department of Agriculture Natural Resources Conservation Service.

H. 1. When a liner is installed to prevent hydrologic connection, the licensee or the owner shall maintain the liner to inhibit infiltration of wastewaters. Documentation of liner maintenance shall be maintained at the facility.

2. An environmental, agricultural, or other approved professional engineer licensed pursuant to Section 475.12 of Title 59 of the Oklahoma Statutes shall conduct a site evaluation every five (5) years on the retention structure of every concentrated ~~animal~~ swine feeding operation with such a structure and annually on every licensed managed feeding operation to ensure liner integrity. If the owner or operator suspects that a

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

retention structure is leaking, the owner or operator shall report suspected leakage to the Department.

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

I. All substances entering the retention structures shall be composed entirely of wastewaters from the proper operation and maintenance of ~~an animal~~ a swine feeding operation and the runoff from the ~~animal~~ swine 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.

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

K. Documentation, sampling data, and any other records required by this section shall be maintained on site for as long as the facility is in operation. Samples collected during the first year of the retention structure may be considered the baseline data and shall be retained on site as long as the facility is in operation. Baseline data for the facility shall be determined based on the best information available.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 13. AMENDATORY 2 O.S. 2001, Section 9-205.5, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-13), is amended to read as follows:

Section 20-13. A. All irrigation systems into which any ~~animal~~ swine waste will be injected shall be equipped with one or both of the following systems:

1. An antipollution system, approved by the State Board of Agriculture, capable of preventing the backflow of ~~such animal~~ swine waste into the groundwater. The system shall include a safety check valve with a removable inspection port, anti-syphon vent, and low-pressure escape drain. An interlock device shall be installed on pumps that pump the ~~animal~~ swine waste so that if a fresh water irrigation pump shuts down, the pump that pumps the ~~animal~~ swine waste will also immediately shut down, preventing the chance of leakage past the check valve; or

2. A system which provides for a complete and total disconnection between the flow of fresh water and the flow of ~~animal~~ swine waste. ~~Such~~ The system shall be capable of a manual disconnection between fresh water and the ~~animal~~ swine waste.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall make annual on-site inspections examining the operative status of the check valves and interlock devices.

C. The operator of ~~said~~ the irrigation system shall be responsible to ensure:

1. That the valves and interlock devices remain operative between annual inspections by the Department ~~of Agriculture~~; or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. Complete disconnection from fresh water when introducing ~~animal~~ swine waste into the system.

SECTION 14. AMENDATORY 2 O.S. 2001, Section 9-206, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-14), is amended to read as follows:

Section 20-14. A. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any ~~animal~~ swine feeding operation for the purpose of investigating complaints as to the operation or to determine whether there are any violations of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act. The Department shall make at least one unannounced inspection per year of every ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used by employees of the Oklahoma Department of Agriculture, Food and Forestry when inspecting ~~animal~~ swine feeding operations pursuant to their official duties specified by the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

C. The Board shall maintain necessary records and undertake such studies, investigations, and surveys for the proper administration of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

SECTION 15. AMENDATORY 2 O.S. 2001, Section 9-208, as amended by Section 22, Chapter 292, O.S.L. 2005, and as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-15), is amended to read as follows:

Section 20-15. A. 1. It shall be unlawful for any person to operate a concentrated ~~animal~~ swine feeding operation, without first obtaining a license from the State Board of Agriculture.

2. The owner or operator of ~~an animal~~ a swine feeding operation not classified as a concentrated ~~animal~~ swine feeding operation may apply for a license if the owner or operator elects to come under the provision of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and the rules of the State Board of Agriculture.

3. The owner or operator of ~~an animal~~ a swine feeding operation ~~which houses swine and~~ primarily ~~uses~~ using a liquid ~~animal~~ swine waste management system not classified as a licensed managed feeding operation may apply for a license if the owner or operator voluntarily elects to come under the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act relating to licensed managed feeding operations and the rules of the State Board of Agriculture.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

b. slaughterhouses, but not including feedlots at these facilities, and

c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

2. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges.

SECTION 16. AMENDATORY 2 O.S. 2001, Section 9-209, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-16), is amended to read as follows:

Section 20-16. 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~~ <u>and swine animal unit fees</u> set forth in ~~subsection B of~~ this

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

section and continued compliance with the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and the rules of the Board.

B. The fees for ~~an animal~~ a swine 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~~

1. Fifteen Dollars ($15.00) for facilities with a capacity of less than two hundred fifty (250) swine animal units;

2. Thirty-seven Dollars and fifty cents ($37.50) for facilities with a capacity of two hundred fifty (250) to five hundred (500) swine animal units;

3. Seventy-five Dollars ($75.00) for facilities with a capacity of five hundred one (501) to three thousand (3,000) swine animal units;

4. One Hundred Fifty Dollars ($150.00) for facilities with a capacity of three thousand one (3,001) to ten thousand (10,000) swine animal units; or

5. Two Hundred Twenty-five Dollars ($225.00) for facilities with a capacity of more than ten thousand (10,000) swine animal units.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

2. The other ~~half~~ one-half (1/2) of ~~such~~ the amount shall be due thirty (30) days from the date ~~such~~ the application is approved. In the event the application is not approved, any amount of ~~such~~ the fee ~~which is~~ in excess of the costs ~~incurred by the~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~Department in~~ of processing the application ~~pursuant to the requirements of the Oklahoma Concentrated Animal Feeding Operations Act~~ shall be refunded to the applicant.

~~For the license year ending June 30, 2000, and every year thereafter all~~ 3. All licensed managed feeding operations shall pay an additional 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 of this section~~.

~~E.~~ D. The Department ~~is directed to~~ shall 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~~ the review ~~the Department shall promulgate emergency~~, rules shall be promulgated pursuant to the Administrative Procedures Act ~~which will establish~~ establishing a renewal fee for licensed managed feeding operations. ~~The Department is directed to promulgate such emergency rules on or before March 1, 1999.~~ 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. Under no circumstances shall the fee exceed eighty cents ($0.80) per swine animal unit.

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 17. AMENDATORY 2 O.S. 2001, Section 9-209.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-17), is amended to read as follows:

Section 20-17. A. Any person who is licensed to operate ~~an animal~~ a swine feeding operation with a liquid ~~animal~~ swine waste management system within this state shall furnish to the Oklahoma Department of Agriculture, Food, and Forestry evidence of financial ability to comply with the requirements for closure of retention structures and other waste facilities as established pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture.

B. 1. To establish evidence of financial ability the Department shall require:

a. Category A surety which shall include a financial statement listing assets and liabilities and including a general release that the information may be verified with banks and other financial institutions. The financial statement shall be confidential and shall not be opened to public inspection. The statement shall prove a net worth of not less than:

(1) Ten Thousand Dollars ($10,000.00) for any ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act having a capacity of more than three hundred (300) swine animal units but having one thousand (1,000) swine animal units or less,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(2) Twenty-five Thousand Dollars ($25,000.00) for any ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act having a capacity of more than one thousand (1,000) swine animal units but less than two thousand (2,000) swine animal units, or

(3) Fifty Thousand Dollars ($50,000.00) for any ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act having a capacity of more than two thousand (2,000) swine animal units, or

b. Category B surety which shall include an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or a blanket surety bond. Except as provided in paragraph 2 of this subsection, amount of such letter of credit, cash, check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars ($25,000.00). The Department is authorized to determine the amount of Category B surety based upon the past performance of the owner or operator regarding compliance with the laws of this state, and any rules promulgated pursuant thereto. Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Department.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. The Department upon certification by any ~~animal~~ swine feeding operation subject to Category B surety that its liability statewide is less than the twenty-five-thousand-dollar standard specified in this section may allow ~~said~~ the owner or operator to provide Category B type surety in an amount less than the required Twenty-five Thousand Dollars ($25,000.00), but at least sufficient to cover the estimated cost of all closure and removal operations currently the responsibility of that owner or operator.

C. 1. Any ~~animal~~ swine feeding operation licensed pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act which does not have any outstanding contempt citations or fines may post Category A surety.

2. Any ~~animal~~ swine feeding operation licensed pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act which does have outstanding fines or contempt citations shall be required to post Category B surety. ~~Animal~~ Swine feeding operations which have posted Category B surety and have operated under this type surety and have no outstanding fines at the end of three (3) years may post Category A surety.

D. For good cause shown concerning pollution by the ~~animal~~ swine feeding operations posting either Category A or B surety, the Department, after notice and hearing, may require the filing of additional Category B surety in an amount greater than Twenty-five Thousand Dollars ($25,000.00) but not to exceed Five Dollars ($5.00) times the number of swine animal units for the facility being licensed.

E. 1. If the Department, after notice and an opportunity for hearing, determines that the ~~animal~~ swine feeding operation licensed pursuant to the provisions of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act has neglected, failed, or refused to close any surface impoundment, or remove or cause to be removed any equipment, or has abandoned the facility, then the ~~animal~~ swine feeding operation shall be deemed to have forfeited the letter of credit or negotiable instrument required by this section or shall pay to this state, for deposit in the State Treasury, a sum equal to the cost of closure of any surface impoundment or removal of equipment.

2. The Department may cause the remedial work to be done, issuing a warrant in payment of the cost thereof drawn against the monies accruing in the State Treasury from the forfeiture or payment.

3. The Department shall also recover any costs arising from litigation to enforce this provision. Provided, before ~~an animal~~ a swine feeding operation is required to forfeit or pay any monies to the state pursuant to this section, the Department shall notify the ~~animal~~ swine feeding operation at the last-known address of the determination of neglect, failure or refusal to close any surface impoundment or remove equipment and the ~~animal~~ swine feeding operation shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

F. If title to ~~an animal~~ a swine feeding operation is transferred, the transferee shall furnish the evidence of financial ability to close surface impoundments required by the provisions of this section, prior to the transfer.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 18. AMENDATORY 2 O.S. 2001, Section 9-210, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-18), is amended to read as follows:

Section 20-18. A. In addition to any other requirement of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, ~~animal~~ swine feeding operations owners and operators who are granted ~~an animal~~ a swine feeding operations license shall:

1. Provide adequate veterinarian services for detection, control, and elimination of livestock diseases;

2. Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yards premises; and

3. Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices.

B. 1. Any ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, operated in compliance with ~~such~~ those standards, and in compliance with the rules promulgated by the State Board of Agriculture, shall be deemed to be prima facie evidence that a nuisance does not exist; provided, no ~~animal~~ swine feeding operation shall be located or operated in violation of any zoning regulations.

2. Any ~~animal~~ swine feeding operation licensed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, operated in compliance with ~~such~~ those standards, and in compliance with rules promulgated by the Board, that is located

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

on land more than three (3) miles outside the incorporated limits of any municipality and which is not located within one (1) mile of ten or more occupied residences shall not be deemed a nuisance unless it is shown by a preponderance of the evidence that the operation endangers the health or safety of others.

SECTION 19. AMENDATORY 2 O.S. 2001, Section 9-210.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-19), is amended to read as follows:

Section 20-19. A. ~~Except as otherwise provided by Section 9-210.2 of this title, the state shall be divided east and west based on the Indian Meridian for the purpose of determining setback requirements from occupied residences for animal feeding operations using a liquid animal waste management system where swine are primarily housed in a roof-covered structure and which were established between September 1, 1997, and June 1, 1998:~~

~~1. No new or expanding licensed managed feeding operation with a capacity of two thousand (2,000) or more animal units:~~

~~a. located in the eastern half of the state shall be constructed where its closest waste facility is within a distance of one-half (1/2) mile of any occupied residence not owned or leased by the owner or operator of the licensed managed feeding operation, or~~

~~b. located in the western half of the state shall be constructed where its closest waste facility is within a distance of three-fourths (3/4) mile of~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~any occupied residence not owned or leased by the owner or operator of the licensed managed feeding operation.~~

~~2. No new or expanding animal feeding operation with a capacity of less than two thousand (2,000) animal units but more than one thousand (1,000) animal units:~~

~~a. located in the eastern half of the state shall be constructed where its closest waste facility is located within a distance of one-fourth (1/4) mile of any occupied residence not owned or leased by the owner of the animal feeding operation, or~~

~~b. located in the western half of the state shall be constructed where its closest waste facility is located within a distance of one-half (1/2) mile of any occupied residence not owned or leased by the owner of the animal feeding operation.~~

~~3. No new or expanding animal feeding operation with a capacity of more than three hundred (300) animal units but having one thousand (1,000) animal units or less shall be constructed where its closest waste facility is located within a distance of one-fourth (1/4) mile of any occupied residence not owned or leased by the owner of the animal feeding operation.~~

~~B.~~ Except as ~~otherwise~~ authorized by this subsection, no liquid ~~animal~~ swine waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the ~~animal~~ swine feeding operation.

~~C.~~ B. Except as otherwise provided by Section ~~9-210.2~~ 20-20 of ~~this title~~ the Oklahoma Swine Feeding Operations Act, no concentrated ~~animal~~ swine feeding

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

operation shall be established ~~after September 1, 1997, which is~~ within one (1) mile of ten or more residences ~~which~~ that are occupied residences at the time of the establishment of the concentrated ~~animal~~ swine feeding operation.

~~D.~~ C. The proscription contained in subsections A~~,~~ and B ~~and C~~ of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the ~~animal~~ swine feeding operation, under ~~such~~ the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county ~~in which such~~ where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections A~~,~~ and B ~~and C~~ of this section. A change in ownership of the applicable property or change in the ownership of the property on which the ~~animal~~ swine feeding operation is located shall not affect the validity of the waiver.

~~E.~~ D. No liquid ~~animal~~ swine waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

~~F.~~ E. Except as ~~otherwise~~ provided by Section ~~9-210.2 of this title~~ 20-20 of the Oklahoma Swine Feeding Operations Act, no concentrated ~~animal~~ swine feeding operation shall be established ~~after September 1, 1997, which is~~ if located:

1. Within three (3) miles of a state park or resort;

2. On land within three (3) miles of the incorporated limits of any municipality; or

3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated ~~animal~~ swine feeding operation is located within the drainage basin for the public water supply.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~G.~~ F. All distances between occupied residences and ~~animal~~ swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the ~~State~~ Department ~~of Agriculture~~. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

SECTION 20. AMENDATORY 2 O.S. 2001, Section 9-210.2, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-20), is amended to read as follows:

Section 20-20. A. ~~1. Any concentrated animal feeding operation which is licensed by or which has submitted a substantially completed application to the State Department of Agriculture on or before September 1, 1997, shall be required to comply with all applicable provisions within one (1) year of such date or may enter into a compliance schedule with the Department to come into compliance.~~

~~2.~~ The provisions of Section ~~9-210.1~~ 20-19 of this title relating to setback requirements and the provisions of subsections B and C of Section ~~9-205.4~~ 20-12 of this title relating to utilization of liners in retention structures or documentation of no hydrologic connection and to a minimum separation of ~~four (4)~~ ten (10) feet between the bottom of the retention structure and the maximum groundwater elevation shall not apply to ~~the facilities specified by this subsection~~ any concentrated swine feeding operation that is licensed by or submitted a substantially completed application on or before September 1, 1997.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. ~~1. Any animal feeding operation, other than a concentrated animal feeding operation, which is licensed by or which has submitted a substantially completed application to the State Department of Agriculture on or before September 1, 1997, and desiring to retain such licensure, shall be required to comply with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act within one (1) year of such date or may enter into a compliance schedule with the Department to come into compliance.~~

~~2. The provisions of Section 9-210.1 of this title relating to setback requirements and the provisions of subsections B and C of Section 9-205.4 of this title relating to utilization of liners in retention structures or documentation of no hydrologic connection and to a minimum separation of four (4) feet between the bottom of the retention structure and the maximum groundwater elevation shall not apply to the facilities specified by this subsection.~~

~~C. 1. Animal feeding operations, other than a concentrated animal feeding operation, not licensed pursuant to the provisions of the Oklahoma Feed Yards Act in operation on the effective date of this act shall not be subject to any setback requirements not in effect on the date of past construction.~~

~~2. Provided, that the provisions of subsections B and C of Section 9-205.4 of this title relating to utilization of liners in retention structures or documentation of no hydrologic connection and to a minimum separation of four (4) feet between the bottom of the retention structure and the maximum groundwater elevation shall not apply to facilities specified by this subsection except as a condition to the issuance of a license~~

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

~~pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act.~~

~~D. On or after September 1, 1997, any~~ Any expanding operations shall be in accordance with the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto.

SECTION 21. AMENDATORY 2 O.S. 2001, Section 9-210.3, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-21), is amended to read as follows:

Section 20-21. A. Except as otherwise provided by Section ~~14 of this act~~ 20-19 of the Oklahoma Swine Feeding Operations Act and subsection F of this section, ~~animal~~ swine feeding operations using liquid ~~animal~~ swine waste management systems ~~where~~ and swine are housed in roof-covered structures shall not be located within the following applicable distances from an occupied residence:

1. More than 4000 swine animal units ..... 2 miles;
2. 2001 to 4000 swine animal units..... 1 1/4 miles;
3. 1001 to 2000 swine animal units..... 3/4 mile;
4. 601 to 1000 swine animal units..... 1/2 mile;
5. 300 to 600 swine animal units..... 1/4 mile; and
6. Less than 300 swine animal units ..... no setback.

B. Except as otherwise provided by this section, no licensed managed feeding operation which applies for a new or expanding concentrated ~~animal~~ swine feeding operation license ~~after March 9, 1998,~~ shall be located within three (3) miles of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

outside boundary of any area or facility owned or operated as a camp or recreational site by a nonprofit organization established prior to application of the concentrated ~~animal~~ swine feeding operation.

C. The setback requirements contained in subsections A and B of this section shall not apply to any property owner who executes a written waiver with the owner or operator of the ~~animal~~ swine feeding operation, under such terms and conditions as are agreed to by the parties. The written waiver shall be effective upon recording of the waiver in the office of the county clerk in the county in which ~~such~~ the property is located. The filed waiver shall preclude enforcement of the setback requirements of subsections A or B of this section with regard to property described in the waiver and owned by the person executing ~~such~~ the waiver. A change in ownership of the applicable property or change in ownership of the property on which the ~~animal~~ swine feeding operation is located shall not affect the validity of the waiver.

D. No licensed managed feeding operation established after the effective date of this act which applies for a new or expanding license ~~after March 9, 1998,~~ shall be located:

1. Within three (3) miles of any designated scenic river area as specified by the Scenic Rivers Act;

2. Within three (3) miles of the outside boundary of any historic property or museum owned by the State of Oklahoma;

3. Within three (3) miles of a public drinking water well;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

4. Within one (1) mile of a ~~waterbody~~ water body specified as Outstanding Resource Waters that has recreational or ecological significance as outlined by the most current Water Quality Standards promulgated by the Oklahoma Water Resources Board; or

5. Within three (3) miles of a national park designated by the United States Department of the Interior National Park Service.

E. All distances between occupied residences and ~~animal~~ swine feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

F. The provisions of this section shall not apply to any ~~animal~~ swine feeding operation which has been licensed by or which had submitted an application to the ~~State~~ Department ~~of Agriculture~~ on or prior to March 9, 1998. In addition, the provisions of this section shall not apply to any ~~animal~~ swine feeding operation with a capacity of 2000 swine animal units or less which was established prior to June 1, 1998.

SECTION 22. AMENDATORY Section 23, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-22), is amended to read as follows:

Section 20-22. The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for construction or expansion of any concentrated ~~animal~~ swine feeding operation to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Grand River Dam Authority and the Federal Emergency Management Agency. Any operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

SECTION 23. AMENDATORY 2 O.S. 2001, Section 20-49, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-23), is amended to read as follows:

Section 20-23. A. A concentrated ~~animal~~ swine feeding operation may exceed its swine animal unit capacity if:

1. A diseased or potentially diseased ~~animal~~ swine exists at the operation; or

2. A diseased or potentially diseased ~~animal~~ swine is in the next destination for the production line for the operation; and

3. The owner of the concentrated ~~animal~~ swine feeding operation has reasonable cause to believe ~~an animal~~ a swine has or may have any disease causing:

a. a public health emergency,

b. a substantial and imminent economic hardship to the owner, or

c. a substantial and imminent threat to the ~~state's animal~~ swine population~~,~~ of the state; or

4. The State Board of Agriculture issues an order establishing temporary restrictions, a quarantine, or a quarantine zone restricting the movement of persons, livestock, machinery, and personal property out of a concentrated ~~animal~~ swine feeding operation.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. In no case shall ~~an~~ a swine animal unit capacity be exceeded for more than five (5) days following a confirmatory test indicating that either the ~~animal~~ swine is diseased or is not diseased. A confirmatory test shall be performed within twenty (20) days of discovery that a diseased or potentially diseased ~~animal~~ swine exists at the operation.

C. The owner of a concentrated ~~animal~~ swine feeding operation shall provide written notification to the Oklahoma Department of Agriculture, Food, and Forestry upon discovery of a diseased or potentially diseased ~~animal~~ swine pursuant to subsection A of this section that may result in the swine animal unit capacity being exceeded.

D. The notice shall:

1. Identify the concentrated ~~animal~~ swine feeding operation that may exceed its swine animal unit capacity; and

2. Include an estimate of the number of ~~animals~~ swine exceeding the swine animal unit capacity at the concentrated ~~animal unit~~ swine feeding operation.

SECTION 24. AMENDATORY 2 O.S. 2001, Section 9-211, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-25), is amended to read as follows:

Section 20-25. A. 1. The State Board of Agriculture is authorized and directed to promulgate a violation points system for violating the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act~~,~~ which provides greater punishment for violations which are intentional and for violations which pose a greater threat to the environment.

2. The State Board of Agriculture shall have the power to suspend, revoke or not renew the license of any ~~animal~~ swine feeding operation based on ~~such~~ the point system

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

after a hearing, and after an administrative determination that ~~such animal~~ the swine feeding operation has violated or has failed to comply with any of the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, or any rule promulgated pursuant thereto.

3. The Board shall have the power and duty to reinstate any such suspended or revoked licenses, or renew ~~such~~ the licenses, upon a satisfactory and acceptable showing and assurance that ~~such animal~~ the swine feeding operation conducted ~~animal~~ swine feeding operations in conformity with, and in compliance with, the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act and rules promulgated pursuant thereto, and that ~~such~~ conformity and compliance will be continuous.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act, may deny issuance of a license or transfer of a license to establish and operate ~~an animal~~ a swine feeding operation on and after September 1, 1997, to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to ~~animal~~ swine feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing Administrative Procedures and the Administrative Procedures Act.

SECTION 25. AMENDATORY 2 O.S. 2001, Section 9-212, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-26), is amended to read as follows:

Section 20-26. A. Any person violating the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or any rule of the State Board of Agriculture promulgated pursuant thereto shall, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding Two Hundred Dollars ($200.00).

B. Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who violates any rule of the Board adopted to prevent water pollution from ~~animal~~ swine feeding operations pursuant to this act shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of Five Hundred Dollars ($500.00) to Ten Thousand Dollars ($10,000.00) for each violation, by imprisonment in the county jail for not more than six (6) months for each violation, or by the assessment of a civil penalty up to Ten Thousand Dollars ($10,000.00) for each violation or by any of such fine, imprisonment, and civil penalty.

C. 1. In addition to the criminal and civil penalties specified by this section, the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry may:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

a. assess an administrative penalty of not more than Ten Thousand Dollars ($10,000.00) per day of noncompliance, or

b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or any rule promulgated thereunder or order, license or permit issued pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

D. Any person assessed an administrative or civil penalty may be required to pay, in addition to such penalty amount and interest thereon, attorneys fees and costs associated with the collection of such penalties.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act or for any rule

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

promulgated thereunder, or order, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney if requested by the Commissioner of Agriculture to bring such actions.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the State Department of Agriculture Revolving Fund.

H. In determining the amount of a civil penalty or administrative penalty, the court or the Department, as the case may be, shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any, resulting to the defendant from the violation, the history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

I. For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

J. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in any water pollution form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any water pollution rules promulgated by the Board, shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each ~~such~~ violation.

SECTION 26. AMENDATORY 2 O.S. 2001, Section 9-212.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-27), is amended to read as follows:

Section 20-27. A. Due to the inherently unique nature of poultry-laying operations, and the increased propensity for vector propagation at such facilities, poultry-laying operations licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, shall be conducted only in a manner as prescribed by the State Department of Agriculture by rule promulgated pursuant to this section and the Oklahoma Concentrated Animal Feeding Operations Act.

B. If three valid complaints are received by the Department against a poultry-laying operation, licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, within a period of sixty (60) days, the <u>Oklahoma</u> Department <u>of Agriculture, Food, and Forestry</u>, upon inspection and verification of the complaint, shall declare that an emergency exists.

<u>UNDERLINED</u> language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

C. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare or the environment pursuant to this subsection, the Department may without notice or hearing issue an order, effective upon issuance, reciting the existence of such an emergency and requiring that such action be taken as deemed necessary to meet the emergency. Any person to whom such an order is directed shall comply therewith immediately but may request an administrative enforcement hearing thereon within fifteen (15) days after the order is served. ~~Such~~ The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the Department shall sustain or modify such order.

D. If, at the hearing, it is determined that the operator is in violation of the provisions of this section and rules promulgated pursuant thereto, in addition to other administrative penalties authorized by law, the Department may order that the operator be prohibited from land applying waste for one hundred sixty (160) days after determination that the facility is in violation.

E. Any party aggrieved by a final order may petition the Department for rehearing, reopening or reconsideration within ten (10) days from the date of the entry of the final order. Any party aggrieved by a final order, including the Attorney General on behalf of the state, may, pursuant to the Administrative Procedures Act, petition for a judicial review thereof.

F. The provisions of this section may be enforced pursuant to the provisions of Section ~~9-212~~ 49 of ~~Title 2 of the Oklahoma Statutes~~ this act.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 27. AMENDATORY 2 O.S. 2001, Section 9-214, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-28), is amended to read as follows:

Section 20-28. The Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act shall be enacted as a part of the Agricultural Code and shall be codified accordingly.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-40 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Sections 28 through 50 of this act shall be known and may be cited as the "Oklahoma Concentrated Animal Feeding Operations Act".

B. The purpose of the Oklahoma Concentrated Animal Feeding Operations Act is to provide for environmentally responsible construction and expansion of animal feeding operations and to protect the safety, welfare and quality of life of persons who live in the vicinity of an animal feeding operation.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-41 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Concentrated animal feeding operations are point sources subject to the license program established pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act.

B. As used in the Oklahoma Concentrated Animal Feeding Operations Act:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1. "Affected property owner" means a surface landowner within one (1) mile of the designated perimeter of an animal feeding operation;

2. "Animal feeding operation" means a lot or facility where the following conditions are met:

a. animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

The term "animal feeding operation" shall not include a racetrack licensed by the Oklahoma Horse Racing Commission to hold pari-mutuel race meetings pursuant to the Oklahoma Horse Racing Act if the facility discharges to a publicly owned treatment works, or an aquatic animal production facility;

3. "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by one (1), plus the number of mature dairy cattle multiplied by one and four-tenths (1.4), plus the number of sheep multiplied by one-tenth (0.1), plus the number of horses multiplied by two (2);

4. "Animal waste" means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. "Animal Waste Management Plan" or "Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state prepared by an owner or operator of an animal feeding operation as required by the Department pursuant to the provisions of Section 36 of this act;

6. "Animal waste management system" means a combination of structures and nonstructural practices serving an animal feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of animal waste;

7. "Artificially constructed" means constructed by humans;

8. "Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state as established by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 36 of this act;

9. "Board" means the State Board of Agriculture;

10. "Common ownership" includes but is not limited to any corporation, partnership or individual where the same owner has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of the facility;

11. "Concentrated animal feeding operation" means:

a. an animal feeding operation which meets the following criteria:

(1) more than the number of animals specified in any of the following categories are confined:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(a) 1,000 slaughter and feeder cattle,

(b) 700 mature dairy cattle, whether milk or dry cows,

(c) 500 horses,

(d) 10,000 sheep or lambs,

(e) 55,000 turkeys,

(f) 100,000 laying hens or broilers, if the facility has continuous overflow watering,

(g) 30,000 laying hens or broilers, if the facility has a liquid manure system,

(h) 5,000 ducks, or

(i) 1,000 animal units, and

(2) pollutants are discharged into waters of the state.

Provided, no animal feeding operation pursuant to this subparagraph shall be construed to be a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

b. an animal feeding operation which meets the following criteria:

(1) more than the number of animals specified in any of the following categories are confined:

(a) 300 slaughter or feeder cattle,

(b) 200 mature dairy cattle, whether milk or dry cows,

(c) 150 horses,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(d) 3,000 sheep or lambs,

(e) 16,500 turkeys,

(f) 30,000 laying hens or broilers, if the facility has continuous overflow watering,

(g) 9,000 laying hens or broilers, if the facility has a liquid manure system,

(h) 1,500 ducks, or

(i) 300 animal units, and

(2) either one of the following conditions are met:

(a) pollutants are discharged into waters of the state through an artificially constructed ditch, flushing system or other similar artificially constructed device, or

(b) pollutants are discharged directly into navigable waters which originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation.

Provided, however, that no animal feeding operation pursuant to this subparagraph is a concentrated animal feeding operation if the animal feeding operation discharges only in the event of a twenty-five-year, twenty-four-hour storm event, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

c. the Board determines that the operation is a significant contributor of pollution to waters of the state pursuant to Section 32 of this act;

12. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

13. "Designated perimeter" means the perimeter of any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto;

14. "Facility" means any place, site or location or part thereof where animals are kept, handled, housed, or otherwise maintained and processed and includes but is not limited to buildings, lots, pens, and animal waste management systems;

15. "Interested party" means an affected property owner who validly requests an individual hearing, in accordance with the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto regarding the issuance of an animal feeding operation license and asserts rights to relief in respect to or arising out of the same license;

16. "Land application" means the spreading on, or incorporation of, animal waste into the soil mantle primarily for beneficial purposes;

17. "Liquid animal waste management system" means any animal waste management system which uses water as the primary carrier of the waste into a primary retention structure;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

18. “Nutrient-limited watershed” means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma Water Quality Standards;

19. “Nutrient-vulnerable groundwater” means groundwater which is designated “nutrient-vulnerable” in the most recent Oklahoma Water Quality Standards;

20. “Occupied residence” means a habitable structure designed and constructed for full-time occupancy in all weather conditions which:

a. is not readily mobile,

b. is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

c. is occupied as a residence;

21. “Pollution Prevention Plan” means a written plan to control the discharge of pollutants which has been prepared in accordance with industry-acceptable engineering and management practices by the owner or operator of an animal feeding operation as required pursuant to Section 35 of this act;

22. “Process wastewater” means any water utilized in the facility that comes into contact with any manure, litter, bedding, raw, intermediate, or final material or product used in or resulting from the production of animals and any products directly or indirectly used in the operation of a facility, such as spillage or overflow from animal watering systems; washing, cleaning, or flushing pens, barns, manure pits, direct contact, swimming, washing or spray cooling of animals; and dust control and any precipitation which comes into contact with animals or animal waste;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

23. "Retention structures" includes but is not limited to all collection ditches, conduits and swales for the collection of runoff water and process wastewater, and basins, ponds and lagoons or other structures used to store animal wastes;

24. "Waste facility" means any structure or combination of structures utilized to control animal waste until it can be disposed of in an authorized manner. The structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing animals, composters, waste storage sites, or retention structures or appurtenances or additions thereto; and

25. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds and lagoons, designed to meet federal and state requirements other than cooling ponds as defined in the Clean Water Act or rules promulgated pursuant thereto are not waters of the state.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-42 of Title 2, unless there is created a duplication in numbering, reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation, and enforcement of the Oklahoma Concentrated Animal Feeding Operations Act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required with the funds available.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-43 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall appoint a rule advisory committee who, without compensation, shall act as advisors to the Board in the formulation of the rules promulgated pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

1. The committee shall consist of:

a. one member who shall represent the beef cattle producers,

b. one member who shall represent the dairy producers,

c. one member who shall represent the poultry producers,

d. one member who shall represent the field of hydrogeology,

e. one member who shall be a soil scientist,

f. one member designated by the Secretary of the Environment,

g. one member who shall be a professional engineer,

h. one member who shall represent the field of water quality science,

i. one member who shall represent the field of ecology, and

j. two members who shall represent the general public.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. Of the initial members, four shall serve for one-year terms; four shall serve for two-year terms; and three shall serve for three-year terms. Thereafter, all members shall serve for three-year terms; provided, all members shall serve at the pleasure of the Board.

3. At the initial meeting of the rule advisory committee, the membership shall appoint a chair, vice-chair, and secretary from its membership and thereafter as determined by the committee.

B. Except for emergency rules, proposed rules shall be submitted to the rule advisory committee at the same time as the Department causes notice to be published in "The Oklahoma Register" pursuant to the Administrative Procedures Act. Comments of the rule advisory committee shall be submitted to the members of the Board at least fifteen (15) days prior to any official action by the Board on the rules.

C. Proposed emergency rules shall be submitted by the Department to the rule advisory committee at least five (5) days prior to the rules being considered by the Board.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-44 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Any animal feeding operation meeting the criteria defining a concentrated animal feeding operation shall be required to obtain a license to operate pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. No animal feeding operation which voluntarily obtains a license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall be considered to be a concentrated animal feeding operation unless the operation meets the definition of concentrated animal feeding operation.

3. Any animal feeding operation other than a concentrated animal feeding operation, regardless of the number of animals, shall only be required to be licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto if the State Board of Agriculture determines the operation to be a significant contributor of pollution to waters of the state pursuant to subsection C of this section.

B. Two or more animal feeding operations under common ownership are considered, for the purposes of licensure, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

C. 1. The State Board of Agriculture may make a case-by-case designation of concentrated animal feeding operations pursuant to this section. Any animal feeding operation may be designated as a concentrated animal feeding operation if it is determined to be a significant contributor of pollution to the waters of the state. In making this designation, the Board shall consider the following factors:

a. the size of the animal feeding operation and the amount of wastes reaching waters of the state,

b. the location of the animal feeding operation relative to waters of the state,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

c. the means of conveyance of animal waste and wastewater into waters of the state,

d. the method of disposal for animal waste and process wastewater disposal,

e. the slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the state, and

f. other such factors relative to the significance of the pollution problem sought to be regulated.

2. In no case shall an application for a license be required from an animal feeding operation pursuant to this subsection until there has been an on-site inspection of the operation and a determination by the Oklahoma Department of Agriculture, Food, and Forestry that the operation is a concentrated animal feeding operation. Should the Department determine that the operation is a concentrated animal feeding operation, the Department shall notify the operation of the determination and of an opportunity for the owner or operator of the facility to request an administrative hearing on the issue.

3. Process wastewater in the overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a retention structure properly designed, constructed and operated to contain all process wastewaters plus the runoff from a twenty-five-year, twenty-four-hour rainfall event for the location of the point source. There shall be no effluent limitations on discharges from a waste facility constructed, and properly maintained to

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

contain the twenty-five-year, twenty-four-hour storm event; provided the proper design, construction, and operation of the retention structure shall include, but not be limited to, one (1) foot of free board.

D. No new concentrated animal feeding operation or expansion of a concentrated animal feeding operation requiring a license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall be constructed or placed in operation unless final design plans, specifications and a Pollution Prevention Plan developed pursuant to Section 35 of this act have been approved by the Department.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-45 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed animal feeding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed animal feeding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the animal feeding operation;

3. Capacity in animal units, and number and type of animals housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

state, including, but not limited to, drainage from the facility, animal waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing an Animal Waste Management Plan, Best Management Practices, or such other plan authorized by the Oklahoma Concentrated Animal Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Section 44 of the Oklahoma Concentrated Animal Feeding Operations Act; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate an animal feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. For transfer of a license to a new owner or operator, the following conditions shall be met:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

a. the new owner or operator cannot comply with the requirements of transfer,

b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the animal feeding operation,

c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, or

d. the new owner or operator has failed to meet the requirements of Section 48 of the Oklahoma Concentrated Animal Feeding Operations Act; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

E. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act by the Board shall be made in accordance with Section 48 of this act.

F. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated animal feeding operation shall be under oath and shall contain the following information:

1. a. A statement of ownership.

(1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3. a. An environmental history from the past three (3) years of any concentrated animal or swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto.

G. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each such violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-46 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Any person applying for a license for a new animal feeding operation shall comply with the notice and hearing requirements as specified by this section and rules promulgated by the State Board of Agriculture.

2. Notice requirements shall include notice to affected property owners by certified mail, return receipt requested pursuant to subsection C of this section and public notice pursuant to subsection D of this section.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. After submission of a completed application as provided by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, the Oklahoma Department of Agriculture, Food, and Forestry shall have sixty (60) working days to review the application for a new operation for physical and technical suitability.

C. 1. After review and after the applicant has submitted any additional required information to the Department, the Department shall require the applicant to notify all affected property owners of the proposed facility. Notice shall be sent by certified mail, return receipt requested. The notice shall identify that an application for a new animal feeding operation has been submitted to the Department, the location where the facility is to be located, that a hearing may be requested pursuant to this subsection, and the date the application will be available for public review beginning no earlier than the day following the certified mailing of all the required notices, and any other information required by the Department.

2. Each affected property owner requesting a hearing shall submit, in writing, the following information:

a. the name and address of the interested party and proof of standing by showing that the interested party is an affected property owner,

b. a statement of specific allegations showing that the proposed facility operation may have a direct, substantial and immediate effect upon a legally protected interest of the interested party, and

c. the relief sought by the interested party.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

3. If any of the affected property owners request an administrative hearing and all information listed in paragraph 2 of this subsection is found to be complete and adequate in the request for hearing, the scheduling conference for the hearing shall be held by the Department at a reasonable time within sixty (60) calendar days after the close of the public review period. Should the interested party have failed to provide any of the information listed in paragraph 2 of this subsection, the interested party shall have thirty (30) calendar days with which to cure any deficiencies after notice by the Department of such failure and receipt thereof in writing by the interested party. All interested parties may be joined as parties to the hearing.

4. In addition to any other information deemed necessary by the Department, at the hearing the Department shall hear testimony and accept evidence pertaining to the physical and technical suitability of the proposed facility.

a. Prior to the hearing, and after a reasonable opportunity for discovery, the interested party shall identify with specificity the reasons why the applicant has failed to show that the application should be granted.

b. In a prehearing order, the Department shall identify the allegations that are relevant and applicable to the hearing.

c. At the hearing, the interested party shall be afforded a reasonable opportunity to present evidence and argument in support of the allegations identified in the prehearing order and the applicant shall be afforded a reasonable opportunity to present evidence and argument to controvert those allegations.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. Any administrative hearing held pursuant to the provisions of this subsection shall comply with the Administrative Procedures Act and rules promulgated by the Board.

6. Establishment of property usage is the date the animal feeding operation application was made available for public review versus date of initial construction or placement of occupied residence and shall be given consideration when determining a contested matter between an applicant and an interested party on issues other than pollution of the waters of the state.

D. 1. In addition to the individual notice, the Department shall require the applicant to give public notice of the opportunity to comment on the granting of the license.

2. The public notice for a new operation shall be published as a legal notice prior to the date the application is available for public viewing, in at least one newspaper of general circulation in the county where the proposed facility is to be located.

3. The notice shall identify locations where the application shall be available for viewing. The locations shall include the office of the Department and a specific public location in the county where the proposed facility is to be located.

4. The application shall be available for public review during normal business hours. The copies of the application posted for public viewing shall be complete except for proprietary provisions otherwise protected by law and shall remain posted during normal business hours for at least twenty (20) working days after notice is published.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. The Department, as necessary, may hold public meetings at a location convenient to the population center nearest the proposed facility to address public comments on the proposed facility.

E. Prior to the issuance of any license for an animal feeding operation, the Department shall require the applicant to submit:

1. Documentation certifying notice has been issued to all affected property owners. A map of all affected property owners and the corresponding mailing list shall be submitted with each application; and

2. Proof of publication notice of a new application for an animal feeding operation license.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-47 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. An animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall develop a Pollution Prevention Plan or may substitute equivalent measures contained in a site-specific Animal Waste Management Plan prepared pursuant to Section 36 of this act. Design and construction criteria developed by the United States Department of Agriculture Natural Resources Conservation Service, may be substituted for the documentation of design capacity and construction requirements.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

B. 1. The Pollution Prevention Plan shall be signed by the owner or as otherwise authorized by the Oklahoma Department of Agriculture, Food, and Forestry and a copy shall be retained on site.

2. The animal feeding operation shall amend the Pollution Prevention Plan and obtain approval of the Department prior to any change in design, construction, operation or maintenance which has significant effect on the potential for the discharge of pollutants to the waters of the state.

C. If, after reviewing the Pollution Prevention Plan, the Department determines that the Plan does not meet one or more of the minimum requirements, the animal feeding operation shall make and implement appropriate changes to the Plan as required by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

D. The Pollution Prevention Plan shall provide and require presite approval by Departmental personnel prior to construction. During construction, the Department shall monitor the construction process as deemed necessary by the Department in an attempt to verify the construction of the facility is done according to plans and acceptable engineering standards to reduce or eliminate the potential of pollution.

E. In addition to other requirements specified by this section, the Pollution Prevention Plan shall include but not be limited to:

1. A description of potential sources, activities and materials which may reasonably be expected to or could potentially add pollutants to runoff from the facility;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. A map, indicating an outline of the drainage area of the facility, and each existing structural control measure designed to reduce pollutants in wastewater and precipitation runoff in all surface waters of the state;

3. A spill contingency plan for potential pollutants;

4. All existing sampling data of groundwater, nitrate and coliform bacteria levels, soil tests from land application sites and animal waste nutrient sampling;

5. A description of management controls appropriate for the facility. The management controls shall include, but not be limited to:

a. the location and a description of existing structural and nonstructural controls,

b. documentation of retention structure capacity and the assumptions and calculations used in determining the appropriate volume capacity, and

c. a description of the design standards for the retention facility embankments;

6. A description of the design standards for any retention facilities;

7. Training requirements for employees;

8. Documentation relating to any hydrologic connection between the contained wastewater and waters of the state which complies with Section 37 of this act; and

9. Requirements that all irrigation systems into which any animal waste will be injected shall be equipped as specified by Section 38 of this act.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

G. The following records shall be maintained at the site as long as the facility is in operation:

1. Water level in the retention structure;

2. Daily precipitation records from on-site rain gauge;

3. Incident reports such as spills and other discharges;

4. Inspection and maintenance reports;

5. Findings from annual inspections of the entire facility;

6. Log of preventive maintenance and employee training that was completed;

7. Log of removal of animal waste sold or given to other persons for disposal;

8. Other specific information deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto;

9. Copy of general permit issued by the United States Environmental Protection Agency if applicable, a copy of the completed Pollution Prevention Plan, and other specific records deemed necessary by the Department to implement the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto; and

10. The notarized statement signed by the applicant accepting full responsibility for properly closing all waste retention structures pursuant to subsection H of this section.

G. Any analyses required by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto shall be performed by a

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

qualified independent testing laboratory certified by the Oklahoma Department of Environmental Quality and approved by the Department.

H. The applicant shall sign a notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department. When a license is transferred, the new owner or lessee shall submit a signed notarized statement accepting full responsibility for properly closing all waste retention structures if the facility ceases to function or is ordered to close by action of the Department.

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-48 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Animal feeding operations licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act 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:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1. There shall be no discharge of process wastewater 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. not violate any state or federal laws relating to endangered or threatened species of plant, fish or wildlife or to migratory birds,

e. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, and

f. ensure that watersheds and groundwater are adequately protected;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. If, for any reason, there is a discharge other than a spill of less than one hundred (100) gallons, the licensee is required to 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 other parameters as required by the Department which the Department has reason to believe could be in the discharge;

6. Notwithstanding the provisions of paragraph 5 of this subsection, any spill that leaves the property owned or controlled by the licensee shall be reported to the Department regardless of total number of gallons spilled; and

7. The Department shall maintain records of all discharges and shall separately maintain records of all spills.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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 exceed the application rates in the most current Natural Resources Conservation Service publication titled Waste Utilization Standard, 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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(3) odor,

c. facilities including waste retention structures, waste storage sites, ponds, pipes, ditches, pumps, and 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 waste and wastewater as required to maintain the proper operating volume of the retention structure; and

5. Such 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, and sold or given to other persons for disposal.

E. Soils in areas in which 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 analysis shall be retained by the animal feeding operation as long as the facility is in operation.

F. 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.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1. Dead animals shall be disposed of in accordance with a carcass disposal plan developed by the applicant or licensee 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 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 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-50 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any hydrologic connection between wastewater and waters of the state outside that authorized by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall constitute a discharge to waters of the state.

B. 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 established by rules of the Board or as required by the federal Environmental Protection Agency. Liners for lagoons owned or operated by an animal feeding operation with less than one thousand (1,000) animal units may be designed and constructed pursuant to Technical Note 716 of the United States Department of Agriculture Natural Resources

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Conservation Service or its current equivalent so long as the facility is designed by the United States Department of Agriculture Natural Resources Conservation Service.

C. 1. When a liner is installed to prevent hydrologic connection, the licensee or the owner shall maintain the liner to inhibit infiltration of wastewaters. Documentation of liner maintenance shall be maintained at the facility.

2. An environmental, agricultural, or other approved professional engineer licensed pursuant to Section 475.12 of Title 59 of the Oklahoma Statutes shall conduct a site evaluation every five (5) years on the retention structure of every concentrated animal feeding operation with such a structure to ensure liner integrity. If the owner or operator suspects that a retention structure is leaking, the owner or operator shall report suspected leakage to the Department.

D. 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.

E. Documentation, sampling data, and any other records required by this section shall be maintained on site for as long as the facility is in operation. Samples collected during the first year of the retention structure may be considered the baseline data and shall be retained on site as long as the facility is in operation. Baseline data for the facility shall be determined based on the best information available.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-51 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. All irrigation systems into which any animal waste will be injected shall be equipped with one or both of the following systems:

1. An antipollution system, approved by the State Board of Agriculture, capable of preventing the backflow of animal waste into the groundwater. The system shall include a safety check valve with a removable inspection port, anti-syphon vent, and low-pressure escape drain. An interlock device shall be installed on pumps that pump the animal waste so that if a fresh water irrigation pump shuts down, the pump that pumps the animal waste will also immediately shut down, preventing the chance of leakage past the check valve; or

2. A system which provides for a complete and total disconnection between the flow of fresh water and the flow of animal waste. The system shall be capable of a manual disconnection between fresh water and the animal waste.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall make annual on-site inspections examining the operative status of the check valves and interlock devices.

C. The operator of the irrigation system shall be responsible to ensure:

1. That the valves and interlock devices remain operative between annual inspections by the Oklahoma Department of Agriculture, Food, and Forestry; or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

2. Complete disconnection from fresh water when introducing animal waste into the system.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-52 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any animal feeding operation for the purpose of investigating complaints as to the operation or to determine whether there are any violations of the Oklahoma Concentrated Animal Feeding Operations Act. The Department shall make at least one unannounced inspection per year of every animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used by employees of the Department of Agriculture, Food, and Forestry when inspecting animal feeding operations pursuant to their official duties specified by the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

C. The Board shall maintain necessary records and undertake such studies, investigations and surveys for the proper administration of the Oklahoma Concentrated Animal Feeding Operations Act.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-53 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. It shall be unlawful for any person to operate a concentrated animal feeding operation without first obtaining a license from the State Board of Agriculture.

2. The owner or operator of an animal feeding operation not classified as a concentrated animal feeding operation may apply for a license if the owner or operator elects to come under the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and the rules of the State Board of Agriculture.

B. 1. The Department of Environmental Quality shall have environmental jurisdiction over:

a. commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

b. slaughterhouses, but not including feedlots at these facilities, and

c. aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

impoundments and land application of wastes and sludge, and other pollution originating at these facilities.

2. Facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal National Pollutant Discharge Elimination System regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-54 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Licenses shall expire on June 30 of each year and may be renewed upon payment of the license fee set forth in 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 shall be:

1. Fifteen Dollars ($15.00) for facilities with a capacity of less than two hundred fifty (250) animal units;

2. Thirty-seven Dollars and fifty cents ($37.50) for facilities with a capacity of two hundred fifty (250) to five hundred (500) animal units;

3. Seventy-five Dollars ($75.00) for facilities with a capacity of five hundred one (501) to three thousand (3,000) animal units;

4. One Hundred Fifty Dollars ($150.00) for facilities with a capacity of three thousand one (3,001) to ten thousand (10,000) animal units; or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

5. Two Hundred Twenty-five Dollars ($225.00) for facilities with a capacity of more than ten thousand (10,000) animal units.

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

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-55 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person who is licensed to operate an animal feeding operation with a liquid animal waste management system within this state shall furnish to the Oklahoma Department of Agriculture, Food, and Forestry evidence of financial ability to comply with the requirements for closure of retention structures and other waste facilities as established pursuant to the provisions of this section and rules promulgated by the State Board of Agriculture.

B. 1. To establish evidence of financial ability the Department shall require:

a. Category A surety which shall include a financial statement listing assets and liabilities and including a general release that the information may be verified with banks and other financial institutions. The financial statement shall be confidential and shall not be opened to public inspection. The statement shall prove a net worth of not less than:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

(1) Ten Thousand Dollars ($10,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than three hundred (300) animal units but having one thousand (1,000) animal units or less,

(2) Twenty-five Thousand Dollars ($25,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than one thousand (1,000) animal units but less than two thousand (2,000) animal units, or

(3) Fifty Thousand Dollars ($50,000.00) for any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act having a capacity of more than two thousand (2,000) animal units, or

b. Category B surety which shall include an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or a blanket surety bond. Except as provided in paragraph 2 of this subsection, amount of such letter of credit, cash, check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars ($25,000.00). The Department is authorized to determine the amount of Category B surety based upon the past performance of the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

owner or operator regarding compliance with the laws of this state, and any rules promulgated pursuant thereto. Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Department.

2. The Department upon certification by any animal feeding operation subject to Category B surety that its liability statewide is less than the twenty-five-thousand-dollar standard specified in this section may allow the owner or operator to provide Category B type surety in an amount less than the required Twenty-five Thousand Dollars ($25,000.00), but at least sufficient to cover the estimated cost of all closure and removal operations currently the responsibility of that owner or operator.

C. 1. Any animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act which does not have any outstanding contempt citations or fines may post Category A surety.

2. Any animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act which does have outstanding fines or contempt citations shall be required to post Category B surety. Animal feeding operations which have posted Category B surety and have operated under this type surety and have no outstanding fines at the end of three (3) years may post Category A surety.

D. For good cause shown concerning pollution by the animal feeding operations posting either Category A or B surety, the Department, after notice and hearing, may require the filing of additional Category B surety in an amount greater than Twenty-five

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Thousand Dollars ($25,000.00) but not to exceed Five Dollars ($5.00) times the number of animal units for the facility being licensed.

E. 1. If the Department, after notice and an opportunity for hearing, determines that the animal feeding operation licensed pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act has neglected, failed, or refused to close any surface impoundment, or remove or cause to be removed any equipment, or has abandoned the facility, then the animal feeding operation shall be deemed to have forfeited the letter of credit or negotiable instrument required by this section or shall pay to this state, for deposit in the State Treasury, a sum equal to the cost of closure of any surface impoundment or removal of equipment.

2. The Department may cause the remedial work to be done, issuing a warrant in payment of the cost thereof drawn against the monies accruing in the State Treasury from the forfeiture or payment.

3. The Department shall also recover any costs arising from litigation to enforce this provision. Provided, before an animal feeding operation is required to forfeit or pay any monies to the state pursuant to this section, the Department shall notify the animal feeding operation at the last-known address of the determination of neglect, failure or refusal to close any surface impoundment or remove equipment and the animal feeding operation shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

F. If title to an animal feeding operation is transferred, the transferee shall furnish the evidence of financial ability to close surface impoundments required by the provisions of this section prior to the transfer.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-56 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other requirement of the Oklahoma Concentrated Animal Feeding Operations Act, animal feeding operations owners and operators who are granted an animal feeding operations license shall:

1. Provide adequate veterinarian services for detection, control, and elimination of livestock diseases;

2. Have available for use at all necessary times mechanical means of scraping, cleaning, and grading feed yards premises; and

3. Provide weather resistant aprons adjacent to all permanently affixed feed bunks, water tanks, and feeding devices.

B. 1. Any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in compliance with those standards, and in compliance with the rules promulgated by the Board, shall be deemed to be prima facie evidence that a nuisance does not exist; provided, no animal feeding operation shall be located or operated in violation of any zoning regulations.

2. Any animal feeding operation licensed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, operated in compliance with those standards, and in

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

compliance with rules promulgated by the Board, that is located on land more than three (3) miles outside the incorporated limits of any municipality and which is not located within one (1) mile of ten or more occupied residences shall not be deemed a nuisance unless it is shown by a preponderance of the evidence that the operation endangers the health or safety of others.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-57 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Except as authorized by this subsection, no liquid animal waste shall be land applied within five hundred (500) feet of the nearest corner of an occupied residence not owned or leased by the owner of the animal feeding operation.

B. Except as provided by Section 45 of this act, no concentrated animal feeding operation shall be established after September 1, 1997, which is within one (1) mile of ten or more residences that are occupied residences at the time of the establishment of the concentrated animal feeding operation.

C. The proscription contained in subsections A and B of this section shall not apply if the applicable property owner executes a written waiver with the owner or operator of the animal feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections A and B of this section. A change in ownership of the applicable property or change in the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

ownership of the property on which the animal feeding operation is located shall not affect the validity of the waiver.

D. No liquid animal waste shall be land applied within three hundred (300) feet of an existing public or private drinking water well.

E. Except as provided by Section 45 of this act, no concentrated animal feeding operation shall be established after September 1, 1997, which is located:

1. Within three (3) miles of a state park or resort;

2. On land within three (3) miles of the incorporated limits of any municipality;

3. Within three (3) miles of the high water mark of a surface public water supply if the concentrated animal feeding operation is located within the drainage basin for the public water supply.

F. All distances between occupied residences and animal feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the nearest waste facility, as determined by the Oklahoma Department of Agriculture, Food, and Forestry. The property boundary line of the real property is not used unless it coincides with the closest point of the waste facility or occupied residence.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-58 of Title 2, unless there is created a duplication in numbering, reads as follows:

Animal feeding operations, other than a concentrated animal feeding operation, not licensed pursuant to the provisions of the Oklahoma Feed Yards Act in operation on the

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

effective date of this act shall not be subject to any setback requirements not in effect on the date of past construction.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-59 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Agriculture, Food, and Forestry shall not accept or approve any pending applications requesting permits for construction of any concentrated animal feeding operation to be located within one (1) mile upstream of the Pensacola Project boundary as described in the records of the Grand River Dam Authority and the Federal Emergency Management Agency. Any operation authorized or permitted prior to April 17, 2002, shall not be affected by the provisions of this section.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-60 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. A concentrated animal feeding operation may exceed its animal unit capacity if:

1. A diseased or potentially diseased animal exists at the operation; or

2. A diseased or potentially diseased animal is in the next destination for the production line for the operation; and

3. The owner of the concentrated animal feeding operation has reasonable cause to believe an animal has or may have any disease causing:

a. a public health emergency,

b. a substantial and imminent economic hardship to the owner, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

c. a substantial and imminent threat to the animal population of the state, or

4. The State Board of Agriculture issues an order establishing temporary restrictions, a quarantine, or a quarantine zone restricting the movement of persons, livestock, machinery, and personal property out of a concentrated animal feeding operation.

B. In no case shall an animal unit capacity be exceeded for more than five (5) days following a confirmatory test indicating that either the animal is diseased or is not diseased. A confirmatory test shall be performed within twenty (20) days of discovery that a diseased or potentially diseased animal exists at the operation.

C. The owner of a concentrated animal feeding operation shall provide written notification to the Oklahoma Department of Agriculture, Food, and Forestry upon discovery of a diseased or potentially diseased animal pursuant to subsection A of this section that may result in the animal unit capacity being exceeded.

D. The notice shall:

1. Identify the concentrated animal feeding operation that may exceed its animal unit capacity; and

2. Include an estimate of the number of animals exceeding the animal unit capacity at the concentrated animal feeding operation.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-61 of Title 2, unless there is created a duplication in numbering, reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

A. 1. The Board is authorized and directed to promulgate a violation points system for violating the Oklahoma Concentrated Animal Feeding Operations Act which provides greater punishment for violations which are intentional and for violations which pose a greater threat to the environment.

2. The State Board of Agriculture shall have the power to suspend, revoke or not renew the license of any animal feeding operation based on the point system after a hearing, and after an administrative determination that the animal feeding operation has violated or has failed to comply with any of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act, or any rule promulgated pursuant thereto.

3. The Board shall have the power and duty to reinstate any such suspended or revoked licenses, or renew the licenses, upon a satisfactory and acceptable showing and assurance that the animal feeding operation conducted animal feeding operations in conformity with, and in compliance with, the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, and that such conformity and compliance will be continuous.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, may deny issuance of a license or transfer of a license to establish and operate an animal feeding operation on and after September 1, 1997, to any person or other legal entity which:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to animal feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing Administrative Procedures and the Administrative Procedures Act.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-62 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person violating the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or any rule of the Board promulgated pursuant thereto shall, upon conviction, be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding Two Hundred Dollars ($200.00).

B. Any owner or operator who fails to take such action as may be reasonable and necessary to avoid pollution of any stream, lake, river or creek, except as otherwise provided by law, or who violates any rule of the Board adopted to prevent water pollution from animal feeding operations pursuant to this act shall, upon conviction, be deemed guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of Five Hundred Dollars ($500.00) to Ten Thousand Dollars ($10,000.00) for each violation, by

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

imprisonment in the county jail for not more than six (6) months for each violation, or by the assessment of a civil penalty up to Ten Thousand Dollars ($10,000.00) for each violation or by any of such fine, imprisonment, and civil penalty.

C. 1. In addition to the criminal and civil penalties specified by this section, the Oklahoma Department of Agriculture, Food, and Forestry may:

a. assess an administrative penalty of not more than Ten Thousand Dollars ($10,000.00) per day of noncompliance, or

b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of the Oklahoma Concentrated Animal Feeding Operations Act or any rule promulgated thereunder or order, license or permit issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum civil or criminal penalties for violations of the Oklahoma Concentrated Animal Feeding Operations Act.

D. Any person assessed an administrative or civil penalty may be required to pay, in addition to such penalty amount and interest thereon, attorney fees and costs associated with the collection of such penalties.

E. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

a violation by any person of a provision of the Oklahoma Concentrated Animal Feeding Operations Act or any rule promulgated thereunder, or order, license or permit issued pursuant thereto.

F. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Concentrated Animal Feeding Operations Act or for any rule promulgated thereunder, or order, license, or permit issued pursuant thereto or recovery of any administrative or civil penalty assessed pursuant to the Oklahoma Concentrated Animal Feeding Operations Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine said action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney, if requested by the Commissioner of Agriculture, to bring such actions.

G. Except as otherwise provided by law, administrative and civil penalties shall be paid into the Department of Agriculture Revolving Fund.

H. In determining the amount of a civil penalty or administrative penalty, the court or the Department, as the case may be, shall consider such factors as the nature, circumstances and gravity of the violation or violations, the economic benefit, if any,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

resulting to the defendant from the violation, the history of such violations, any good-faith efforts to comply with the applicable requirements, the economic impact of the penalty on the defendant, the defendant's degree of culpability, and such other matters as justice may require.

I. For the purposes of this section, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

J. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification in any water pollution form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any water pollution rules promulgated by the Board shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each violation.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20-64 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Concentrated Animal Feeding Operations Act shall be enacted as a part of the Agricultural Code and shall be codified accordingly.

SECTION 51. RECODIFICATION 2 O.S. 2001, Section 9-212.1, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2006, Section 20-27), and as amended by Section 26 of this act, shall be recodified as Section 20-63 of Title 2 unless there is created a duplication in numbering.

SECTION 52. This act shall become effective November 1, 2007.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 02-22-07 - DO PASS, As Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.