

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 506

By: Wyrick

4
5
6 AS INTRODUCED

7 An Act relating to agriculture; amending 2 O.S. 2001,
8 Sections 9-200, as renumbered by Section 25, Chapter
9 292, O.S.L. 2005, 9-201, as renumbered by Section 25,
10 Chapter 292, O.S.L. 2005, 9-202, as renumbered by
11 Section 25, Chapter 292, O.S.L. 2005, and as amended
12 by Section 2, Chapter 128, O.S.L. 2006, 9-203, as
13 renumbered by Section 25, Chapter 292, O.S.L. 2005,
14 9-204, as renumbered by Section 25, Chapter 292,
15 O.S.L. 2005, 9-204.1, as renumbered by Section 25,
16 Chapter 292, O.S.L. 2005, 9-205, as renumbered by
17 Section 25, Chapter 292, O.S.L. 2005, 9-205.1, as
18 renumbered by Section 25, Chapter 292, O.S.L. 2005,
19 and as amended by Section 2, Chapter 129, O.S.L.
20 2006, 9-205.2, as renumbered by Section 25, Chapter
21 292, O.S.L. 2005, 9-205.3, as renumbered by Section
22 25, Chapter 292, O.S.L. 2005, and as amended by
23 Section 3, Chapter 128, O.S.L. 2006, 9-205.3a, as
24 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, as renumbered by Section
25, Chapter 292, O.S.L. 2005, 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, as renumbered by Section 25, Chapter
292, O.S.L. 2005, 9-209.1, as renumbered by Section
25, Chapter 292, O.S.L. 2005, 9-210, as renumbered by
Section 25, Chapter 292, O.S.L. 2005, 9-210.1, as
renumbered by Section 25, Chapter 292, O.S.L. 2005,
9-210.2, as renumbered by Section 25, Chapter 292,
O.S.L. 2005, 9-210.3, as renumbered by Section 25,
Chapter 292, O.S.L. 2005, 9-211, as renumbered by
Section 25, Chapter 292, O.S.L. 2005, 9-212, as
renumbered by Section 25, Chapter 292, O.S.L. 2005,

1 9-212.1, as renumbered by Section 25, Chapter 292,
2 O.S.L. 2005, and 9-214, as renumbered by Section 25,
3 Chapter 292, O.S.L. 2005, and Section 23, Chapter
4 292, O.S.L. 2005 and Section 2, Chapter 31, O.S.L.
5 2004, as renumbered by Section 25, Chapter 292,
6 O.S.L. 2005 (2 O.S. Supp. 2006, Sections 20-1, 20-2,
7 20-3, 20-4, 20-5, 20-6, 20-7, 20-8, 20-9, 20-10, 20-
8 11, 20-12, 20-13, 20-14, 20-15, 20-16, 20-17, 20-18,
9 20-19, 20-20, 20-21, 20-22, 20-23, 20-25, 20-26, 20-
10 27, and 20-28), which relate to the Oklahoma
11 Concentrated Animal Feeding Operations Act; modifying
12 name and scope of the act; confining the scope of the
13 act to swine; conforming provisions of the act to
14 include only swine; deleting obsolete language;
15 enacting the Oklahoma Concentrated Animal Feeding
16 Operations Act; stating purpose; defining terms;
17 authorizing promulgation of rules; providing for a
18 rule advisory committee and procedures related
19 thereto; providing the process and procedures for
20 licensure of certain animal feeding operations;
21 specifying application, notice, and hearing
22 requirements; requiring development of certain
23 pollution prevention plans; specifying requirements
24 and contents of plans; requiring licensees to utilize
Best Management Practices; specifying basis for
criteria of Best Management Practices; making certain
hydrological connections a discharge; requiring
liners under certain circumstances; requiring certain
irrigation systems to be equipped with certain
systems; authorizing certain inspections; giving the
Department of Environmental Quality certain
environmental jurisdiction; specifying term and fees
for certain licenses; requiring certain persons to
furnish evidence of financial ability to comply with
certain requirements; specifying conditions and
requirements for providing a surety; specifying
conditions that evidence a nuisance does not exist;
providing certain setback requirements; providing for
waivers; specifying certain site restrictions and
prohibitions; allowing animal unit capacities to be
exceeded under certain circumstances; providing
procedures for denying, suspending or revoking a
license; providing penalties for violations of the
Oklahoma Concentrated Animal Feeding Operations Act;
making the Oklahoma Concentrated Animal Feeding
Operations Act a part of the Agricultural Code;

1 providing for recodification; providing for
2 codification; and providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-200, as
6 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
7 2006, Section 20-1), is amended to read as follows:

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

13 SECTION 2. AMENDATORY 2 O.S. 2001, Section 9-201, as
14 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
15 2006, Section 20-2), is amended to read as follows:

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

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

1 SECTION 3. AMENDATORY 2 O.S. 2001, Section 9-202, as
2 renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended
3 by Section 2, Chapter 128, O.S.L. 2006 (2 O.S. Supp. 2006, Section
4 20-3), is amended to read as follows:

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

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

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

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

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

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

19 b. two (2) miles of the designated perimeter of a
20 licensed managed feeding operation or an expanding
21 operation with a capacity of more than two thousand
22 (2,000) swine animal units for which a license is
23 being sought;

24

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

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

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

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

15 3. ~~"Animal~~ Swine animal unit" means a unit of measurement for
16 any ~~animal~~ swine feeding operation calculated by adding the
17 following numbers: The number of ~~slaughter and feeder cattle~~
18 ~~multiplied by one (1), plus the number of mature dairy cattle~~
19 ~~multiplied by one and four tenths (1.4), plus the number of swine~~
20 weighing over twenty-five (25) kilograms, approximately fifty-five
21 (55) pounds, multiplied by four-tenths (0.4), plus the number of
22 weaned swine weighing under twenty-five (25) kilograms multiplied by
23 one-tenth (0.1), ~~plus the number of sheep multiplied by one-tenth~~
24 ~~(0.1), plus the number of horses multiplied by two (2);~~

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

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

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

16 7. "Artificially constructed" means constructed by humans;

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

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

24

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

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

- 7 a. a Swine feeding operation, or
8 b. ~~an animal feeding operation which meets the following~~
9 ~~criteria:~~

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

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

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

15 ~~(c) 500 horses,~~

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

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

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

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

20 ~~(2) pollutants are discharged into waters of the~~
21 ~~state. Provided, no animal feeding operation~~
22 ~~pursuant to this subparagraph shall be construed~~
23 ~~to be a concentrated animal feeding operation if~~
24 ~~such animal feeding operation discharges only in~~

1 ~~the event of a twenty five year, twenty four hour~~
2 ~~storm event, or~~

3 ~~e. an animal~~ a swine feeding operation which meets the
4 following criteria:

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

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

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

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

12 ~~(d) (b) 3,000 weaned swine each weighing under~~
13 ~~25 kilograms,~~

14 ~~(e) 150 horses,~~

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

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

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

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

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

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

23 (2) either one of the following conditions are met:
24

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

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

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

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

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

21 13. "Designated perimeter" means the perimeter of any structure
22 or combination of structures utilized to control swine animal waste
23 until it can be disposed of in an authorized manner. Such
24 structures shall include but not be limited to pits, burial sites,

1 barns or roof-covered structures housing ~~animals~~ swine, composters,
2 waste storage sites, or retention structures or appurtenances or
3 additions thereto;

4 14. "Expanding operation" means:

5 a. a facility that either increases its swine animal unit
6 capacity to a number that causes the facility to
7 initially meet the definition of a Swine feeding
8 operation, or

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

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

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

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

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

- 7 a. 2,500 swine each weighing over ~~25 kilograms,~~
8 approximately 55 fifty-five (55) pounds,
- 9 b. 10,000 weaned swine each weighing under ~~25 kilograms,~~
10 fifty-five (55) pounds,
- 11 c. ~~100,000 laying hens or broilers, if the facility has~~
12 ~~continuous overflow watering,~~
- 13 d. ~~30,000 laying hens or broilers, if the facility has a~~
14 ~~liquid manure system, or~~
- 15 e. ~~any combination of swine weighing over twenty-five~~
16 ~~(25) kilograms~~ fifty-five (55) pounds or under ~~twenty-~~
17 ~~five (25) kilograms~~ fifty-five (55) pounds which would
18 equal one thousand (1,000) swine animal units;

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

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

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

4 ~~22.~~ 21. "Nutrient-vulnerable groundwater" means groundwater
5 which is designated "nutrient-vulnerable" in the most recent
6 Oklahoma Water Quality Standards;

7 ~~23.~~ 22. "Odor Abatement Plan" ~~or "OAP"~~ means schedules of
8 activities, prohibitions of practices, maintenance procedures and
9 other management practices to prevent or reduce odor as established
10 by the Oklahoma Department of Agriculture, Food, and Forestry
11 pursuant to Section ~~10~~ 20-11 of this ~~act~~ title;

12 ~~24.~~ 23. "Occupied residence" means a habitable structure
13 designed and constructed for full-time occupancy in all weather
14 conditions ~~which~~ and:

- 15 a. is not readily mobile,
16 b. is connected to a public or permanent source of
17 electricity and a permanent waste disposal system or
18 public waste disposal system, and
19 c. is occupied as a residence;

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

1 ~~26.~~ 25. "Process wastewater" means any water utilized in the
2 facility that comes into contact with any manure, litter, bedding,
3 raw, intermediate, or final material or product used in or resulting
4 from the production of ~~animals~~ swine and any products directly or
5 indirectly used in the operation of a facility, such as spillage or
6 overflow from ~~animal~~ swine watering systems; washing, cleaning, or
7 flushing pens, barns, manure pits, direct contact, swimming, washing
8 or spray cooling of ~~animals~~ swine; and dust control and any
9 precipitation which comes into contact with ~~animals~~ swine or ~~animal~~
10 swine waste;

11 ~~27.~~ 26. "Retention structures" ~~includes~~ means, but is not
12 limited to, all collection ditches, conduits and swales for the
13 collection of runoff water and process wastewater, and basins, ponds
14 and lagoons or other structures used to store ~~animal~~ swine wastes;

15 ~~28.~~ 27. "Spill" means the release from a swine ~~animal~~ feeding
16 operation of any process wastewater or manure that does not reach
17 waters of the state;

18 ~~29.~~ 28. "Waste facility" means any structure or combination of
19 structures utilized to control ~~animal~~ swine waste until it can be
20 disposed of in an authorized manner. ~~Such~~ The structures shall
21 include but not be limited to pits, burial sites, barns or roof-
22 covered structures housing ~~animals~~ swine, ~~compostors~~ composters,
23 waste storage sites, or retention structures or appurtenances or
24 additions thereto; and

1 ~~30.~~ 29. "Waters of the state" means all streams, lakes, ponds,
2 marshes, watercourses, waterways, wells, springs, irrigation
3 systems, drainage systems, storm sewers and all other bodies or
4 accumulations of water, surface and underground, natural or
5 artificial, public or private, which are contained within, flow
6 through or border upon this state or any portion thereof, and shall
7 include under all circumstances the waters of the United States
8 which are contained within the boundaries of, flow through or border
9 upon this state or any portion thereof. ~~Process wastewaters shall~~
10 Waste treatment systems, including treatment ponds and lagoons
11 designed to meet federal and state requirements other than cooling
12 ponds as defined in the Clean Water Act or rules promulgated thereto
13 are not be considered as waters of the state if contaminated at the
14 site.

15 SECTION 4. AMENDATORY 2 O.S. 2001, Section 9-203, as
16 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
17 2006, Section 20-4), is amended to read as follows:

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

24

1 SECTION 5. AMENDATORY 2 O.S. 2001, Section 9-204, as
2 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
3 2006, Section 20-5), is amended to read as follows:

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

9 B. 1. The committee shall consist of:

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

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

12 ~~3. One member~~ a. three members who shall represent the pork
13 producers~~;~~;

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

15 ~~5. One~~ b. one member who shall represent the field of
16 hydrogeology~~;~~;

17 ~~6. One~~ c. one member who shall be a soil scientist~~;~~;

18 ~~7. One~~ d. one member designated by the Secretary of the
19 Environment~~;~~;

20 ~~8. One~~ e. one member who shall be a ~~biological systems~~
21 professional engineer~~;~~;

22 ~~9. One~~ f. one member who shall represent the field of water
23 quality science~~;~~;

24

1 ~~10.~~ g. one member who shall represent the field of
2 ecology~~r,~~ and

3 ~~11.~~ h. two members who shall represent the general public.

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

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

12 ~~B. C.~~ Except for emergency rules, ~~the State Department of~~
13 ~~Agriculture shall submit~~ proposed rules shall be submitted to the
14 rule advisory committee at the same time as the Oklahoma Department
15 of Agriculture, Food, and Forestry causes notice to be published in
16 "The Oklahoma Register" pursuant to ~~subsection B of Section 303 of~~
17 ~~Title 75 of the Oklahoma Statutes~~ Administrative Procedures Act.

18 Comments of the rule advisory committee shall be submitted to the
19 members of the Board at least fifteen (15) days prior to any
20 official action by the Board on the rules.

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

24

1 SECTION 6. AMENDATORY 2 O.S. 2001, Section 9-204.1, as
2 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
3 2006, Section 20-6), is amended to read as follows:

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

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

14 3. Any ~~animal~~ other swine feeding operation ~~other than a~~
15 ~~concentrated animal feeding operation~~, regardless of the number of
16 animals, shall only be required to be licensed pursuant to the
17 provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
18 Operations Act and rules promulgated pursuant thereto if the State
19 Board of Agriculture determines the operation to be a significant
20 contributor of pollution to waters of the state ~~pursuant to~~
21 ~~subsection D of this section.~~

22 B. 1. Two or more ~~animal~~ swine feeding operations under common
23 ownership are considered, for the purposes of licensure, to be a
24

1 single ~~animal~~ swine feeding operation if they adjoin each other or
2 if they use a common area or system for the disposal of wastes.

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

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

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

- 18 a. the size of the ~~animal~~ swine feeding operation and the
19 amount of wastes reaching waters of the state,
20 b. the location of the ~~animal~~ swine feeding operation
21 relative to waters of the state,
22 c. the means of conveyance of ~~animal~~ swine waste and
23 wastewater into waters of the state,
24

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

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

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

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

19 3. Process wastewater in the overflow may be discharged to
20 navigable waters whenever rainfall events, either chronic or
21 catastrophic, cause an overflow of process wastewater from a
22 retention structure properly designed, constructed and operated to
23 contain all process wastewaters plus the runoff from a twenty-five-
24 year, twenty-four-hour rainfall event for the location of the point

1 source. There shall be no effluent limitations on discharges from a
2 waste facility constructed and properly maintained to contain the
3 twenty-five-year, twenty-four-hour storm event; provided the proper
4 design, construction, and operation of the retention structure shall
5 include but not be limited to one (1) foot of free board.

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

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

21 SECTION 7. AMENDATORY 2 O.S. 2001, Section 9-205, as
22 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
23 2006, Section 20-7), is amended to read as follows:
24

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

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

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

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

22 3. If a transfer is denied, written notification of ~~such~~ the
23 denial and an opportunity for an administrative hearing on the
24 denial shall be given to the applicant for a transfer license by the

1 Department. The notification shall set forth the reasons for the
2 denial, steps necessary to meet the requirements for a transfer
3 license and the opportunity for the applicant to request an
4 administrative hearing.

5 F. Any suspension or revocation or nonrenewal of a license
6 issued pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding
7 Operations Act by the Board shall be made in accordance with Section
8 ~~9-211~~ 20-25 of this title.

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

13 1. a. A statement of ownership.

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

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

22 (3) If the applicant is a partnership or other legal
23 entity, the name and address of each partner and
24 stockholder with an ownership interest of ten

1 percent (10%) or more shall be included in the
2 statement.

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

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

8 3. a. An environmental history from the past three (3) years
9 of any concentrated animal feeding operation or
10 concentrated swine feeding operation established and
11 operated by the applicant or any other operation with
12 common ownership in this state or any other state.

13 ~~Such~~ The environmental history shall include but not
14 be limited to all citations, administrative orders or
15 penalties, civil injunctions or other civil actions,
16 criminal actions, past, current and ongoing, taken by
17 any person, agency or court relating to noncompliance
18 with any environmental law, rule, agency order, or
19 court action relating to the operation of an animal
20 feeding operation or swine feeding operation.

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

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

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

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

12 H. 1. ~~For Swine feeding operations licensed on or after August~~
13 ~~1, 1998, all~~ All employees of a proposed licensed managed feeding
14 operation whose duties include treatment, storage, or application of
15 ~~animal~~ swine waste shall provide proof of certification of
16 satisfactory completion of formal education or training in the areas
17 of waste management and odor control ~~as specified by rules~~
18 ~~promulgated by the Board.~~ Proof of certification of a minimum of
19 nine (9) hours of training and education ~~must~~ shall be submitted
20 either with the license application or within six (6) months of the
21 date of the application for the license.

22 2. ~~All employees of a Swine feeding operation licensed before~~
23 ~~August 1, 1998, whose duties include treatment, storage or~~
24 ~~application of animal waste shall provide proof of certification of~~

1 ~~satisfactory completion of formal education or training in the areas~~
2 ~~of waste management and odor control. Proof of certification of a~~
3 ~~minimum of nine (9) hours of training and education must be~~
4 ~~submitted by June 1, 1999.~~

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

9 4. 3. Appropriate curricula and course content shall be
10 developed under the supervision of Oklahoma State University
11 Cooperative Extension Service, which shall provide certification to
12 the Department.

13 5. 4. Failure to obtain the prerequisite and annual training
14 and education as required in this subsection shall be deemed a
15 violation of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
16 Operations Act.

17 I. 1. In addition to other penalties as may be imposed by law,
18 any person who knowingly makes any false statement, representation,
19 or certification in, omits material data from, or tampers with any
20 application for a license, or notice relating to the determination
21 of affected property owners, shall, upon conviction thereof, be
22 guilty of a misdemeanor and may be subject to a fine of not more
23 than Ten Thousand Dollars (\$10,000.00) for each ~~such~~ violation. In
24

1 addition, the Department shall deny licensure to the applicant or
2 may require submission of a new application.

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

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

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

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

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

24

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

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

- 15 a. the name and address of the interested party and proof
16 of standing by showing that the interested party is an
17 affected property owner,
- 18 b. a statement of specific allegations showing that the
19 proposed facility or expanding operation may have a
20 direct, substantial and immediate effect upon a
21 legally protected interest of the interested party,
22 and
- 23 c. the relief sought by the interested party.

24

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

13 4. a. In addition to any other information deemed necessary
14 by the Department, at the hearing the Department shall
15 hear testimony and accept evidence pertaining to the
16 physical and technical suitability of the proposed
17 facility or expanding operations.

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

23
24

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

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

11 b. For new applications submitted on and after August 1,
12 1998, the Department shall deny the issuance of a
13 license to an applicant for a licensed managed feeding
14 operation if an interested party within:

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

18 (2) the setback distance of an occupied residence if
19 setback distances are greater than one (1) mile,
20 proves that the granting of the license will cause
21 significant harm to the property value of the
22 interested party.

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

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

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

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

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

23 4. The application shall be available for public review during
24 normal business hours. The copies of the application posted for

1 public viewing shall be complete except for proprietary provisions
2 otherwise protected by law and shall remain posted during normal
3 business hours for at least twenty (20) working days after notice is
4 published.

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

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

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

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

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

21 Section 20-9. A. A Pollution Prevention Plan shall be
22 developed by each licensed managed feeding operation prior to the
23 submission of an application pursuant to the provisions of this
24 section and rules promulgated by the State Board of Agriculture

1 pursuant thereto. The Pollution Prevention Plan shall include, but
2 not be limited to, provisions for documentation of structural
3 controls, documentation of Best Management Practices, an approved
4 plan for the disposal of ~~animal~~ swine waste and recordkeeping
5 provisions.

6 B. ~~An animal~~ A swine feeding operation licensed pursuant to the
7 provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
8 Operations Act, other than a Swine feeding operation, shall develop
9 a Pollution Prevention Plan or may substitute equivalent measures
10 contained in a site-specific ~~Animal~~ Swine Waste Management Plan
11 prepared pursuant to Section ~~9-205.3~~ 20-10 of this title. Design
12 and construction criteria developed by the United States Department
13 of Agriculture Natural Resources Conservation Service, may be
14 substituted for the documentation of design capacity and
15 construction requirements.

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

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

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

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

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

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

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

23 3. A spill contingency plan for potential pollutants;
24

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

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

- 7 a. the location and a description of existing structural
8 and nonstructural controls,
- 9 b. documentation of retention structure capacity and the
10 assumptions and calculations used in determining the
11 appropriate volume capacity, and
- 12 c. a description of the design standards for the
13 retention facility embankments;

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

16 7. Training requirements for employees;

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

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

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

- 1 1. Water level in the retention structure;
- 2 2. Daily precipitation records from on-site rain gauge;
- 3 3. Incident reports such as spills and other discharges;
- 4 4. Inspection and maintenance reports;
- 5 5. Findings from annual inspections of the entire facility;
- 6 6. Log of preventive maintenance and employee training that was
7 completed;
- 8 7. Log of removal of ~~animal~~ swine waste sold or given to other
9 persons for disposal;
- 10 8. Other specific information deemed necessary by the
11 Department to implement the provisions of the Oklahoma ~~Concentrated~~
12 ~~Animal~~ Swine Feeding Operations Act and rules promulgated pursuant
13 thereto;
- 14 9. Copy of general permit issued by the federal Environmental
15 Protection Agency if applicable, a copy of the completed Pollution
16 Prevention Plan, and other specific records deemed necessary by the
17 Department to implement the provisions of the Oklahoma ~~Concentrated~~
18 ~~Animal~~ Swine Feeding Operations Act and rules promulgated pursuant
19 thereto; and
- 20 10. The notarized statement signed by the applicant accepting
21 full responsibility for properly closing all waste retention
22 structures pursuant to subsection I of this section.
- 23 H. Any analyses required by the provisions of the Oklahoma
24 ~~Concentrated Animal~~ Swine Feeding Operations Act or rules

1 promulgated thereto shall be performed by a qualified independent
2 testing laboratory certified by the Department of Environmental
3 Quality and approved by the Department.

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

12 SECTION 10. AMENDATORY 2 O.S. 2001, Section 9-205.3, as
13 renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended
14 by Section 3, Chapter 128, O.S.L. 2006, (2 O.S. Supp. 2006, Section
15 20-10), is amended to read as follows:

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

21 2. ~~Animal~~ Licensed managed feeding operations licensed pursuant
22 to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
23 Operations Act other than Swine feeding operations shall utilize
24 Best Management Practices, or may substitute for best management

1 practice equivalent measures contained in a site-specific ~~Animal~~
2 Swine Waste Management Plan meeting the conditions and requirements
3 established by subsection C of this section and by rules promulgated
4 by the Board pursuant to the Oklahoma ~~Concentrated Animal~~ Swine
5 Feeding Operations Act.

6 B. The criteria for Best Management Practices shall be
7 promulgated by rule by the Board, based upon existing physical and
8 economic conditions, opportunities and constraints and shall
9 include, but not be limited to, the following:

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

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

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

18 4. ~~Animal~~ Swine waste handling, treatment, management and
19 removal shall:

- 20 a. not create an environmental or a public health hazard,
- 21 b. not result in the contamination of public or private
22 drinking water supplies,
- 23 c. conform with Oklahoma Water Quality Standards,

24

- 1 d. comply with the Odor Abatement Plan for licensed
2 managed feeding operations and shall not otherwise
3 create unnecessary and unreasonable odors. Odors are
4 unnecessary and unreasonable if ~~such~~ the odors may be
5 reduced by more efficient management practices at a
6 reasonable expense,
- 7 e. not violate any state or federal laws relating to
8 endangered or threatened species of plant, fish or
9 wildlife, or to migratory birds,
- 10 f. conform to the Pest Management Plans for licensed
11 managed feeding operations as required by rules
12 promulgated by the State Board of Agriculture,
- 13 g. conform to such other handling, treatment and
14 management and removal requirements deemed necessary
15 by the Oklahoma Department of Agriculture, Food, and
16 Forestry to implement the Oklahoma ~~Concentrated Animal~~
17 Swine Feeding Operations Act and rules promulgated
18 pursuant thereto, and
- 19 h. ensure that watersheds and groundwater are adequately
20 protected;

21 5. If, for any reason, there is a discharge other than a spill
22 of less than one hundred (100) gallons, the licensee is required to
23 make immediate notification to the Department. The report of the
24 discharge shall include:

- 1 a. a description and cause of the discharge, including a
2 description of the flow path to the receiving water
3 body,
4 b. an estimation of the flow rate and volume discharged,
5 c. the period of discharge, including exact dates and
6 times, and if not already corrected, the anticipated
7 time the discharge is expected to continue,
8 d. steps taken to reduce, eliminate and prevent
9 recurrence of the discharge, and
10 e. test results for fecal coliform bacteria, five-day
11 biochemical oxygen demand (BOD5), total suspended
12 solids (TSS), ammonia nitrogen, total Kjeldahl
13 nitrogen (TKN), any pesticides which the operator has
14 reason to believe could be in the discharge, or ~~such~~
15 other parameters as required by the Department which
16 the Department has reason to believe could be in the
17 discharge;

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

22 7. The Department shall maintain records of all discharges and
23 shall separately maintain records of all spills.
24

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

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

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

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

10 4. Requirements including that:

11 a. (1) land application of ~~animal~~ swine waste shall not
12 exceed the nitrogen uptake of the crop coverage
13 or planned crop planting with any land
14 application of wastewater or manure. Where local
15 water quality is threatened by phosphorous, in no
16 case shall the applicant or licensee exceed the
17 application rates in the most current Natural
18 Resources Conservation publication titled Waste
19 Utilization Standard, and

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

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

- 1 (1) the discharge of process water or ~~animal~~ swine
2 waste to waters of the state,
3 (2) contamination of waters of the state, and
4 (3) odor,

5 c. facilities including waste retention structures, waste
6 storage sites, ponds, pipes, ditches, pumps, and
7 diversion and irrigation equipment shall be maintained
8 to ensure the ability to fully comply with the terms
9 of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
10 Operations Act, and

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

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

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

21 E. If the ~~animal~~ swine waste from a licensed managed feeding
22 operation is sold or given to other persons for land application or
23 disposal, the licensed managed feeding operation shall maintain a
24 log of: date of removal from the ~~animal~~ swine feeding operation;

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

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

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

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

18 G. Soils in areas in which ~~animal~~ swine waste is applied shall
19 be analyzed, annually, for phosphates, nitrates and soil pH prior to
20 the first application of the ~~animal~~ swine waste in the calendar
21 year. A copy of the results of the analysis shall be submitted to
22 the Department upon request by the Department. Such analysis shall
23 be retained by the ~~animal~~ swine feeding operation as long as the
24 facility is in operation.

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

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

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

16 SECTION 11. AMENDATORY 2 O.S. 2001, Section 9-205.3a, as
17 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
18 2006, Section 20-11), is amended to read as follows:

19 Section 20-11. A. An Odor Abatement Plan shall be developed by
20 each licensed managed feeding operation prior to the submission of
21 an application pursuant to the provisions of this section and rules
22 promulgated by the State Board of Agriculture pursuant thereto. The
23 Odor Abatement Plan shall include, but not be limited to, provisions
24

1 for documentation of structural controls, documentation of Best
2 Management Practices, odor abatement, and recordkeeping provisions.

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

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

10 3. The applicant or licensee shall examine the Odor Abatement
11 Plan at least annually to evaluate the effectiveness of the plan,
12 modify for changed conditions at the facility and determine if
13 economically feasible technological advances are available and
14 appropriate for the facility.

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

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

4 1. Design of the facilities;

5 2. Odor control technology to be utilized;

6 3. Prevailing wind direction in relation to occupied
7 residences;

8 4. Size of operation;

9 5. Distance from facility to occupied residences; and

10 6. All information contained in the application.

11 SECTION 12. AMENDATORY 2 O.S. 2001, Section 9-205.4, as
12 renumbered by Section 25, Chapter 292, O.S.L. 2005, and as amended
13 by Section 1, Chapter 148, O.S.L. 2006 (2 O.S. Supp. 2006, Section
14 20-12), is amended to read as follows:

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

19 B. Except as otherwise provided by Section 20-20 of ~~the~~
20 ~~Oklahoma Concentrated Animal Feeding Operations Act~~ this title, to
21 prevent hydrologic connections between a retention structure and
22 waters of the state, all swine feeding operations in this state
23 primarily using a liquid ~~animal~~ swine waste management system
24

1 whether or not such waste facilities are licensed pursuant to the
2 Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act shall:

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

6 2. Provide documentation that there is no hydrologic connection
7 between the waters of the state and the retention structure. This
8 documentation shall be certified by an environmental, agricultural,
9 or other approved professional engineer licensed pursuant to Section
10 475.12 of Title 59 of the Oklahoma Statutes or a United States
11 Department of Agriculture Natural Resources Conservation Service
12 engineer and shall include information on the hydraulic conductivity
13 and thickness of the natural materials underlying and forming the
14 walls of the containment structure up to the maximum operating
15 level.

16 C. Except as provided by Section 20-20 of ~~the Oklahoma~~
17 ~~Concentrated Animal Swine Feeding Operations Act~~ this title and
18 subsection E of this section, all retention structures of licensed
19 managed feeding operations shall maintain a minimum separation of
20 ten (10) feet between the bottom of the retention structure and the
21 maximum historical groundwater elevation that is measured from the
22 bottom of the retention structure and the highest point of the
23 seasonal groundwater table. Documentation of a ten-foot separation
24 shall be established by submission of a soil log from a soil boring

1 extending a minimum of ten (10) feet below the bottom of all
2 retention structures to ascertain the presence of groundwater or
3 bedrock and a statement from a professional engineer certifying the
4 existence of the ten-foot separation distance.

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

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

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

23 F. 1. Licensed managed feeding operations shall install and
24 maintain in good working order a leak detection system or sufficient

1 monitoring wells both upgradient and downgradient around the
2 perimeter of each retention structure prior to using the retention
3 structure for storage of liquid waste pursuant to rules promulgated
4 by the State Board of Agriculture.

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

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

24

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

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

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

14 G. Site-specific conditions shall be considered in the design
15 and construction of liners. Liners for retention structures shall
16 be designed and constructed in accordance with the provisions of
17 this section and generally accepted engineering practices
18 established by rules of the Board or as required by the federal
19 Environmental Protection Agency. Liners for lagoons owned or
20 operated by ~~an animal~~ a swine feeding operation with less than one
21 thousand (1,000) ~~animal~~ swine units may be designed and constructed
22 pursuant to Technical Note 716 of the United States Department of
23 Agriculture Natural Resources Conservation Service or its current
24

1 equivalent so long as the facility is designed by the United States
2 Department of Agriculture Natural Resources Conservation Service.

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

7 2. An environmental, agricultural, or other approved
8 professional engineer licensed pursuant to Section 475.12 of Title
9 59 of the Oklahoma Statutes shall conduct a site evaluation every
10 five (5) years on the retention structure of every concentrated
11 ~~animal~~ swine feeding operation with such a structure and annually on
12 every licensed managed feeding operation to ensure liner integrity.
13 If the owner or operator suspects that a retention structure is
14 leaking, the owner or operator shall report suspected leakage to the
15 Department.

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

23 I. All substances entering the retention structures shall be
24 composed entirely of wastewaters from the proper operation and

1 maintenance of ~~an animal~~ a swine feeding operation and the runoff
2 from the ~~animal~~ swine feeding operation area. The disposal of any
3 materials, other than substances associated with proper operation
4 and maintenance of the facility into the containment structures,
5 including but not limited to human waste, is prohibited.

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

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

16 SECTION 13. AMENDATORY 2 O.S. 2001, Section 9-205.5, as
17 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
18 2006, Section 20-13), is amended to read as follows:

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

22 1. An antipollution system, approved by the State Board of
23 Agriculture, capable of preventing the backflow of ~~such animal~~ swine
24 waste into the groundwater. The system shall include a safety check

1 valve with a removable inspection port, anti-syphon vent, and low-
2 pressure escape drain. An interlock device shall be installed on
3 pumps that pump the ~~animal~~ swine waste so that if a fresh water
4 irrigation pump shuts down, the pump that pumps the ~~animal~~ swine
5 waste will also immediately shut down, preventing the chance of
6 leakage past the check valve; or

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

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

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

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

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

20 SECTION 14. AMENDATORY 2 O.S. 2001, Section 9-206, as
21 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
22 2006, Section 20-14), is amended to read as follows:

23 Section 20-14. A. The State Board of Agriculture or its
24 authorized agents are empowered to enter upon the premises of any

1 ~~animal~~ swine feeding operation for the purpose of investigating
2 complaints as to the operation or to determine whether there are any
3 violations of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
4 Operations Act. The Department shall make at least one unannounced
5 inspection per year of every ~~animal~~ swine feeding operation licensed
6 pursuant to the Oklahoma ~~Concentrated Animal~~ Swine Feeding
7 Operations Act.

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

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

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

1 SECTION 15. AMENDATORY 2 O.S. 2001, Section 9-208, as
2 amended by Section 22, Chapter 292, O.S.L. 2005, and as renumbered
3 by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp. 2005, Section
4 20-15), is amended to read as follows:

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

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

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

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

23 a. commercial manufacturers of fertilizers, grain and
24 feed products, and chemicals, and over manufacturing

- 1 of food and kindred products, tobacco, paper, lumber,
2 wood, textile mill and other agricultural products,
3 b. slaughterhouses, but not including feedlots at these
4 facilities, and
5 c. aquaculture and fish hatcheries, including, but not
6 limited to, discharges of pollutants and storm water
7 to waters of the state, surface impoundments and land
8 application of wastes and sludge, and other pollution
9 originating at these facilities.

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

16 SECTION 16. AMENDATORY 2 O.S. 2001, Section 9-209, as
17 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
18 2006, Section 20-16), is amended to read as follows:

19 Section 20-16. A. Licenses ~~issued pursuant to the Oklahoma~~
20 ~~Concentrated Animal Feeding Operations Act~~ shall expire on June 30
21 of each year and may be renewed upon payment of the license fee and
22 swine animal unit fees set forth in ~~subsection B~~ of this section and
23 continued compliance with the provisions of the Oklahoma
24

1 ~~Concentrated Animal~~ Swine Feeding Operations Act and the rules of
2 the State Board of Agriculture.

3 B. The fees for ~~an animal~~ a swine feeding operations license
4 and annual renewal thereof shall be:

5 Animal feeding operations capacity	6 Amount of Fee
7 Under two hundred fifty animal units	8 \$15.00
9 Two hundred fifty to five hundred animal units	10 \$37.50
11 Five hundred and one to three thousand animal units	12 \$75.00
13 Three thousand and one to ten thousand animal units	14 \$150.00
15 Over ten thousand animal units	16 \$225.00

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

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

22 3. Seventy-five Dollars (\$75.00) for facilities with a capacity
23 of five hundred one (501) to three thousand (3,000) swine animal
24 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.

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

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

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

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

18 ~~D. For the license year ending June 30, 2000, and every year~~
19 ~~thereafter, all~~

20 1. All licensed managed feeding operations shall pay an
21 additional license fee for original licenses in an amount equal to
22 eighty cents (\$0.80) per licensed swine animal unit capacity. One-
23 half (1/2) of ~~such~~ the amount shall be due and payable with the
24 application.

1 2. The other ~~half~~ one-half (1/2) of ~~such~~ the amount shall be
2 due thirty (30) days from the date ~~such~~ the application is approved.
3 In the event the application is not approved, any amount of ~~such~~ the
4 fee ~~which is~~ in excess of the costs incurred by the Department in of
5 processing the application ~~pursuant to the requirements of the~~
6 ~~Oklahoma Concentrated Animal Feeding Operations Act~~ shall be
7 refunded to the applicant.

8 ~~For the license year ending June 30, 2000, and every year~~
9 ~~thereafter all~~ 3. All licensed managed feeding operations shall pay
10 an additional license fee for renewal licenses in an amount
11 established by the Department ~~pursuant to~~ rules ~~promulgated under~~
12 ~~the Administrative Procedures Act and in accordance with subsection~~
13 ~~E of this section.~~

14 ~~E. D.~~ The Oklahoma Department of Agriculture, Food and Forestry
15 ~~is directed to~~ shall review ~~its~~ costs related to the administration,
16 regulation, and enforcement of licensed managed feeding operations
17 ~~required by the Oklahoma Concentrated Animal Feeding Operations Act.~~
18 Based on ~~its~~ the review ~~the Department shall promulgate emergency,~~
19 rules shall be promulgated pursuant to the Administrative Procedures
20 Act ~~which will establish~~ establishing a renewal fee for licensed
21 managed feeding operations. ~~The Department is directed to~~
22 ~~promulgate such emergency rules on or before March 1, 1999.~~ The fee
23 shall be based on the costs incurred by the Department in salaries,
24 travel claims, and other necessary expenses incurred in fulfilling

1 its regulatory and administrative obligations with regard to
2 licensed managed feeding operations. Under no circumstances shall
3 the fee exceed eighty cents (\$0.80) per swine animal unit.

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

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

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

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

20 a. Category A surety which shall include a financial
21 statement listing assets and liabilities and including
22 a general release that the information may be verified
23 with banks and other financial institutions. The
24 financial statement shall be confidential and shall

1 not be opened to public inspection. The statement
2 shall prove a net worth of not less than:

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

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

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

20 b. Category B surety which shall include an irrevocable
21 commercial letter of credit, cash, a cashier's check,
22 a Certificate of Deposit, Bank Joint Custody Receipt,
23 other negotiable instrument or a blanket surety bond.
24 Except as provided in paragraph 2 of this subsection,

1 amount of such letter of credit, cash, check,
2 certificate, bond, receipt or other negotiable
3 instrument shall be in the amount of Twenty-five
4 Thousand Dollars (\$25,000.00). The Department is
5 authorized to determine the amount of Category B
6 surety based upon the past performance of the owner or
7 operator regarding compliance with the laws of this
8 state, and any rules promulgated pursuant thereto.
9 Any instrument shall constitute an unconditional
10 promise to pay and be in a form negotiable by the
11 Department.

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

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

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

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

15 E. 1. If the Department, after notice and an opportunity for
16 hearing, determines that the swine animal feeding operation licensed
17 pursuant to the provisions of the Oklahoma ~~Concentrated Animal~~ Swine
18 Feeding Operations Act has neglected, failed, or refused to close
19 any surface impoundment, or remove or cause to be removed any
20 equipment, or has abandoned the facility, then the ~~animal~~ swine
21 feeding operation shall be deemed to have forfeited the letter of
22 credit or negotiable instrument required by this section or shall
23 pay to this state, for deposit in the State Treasury, a sum equal to
24

1 the cost of closure of any surface impoundment or removal of
2 equipment.

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

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

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

22 SECTION 18. AMENDATORY 2 O.S. 2001, Section 9-210, as
23 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
24 2006, Section 20-18), is amended to read as follows:

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

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

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

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

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

18 2. Any ~~animal~~ swine feeding operation licensed pursuant to the
19 Oklahoma ~~Concentrated Animal Swine~~ Swine Feeding Operations Act, operated
20 in compliance with ~~such~~ those standards, and in compliance with
21 rules promulgated by the Board, that is located on land more than
22 three (3) miles outside the incorporated limits of any municipality
23 and which is not located within one (1) mile of ten or more occupied
24 residences shall not be deemed a nuisance unless it is shown by a

1 preponderance of the evidence that the operation endangers the
2 health or safety of others.

3 SECTION 19. AMENDATORY 2 O.S. 2001, Section 9-210.1, as
4 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
5 2006, Section 20-19), is amended to read as follows:

6 Section 20-19. A. ~~Except as otherwise provided by Section 9-~~
7 ~~210.2 of this title, the state shall be divided east and west based~~
8 ~~on the Indian Meridian for the purpose of determining setback~~
9 ~~requirements from occupied residences for animal feeding operations~~
10 ~~using a liquid animal waste management system where swine are~~
11 ~~primarily housed in a roof covered structure and which were~~
12 ~~established between September 1, 1997, and June 1, 1998:~~

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

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

20 b. ~~located in the western half of the state shall be~~
21 ~~constructed where its closest waste facility is within~~
22 ~~a distance of three fourths (3/4) mile of any occupied~~
23 ~~residence not owned or leased by the owner or operator~~
24 ~~of the Swine feeding operation.~~

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

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

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

14 ~~3. No new or expanding animal feeding operation with a capacity~~
15 ~~of more than three hundred (300) animal units but having one~~
16 ~~thousand (1,000) animal units or less shall be constructed where its~~
17 ~~closest waste facility is located within a distance of one fourth~~
18 ~~(1/4) mile of any occupied residence not owned or leased by the~~
19 ~~owner of the animal feeding operation.~~

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

1 ~~C.~~ B. Except as otherwise provided by Section ~~9-210.2~~ 20-20 of
2 this title, no concentrated ~~animal~~ swine feeding operation shall be
3 established ~~after September 1, 1997, which is~~ within one (1) mile of
4 ten or more residences ~~which~~ that are occupied residences at the
5 time of the establishment of the concentrated ~~animal~~ swine feeding
6 operation.

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

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

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

- 1 1. Within three (3) miles of a state park or resort;
- 2 2. On land within three (3) miles of the incorporated limits of
3 any municipality; or
- 4 3. Within three (3) miles of the high water mark of a surface
5 public water supply if the concentrated ~~animal~~ swine feeding
6 operation is located within the drainage basin for the public water
7 supply.

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

15 SECTION 20. AMENDATORY 2 O.S. 2001, Section 9-210.2, as
16 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
17 2006, Section 20-20), is amended to read as follows:

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

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

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

19 ~~2.~~ The provisions of Section ~~9-210.1~~ of this title relating to
20 ~~setback requirements and the provisions of subsections B and C of~~
21 ~~Section 9-205.4 of this title relating to utilization of liners in~~
22 ~~retention structures or documentation of no hydrologic connection~~
23 ~~and to a minimum separation of four (4) feet between the bottom of~~
24

1 ~~the retention structure and the maximum groundwater elevation shall~~
2 ~~not apply to the facilities specified by this subsection.~~

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

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

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

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

22 Section 20-21. A. Except as otherwise provided by Section ~~14~~
23 ~~20-19~~ of this ~~act~~ title and subsection F of this section, ~~animal~~
24 swine feeding operations using liquid ~~animal~~ swine waste management

1 systems ~~where~~ and swine are housed in roof-covered structures shall
2 not be located within the following applicable distances from an
3 occupied residence:

- 4 1. More than 4000 swine animal units.....2 miles;
- 5 2. 2001 to 4000 swine animal units.....1 1/4 miles;
- 6 3. 1001 to 2000 swine animal units.....3/4 mile;
- 7 4. 601 to 1000 swine animal units.....1/2 mile;
- 8 5. 300 to 600 swine animal units.....1/4 mile; and
- 9 6. Less than 300 swine animal units.....no setback.

10 B. Except as otherwise provided by this section, no licensed
11 managed feeding operation which applies for a new or expanding
12 concentrated ~~animal~~ swine feeding operation license ~~after March 9,~~
13 ~~1998,~~ shall be located within three (3) miles of the outside
14 boundary of any area or facility owned or operated as a camp or
15 recreational site by a nonprofit organization established prior to
16 application of the concentrated ~~animal~~ swine feeding operation.

17 C. The setback requirements contained in subsections A and B of
18 this section shall not apply to any property owner who executes a
19 written waiver with the owner or operator of the ~~animal~~ swine
20 feeding operation, under such terms and conditions as are agreed to
21 by the parties. The written waiver shall be effective upon
22 recording of the waiver in the office of the county clerk in the
23 county in which ~~such~~ the property is located. The filed waiver
24 shall preclude enforcement of the setback requirements of

1 subsections A or B of this section with regard to property described
2 in the waiver and owned by the person executing ~~such~~ the waiver. A
3 change in ownership of the applicable property or change in
4 ownership of the property on which the ~~animal~~ swine feeding
5 operation is located shall not affect the validity of the waiver.

6 D. No licensed managed feeding operation established after ~~the~~
7 ~~effective date of this act~~ June 10, 1998, which applies for a new or
8 expanding license ~~after March 9, 1998~~, shall be located:

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

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

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

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

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

20 E. All distances between occupied residences and ~~animal~~ swine
21 feeding operations shall be measured from the closest corner of the
22 walls of the occupied residence to the closest point of the nearest
23 waste facility, as determined by the ~~State~~ Oklahoma Department of
24 Agriculture, Food, and Forestry. The property boundary line of the

1 real property is not used unless it coincides with the closest point
2 of the waste facility or occupied residence.

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

10 SECTION 22. AMENDATORY Section 23, Chapter 292, O.S.L.
11 2005 (2 O.S. Supp. 2006, Section 20-22), is amended to read as
12 follows:

13 Section 20-22. The Oklahoma Department of Agriculture, Food,
14 and Forestry shall not accept or approve any pending applications
15 requesting permits for construction or expansion of any concentrated
16 ~~animal~~ swine feeding operation to be located within one (1) mile
17 upstream of the Pensacola Project boundary as described in the
18 records of the Grand River Dam Authority and the Federal Emergency
19 Management Agency. Any operation authorized or permitted prior to
20 April 17, 2002, shall not be affected by the provisions of this
21 section.

22 SECTION 23. AMENDATORY Section 2, Chapter 31, O.S.L.
23 2004, as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S.
24 Supp. 2006, Section 20-23), is amended to read as follows:

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

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

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

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

10 a. a public health emergency,

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

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

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

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

24

1 days of discovery that a diseased or potentially diseased ~~animal~~
2 swine exists at the operation.

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

9 D. The notice shall:

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

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

15 SECTION 24. AMENDATORY 2 O.S. 2001, Section 9-211, as
16 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
17 2006, Section 20-25), is amended to read as follows:

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

24

1 2. The State Board of Agriculture shall have the power to
2 suspend, revoke or not renew the license of any ~~animal~~ swine feeding
3 operation based on such point system after a hearing, and after an
4 administrative determination that such ~~animal~~ swine feeding
5 operation has violated or has failed to comply with any of the
6 provisions of the Oklahoma ~~Concentrated Animal~~ Swine Feeding
7 Operations Act, or any rule promulgated pursuant thereto.

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

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

22 1. Is not in substantial compliance with a final agency order
23 or any final order or judgment of a court of record secured by any
24

1 state or federal agency relating to ~~animal~~ swine feeding operations;
2 or

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

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

11 SECTION 25. AMENDATORY 2 O.S. 2001, Section 9-212, as
12 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
13 2006, Section 20-26), is amended to read as follows:

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

20 B. Any owner or operator who fails to take such action as may
21 be reasonable and necessary to avoid pollution of any stream, lake,
22 river or creek, except as otherwise provided by law, or who violates
23 any rule of the Board adopted to prevent water pollution from ~~animal~~
24 swine feeding operations pursuant to ~~this act~~ the Oklahoma Swine

1 Feeding Operations Act shall, upon conviction, be deemed guilty of a
2 misdemeanor, and upon conviction thereof may be punished by a fine
3 of Five Hundred Dollars (\$500.00) to Ten Thousand Dollars
4 (\$10,000.00) for each violation, by imprisonment in the county jail
5 for not more than six (6) months for each violation, or by the
6 assessment of a civil penalty up to Ten Thousand Dollars
7 (\$10,000.00) for each violation or by any of such fine,
8 imprisonment, and civil penalty.

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

- 12 a. assess an administrative penalty of not more than Ten
13 Thousand Dollars (\$10,000.00) per day of
14 noncompliance, or
- 15 b. bring an action for injunctive relief granted by a
16 district court.

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

23 3. Nothing in this section shall preclude the Department from
24 seeking penalties in district court in the maximum amount allowed by

1 law. The assessment of penalties in an administrative enforcement
2 proceeding shall not prevent the subsequent assessment by a court of
3 the maximum civil or criminal penalties for violations of the
4 Oklahoma ~~Concentrated Animal~~ Swine Feeding Operations Act.

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

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

15 F. 1. Any action for injunctive relief to redress or restrain
16 a violation by any person of the Oklahoma ~~Concentrated Animal~~ Swine
17 Feeding Operations Act or for any rule promulgated thereunder, or
18 order, license, or permit issued pursuant thereto or recovery of any
19 administrative or civil penalty assessed pursuant to the Oklahoma
20 ~~Concentrated Animal~~ Swine Feeding Operations Act may be brought by:

- 21 a. the district attorney of the appropriate district
- 22 court of the State of Oklahoma,
- 23 b. the Attorney General on behalf of the State of
- 24 Oklahoma, or

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

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

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

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

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

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

1 J. In addition to other penalties as may be imposed by law, any
2 person who knowingly makes any false statement, representation or
3 certification in any water pollution form, notice or report, or who
4 knowingly renders inaccurate any monitoring device or method
5 required to be maintained by any water pollution rules promulgated
6 by the Board, shall, upon conviction, be guilty of a misdemeanor and
7 may be subject to a fine of not more than Five Thousand Dollars
8 (\$5,000.00) for each such violation.

9 SECTION 26. AMENDATORY 2 O.S. 2001, Section 9-212.1, as
10 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
11 2006, Section 20-27), is amended to read as follows:

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

20 B. If three valid complaints are received by the Department
21 against a poultry-laying operation, licensed pursuant to the
22 Oklahoma Concentrated Animal Feeding Operations Act, within a period
23 of sixty (60) days, the Department, upon inspection and verification
24 of the complaint, shall declare that an emergency exists.

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

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

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

1 F. The provisions of this section may be enforced pursuant to
2 the provisions of Section ~~9-212 of Title 2 of the Oklahoma Statutes~~
3 20-26 of this title.

4 SECTION 27. AMENDATORY 2 O.S. 2001, Section 9-214, as
5 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
6 2006, Section 20-28), is amended to read as follows:

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

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

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

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

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

23 A. Concentrated animal feeding operations are point sources
24 subject to the license program established pursuant to the

1 provisions of the Oklahoma Concentrated Animal Feeding Operations
2 Act.

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

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

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

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

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

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

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

1 the number of mature dairy cattle multiplied by one and four-tenths
2 (1.4), plus the number of sheep multiplied by one-tenth (0.1), plus
3 the number of horses multiplied by two (2);

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

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

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

17 7. "Artificially constructed" means constructed by humans;

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

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

24

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

5 11. "Concentrated animal feeding operation" means:

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

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

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

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

13 (c) 500 horses,

14 (d) 10,000 sheep or lambs,

15 (e) 55,000 turkeys,

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

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

20 (h) 5,000 ducks, or

21 (i) 1,000 animal units, and

22 (2) pollutants are discharged into waters of the
23 state. Provided, no animal feeding operation
24 pursuant to this subparagraph shall be construed

1 to be a concentrated animal feeding operation if
2 such animal feeding operation discharges only in
3 the event of a twenty-five-year, twenty-four-hour
4 storm event, or

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

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

9 (a) 300 slaughter or feeder cattle,

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

12 (c) 150 horses,

13 (d) 3,000 sheep or lambs,

14 (e) 16,500 turkeys,

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

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

19 (h) 1,500 ducks, or

20 (i) 300 animal units, and

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

22 (a) pollutants are discharged into waters of the
23 state through an artificially constructed
24

1 ditch, flushing system or other similar
2 artificially constructed device, or

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

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

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

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

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

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

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

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

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

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

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

23

24

1 20. "Occupied residence" means a habitable structure designed
2 and constructed for full-time occupancy in all weather conditions
3 which:

- 4 a. is not readily mobile,
- 5 b. is connected to a public or permanent source of
6 electricity and a permanent waste disposal system or
7 public waste disposal system, and
- 8 c. is occupied as a residence;

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

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

23 23. "Retention structures" includes but is not limited to all
24 collection ditches, conduits and swales for the collection of runoff

1 water and process wastewater, and basins, ponds and lagoons or other
2 structures used to store animal wastes;

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

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

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

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

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

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

14 1. The committee shall consist of:

- 15 a. One member who shall represent the beef cattle
16 producers,
- 17 b. One member who shall represent the dairy producers,
- 18 c. One member who shall represent the poultry producers,
- 19 d. One member who shall represent the field of
20 hydrogeology,
- 21 e. One member who shall be a soil scientist,
- 22 f. One member designated by the Secretary of the
23 Environment,
- 24 g. One member who shall be a professional engineer,

1 h. One member who shall represent the field of water
2 quality science,

3 i. One member who shall represent the field of ecology,
4 and

5 j. Two members who shall represent the general public.

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

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

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

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

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

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

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

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

22 B. Two or more animal feeding operations under common ownership
23 are considered, for the purposes of licensure, to be a single animal
24

1 feeding operation if they adjoin each other or if they use a common
2 area or system for the disposal of wastes.

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

- 10 a. the size of the animal feeding operation and the
11 amount of wastes reaching waters of the state,
- 12 b. the location of the animal feeding operation relative
13 to waters of the state,
- 14 c. the means of conveyance of animal waste and wastewater
15 into waters of the state,
- 16 d. the method of disposal for animal waste and process
17 wastewater disposal,
- 18 e. the slope, vegetation, rainfall and other factors
19 affecting the likelihood or frequency of discharge of
20 animal wastes and process wastewaters into waters of
21 the state, and
- 22 f. other such factors relative to the significance of the
23 pollution problem sought to be regulated.

24

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

11 3. Process wastewater in the overflow may be discharged to
12 navigable waters whenever rainfall events, either chronic or
13 catastrophic, cause an overflow of process wastewater from a
14 retention structure properly designed, constructed and operated to
15 contain all process wastewaters plus the runoff from a twenty-five-
16 year, twenty-four-hour rainfall event for the location of the point
17 source. There shall be no effluent limitations on discharges from a
18 waste facility constructed and properly maintained to contain the
19 twenty-five-year, twenty-four-hour storm event; provided the proper
20 design, construction and operation of the retention structure shall
21 include but not be limited to one (1) foot of free board.

22 D. No new concentrated animal feeding operation or expansion of
23 a concentrated animal feeding operation requiring a license pursuant
24 to the Oklahoma Concentrated Animal Feeding Operations Act shall be

1 constructed or placed in operation unless final design plans,
2 specifications and a Pollution Prevention Plan developed pursuant to
3 Section 35 of this act have been approved by the Department.

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

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

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

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

15 2. Name and address of the animal feeding operation;

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

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

24

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

6 6. A copy of the written waiver by an adjacent property owner
7 to the facility releasing specified setback requirements as provided
8 by Section 44 of this act; and

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

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

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

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

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

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

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

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

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

20 d. the new owner or operator has failed to meet the
21 requirements of Section 48 of this act; and

22 3. If a transfer is denied, written notification of such denial
23 and an opportunity for an administrative hearing on the denial shall
24 be given to the applicant for a transfer license by the Department.

1 The notification shall set forth the reasons for the denial, steps
2 necessary to meet the requirements for a transfer license and the
3 opportunity for the applicant to request an administrative hearing.

4 E. Any suspension or revocation or nonrenewal of a license
5 issued pursuant to the Oklahoma Concentrated Animal Feeding
6 Operations Act by the Board shall be made in accordance with Section
7 48 of this act.

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

12 1. a. A statement of ownership.

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

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

21 (3) If the applicant is a partnership or other legal
22 entity, the name and address of each partner and
23 stockholder with an ownership interest of ten
24

1 percent (10%) or more shall be included in the
2 statement.

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

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

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

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

23 c. Noncompliance with a final agency order or final order
24 or judgment of a court of record which has been set

1 aside by a court on appeal of such final order or
2 judgment shall not be considered a final order or
3 judgment for the purposes of this subsection;

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

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

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

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

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

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

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

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

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

1 required notices, and any other information required by the
2 Department.

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

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

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

12 c. the relief sought by the interested party.

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

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

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

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

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

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

22 6. Establishment of property usage is the date the animal
23 feeding operation application was made available for public review
24 versus date of initial construction or placement of occupied

1 residence and shall be given consideration when determining a
2 contested matter between an applicant and an interested party on
3 issues other than pollution of the waters of the state.

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

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

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

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

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

24

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

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

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

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

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

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

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

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

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

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

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

24

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

5 3. A spill contingency plan for potential pollutants;

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

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

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

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

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

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

21 7. Training requirements for employees;

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

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

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

6 1. Water level in the retention structure;

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

8 3. Incident reports such as spills and other discharges;

9 4. Inspection and maintenance reports;

10 5. Findings from annual inspections of the entire facility;

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

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

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

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

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

4 G. Any analyses required by the provisions of the Oklahoma
5 Concentrated Animal Feeding Operations Act or rules promulgated
6 thereto shall be performed by a qualified independent testing
7 laboratory certified by the Oklahoma Department of Environmental
8 Quality and approved by the Department.

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

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

20 A. Animal feeding operations licensed pursuant to the
21 provisions of the Oklahoma Concentrated Animal Feeding Operations
22 Act shall utilize Best Management Practices, or may substitute for
23 best management practice equivalent measures contained in a site-
24 specific Animal Waste Management Plan meeting the conditions and

1 requirements established by subsection C of this section and by
2 rules promulgated by the State Board Of Agriculture pursuant to the
3 Oklahoma Concentrated Animal Feeding Operations Act.

4 B. The criteria for Best Management Practices shall be
5 promulgated by rule by the Board, based upon existing physical and
6 economic conditions, opportunities and constraints and shall
7 include, but not be limited to, the following:

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

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

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

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

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

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

21 c. conform with Oklahoma Water Quality Standards,

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

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

7 f. ensure that watersheds and groundwater are adequately
8 protected;

9 5. If, for any reason, there is a discharge other than a spill
10 of less than one hundred (100) gallons, the licensee is required to
11 make immediate notification to the Department. The report of the
12 discharge shall include:

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

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

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

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

22 e. test results for fecal coliform bacteria, five-day
23 biochemical oxygen demand (BOD5), total suspended
24 solids (TSS), ammonia nitrogen, total Kjeldahl

1 nitrogen (TKN), any pesticides which the operator has
2 reason to believe could be in the discharge, or such
3 other parameters as required by the Department which
4 the Department has reason to believe could be in the
5 discharge;

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

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

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

13 1. Animal waste removal procedures;

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

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

19 4. Requirements including that:

20 a. (1) land application of animal waste shall not exceed
21 the nitrogen uptake of the crop coverage or
22 planned crop planting with any land application
23 of wastewater or manure. Where local water
24 quality is threatened by phosphorous, in no case

1 shall the applicant or licensee exceed the
2 application rates in the most current Natural
3 Resources Conservation publication titled Waste
4 Utilization Standard, and

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

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

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

12 (2) contamination of waters of the state, and

13 (3) odor,

14 c. facilities including waste retention structures, waste
15 storage sites, ponds, pipes, ditches, pumps,
16 diversion, and irrigation equipment shall be
17 maintained to ensure ability to fully comply with the
18 terms of the Oklahoma Concentrated Animal Feeding
19 Operations Act, and

20 d. adequate equipment and land application area shall be
21 available for removal of such waste and wastewater as
22 required to maintain the proper operating volume of
23 the retention structure; and
24

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

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

7 E. Soils in areas in which animal waste is applied shall be
8 analyzed annually for phosphates, nitrates and soil pH prior to the
9 first application of the animal waste in the calendar year. A copy
10 of the results of the analysis shall be submitted to the Department
11 upon request by the Department. Such analysis shall be retained by
12 the animal feeding operation as long as the facility is in
13 operation.

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

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

21 2. The plan shall include provisions for the disposal of
22 carcasses associated with normal mortality, with emergency disposal
23 when a major disease outbreak or other emergency results in deaths
24 significantly higher than normal mortality rates and other

1 provisions which will provide for a decrease in the possibility of
2 the spread of disease and prevent the contamination of waters of the
3 state. The plan shall comply with rules promulgated by the
4 Department.

5 SECTION 37. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 20-50 of Title 2, unless there
7 is created a duplication in numbering, reads as follows:

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

12 B. Site-specific conditions shall be considered in the design
13 and construction of liners. Liners for retention structures shall
14 be designed and constructed in accordance with the provisions of
15 this section and generally accepted engineering practices
16 established by rules of the State Board Of Agriculture or as
17 required by the federal Environmental Protection Agency. Liners for
18 lagoons owned or operated by an animal feeding operation with less
19 than one thousand (1,000) animal units may be designed and
20 constructed pursuant to Technical Note 716 of the United States
21 Department of Agriculture Natural Resources Conservation Service or
22 its current equivalent so long as the facility is designed by the
23 United States Department of Agriculture Natural Resources
24 Conservation Service.

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

5 2. An environmental, agricultural, or other approved
6 professional engineer licensed pursuant to Section 475.12 of Title
7 59 of the Oklahoma Statutes shall conduct a site evaluation every
8 five (5) years on the retention structure of every concentrated
9 animal feeding operation with such a structure to ensure liner
10 integrity. If the owner or operator suspects that a retention
11 structure is leaking, the owner or operator shall report suspected
12 leakage to the Oklahoma Department of Agriculture, Food, and
13 Forestry.

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

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

1 shall be retained on site as long as the facility is in operation.
2 Baseline data for the facility shall be determined based on the best
3 information available.

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

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

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

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

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

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

3 1. That the valves and interlock devices remain operative
4 between annual inspections by the Department; or

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

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

10 A. The State Board of Agriculture or its authorized agents are
11 empowered to enter upon the premises of any animal feeding operation
12 for the purpose of investigating complaints as to the operation or
13 to determine whether there are any violations of the Oklahoma
14 Concentrated Animal Feeding Operations Act. The Oklahoma Department
15 of Agriculture, Food, and Forestry shall make at least one
16 unannounced inspection per year of every animal feeding operation
17 licensed pursuant to the Oklahoma Concentrated Animal Feeding
18 Operations Act.

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

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

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

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

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

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

22 B. 1. The Department of Environmental Quality shall have
23 environmental jurisdiction over:
24

- 1 a. commercial manufacturers of fertilizers, grain and
2 feed products, and chemicals, and over manufacturing
3 of food and kindred products, tobacco, paper, lumber,
4 wood, textile mills and other agricultural products,
5 b. slaughterhouses, but not including feedlots at these
6 facilities, and
7 c. aquaculture and fish hatcheries, including, but not
8 limited to, discharges of pollutants and storm water
9 to waters of the state, surface impoundments and land
10 application of wastes and sludge, and other pollution
11 originating at these facilities.

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

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

21 A. Licenses shall expire on June 30 of each year and may be
22 renewed upon payment of the license fee set forth in this section
23 and continued compliance with the provisions of the Oklahoma
24

1 Concentrated Animal Feeding Operations Act and the rules of the
2 State Board Of Agriculture.

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

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

7 2. Thirty-seven Dollars and Fifty Cents (\$37.50) for facilities
8 with a capacity of two hundred fifty (250) to five hundred (500)
9 animal units;

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

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

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

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

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

23 A. Any person who is licensed to operate an animal feeding
24 operation with a liquid animal waste management system within this

1 state shall furnish to the Oklahoma Department of Agriculture, Food,
2 and Forestry evidence of financial ability to comply with the
3 requirements for closure of retention structures and other waste
4 facilities as established pursuant to the provisions of this section
5 and rules promulgated by the State Board of Agriculture.

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

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

15 (1) Ten Thousand Dollars (\$10,000.00) for any animal
16 feeding operation licensed pursuant to the
17 Oklahoma Concentrated Animal Feeding Operations
18 Act having a capacity of more than three hundred
19 (300) animal units but having one thousand
20 (1,000) animal units or less,

21 (2) Twenty-five Thousand Dollars (\$25,000.00) for any
22 animal feeding operation licensed pursuant to the
23 Oklahoma Concentrated Animal Feeding Operations
24 Act having a capacity of more than one thousand

1 (1,000) animal units but less than two thousand
2 (2,000) animal units, or
3 (3) Fifty Thousand Dollars (\$50,000.00) for any
4 animal feeding operation licensed pursuant to the
5 Oklahoma Concentrated Animal Feeding Operations
6 Act having a capacity of more than two thousand
7 (2,000) animal units, or

8 b. Category B surety which shall include an irrevocable
9 commercial letter of credit, cash, a cashier's check,
10 a Certificate of Deposit, Bank Joint Custody Receipt,
11 other negotiable instrument or a blanket surety bond.
12 Except as provided in paragraph 2 of this subsection,
13 amount of such letter of credit, cash, check,
14 certificate, bond, receipt or other negotiable
15 instrument shall be in the amount of Twenty-five
16 Thousand Dollars (\$25,000.00). The Department is
17 authorized to determine the amount of Category B
18 surety based upon the past performance of the owner or
19 operator regarding compliance with the laws of this
20 state, and any rules promulgated pursuant thereto.
21 Any instrument shall constitute an unconditional
22 promise to pay and be in a form negotiable by the
23 Department.
24

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

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

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

20 D. For good cause shown concerning pollution by the animal
21 feeding operations posting either Category A or B surety, the
22 Department, after notice and hearing, may require the filing of
23 additional Category B surety in an amount greater than Twenty-five
24

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

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

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

17 3. The Department shall also recover any costs arising from
18 litigation to enforce this provision. Provided, before an animal
19 feeding operation is required to forfeit or pay any monies to the
20 state pursuant to this section, the Department shall notify the
21 animal feeding operation at the last-known address of the
22 determination of neglect, failure or refusal to close any surface
23 impoundment or remove equipment and the animal feeding operation
24 shall have ten (10) days from the date of notification within which

1 to commence remedial operations. Failure to commence remedial
2 operations shall result in forfeiture or payment as provided in this
3 subsection.

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

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

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

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

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

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

21 B. 1. Any animal feeding operation licensed pursuant to the
22 Oklahoma Concentrated Animal Feeding Operations Act, operated in
23 compliance with such standards, and in compliance with the rules
24 promulgated by the State Board of Agriculture, shall be deemed to be

1 prima facie evidence that a nuisance does not exist; provided, no
2 animal feeding operation shall be located or operated in violation
3 of any zoning regulations.

4 2. Any animal feeding operation licensed pursuant to the
5 Oklahoma Concentrated Animal Feeding Operations Act, operated in
6 compliance with such standards, and in compliance with rules
7 promulgated by the Board, that is located on land more than three
8 (3) miles outside the incorporated limits of any municipality and
9 which is not located within one (1) mile of ten or more occupied
10 residences shall not be deemed a nuisance unless it is shown by a
11 preponderance of the evidence that the operation endangers the
12 health or safety of others.

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

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

20 B. Except as otherwise provided by law, no concentrated animal
21 feeding operation shall be established after September 1, 1997,
22 which is within one (1) mile of ten or more residences which are
23 occupied residences at the time of the establishment of the
24 concentrated animal feeding operation.

1 C. The proscription contained in subsections A and B of this
2 section shall not apply if the applicable property owner executes a
3 written waiver with the owner or operator of the animal feeding
4 operation, under such terms and conditions that the parties
5 negotiate. The written waiver becomes effective upon recording of
6 the waiver in the offices of the recorder of deeds in the county in
7 which such property is located. The filed waiver shall preclude
8 enforcement of the setback requirements contained in subsections A
9 and B of this section. A change in ownership of the applicable
10 property or change in the ownership of the property on which the
11 animal feeding operation is located shall not affect the validity of
12 the waiver.

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

16 E. Except as otherwise provided by law, no concentrated animal
17 feeding operation shall be established after September 1, 1997,
18 which is located:

- 19 1. Within three (3) miles of a state park or resort;
- 20 2. On land within three (3) miles of the incorporated limits of
21 any municipality;
- 22 3. Within three (3) miles of the high water mark of a surface
23 public water supply if the concentrated animal feeding operation is
24 located within the drainage basin for the public water supply.

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

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

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

16 SECTION 46. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 20-59 of Title 2, unless there
18 is created a duplication in numbering, reads as follows:

19 The Oklahoma Department of Agriculture, Food, and Forestry shall
20 not accept or approve any pending applications requesting permits
21 for construction of any concentrated animal feeding operation to be
22 located within one (1) mile upstream of the Pensacola Project
23 boundary as described in the records of the Grand River Dam
24 Authority and the Federal Emergency Management Agency. Any

1 operation authorized or permitted prior to April 17, 2002, shall not
2 be affected by the provisions of this section.

3 SECTION 47. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 20-60 of Title 2, unless there
5 is created a duplication in numbering, reads as follows:

6 A. A concentrated animal feeding operation may exceed its
7 animal unit capacity if:

8 1. A diseased or potentially diseased animal exists at the
9 operation; or

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

12 3. The owner of the concentrated animal feeding operation has
13 reasonable cause to believe an animal has or may have any disease
14 causing:

15 a. a public health emergency,

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

18 c. a substantial and imminent threat to the state's
19 animal population, or

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

24

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

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

12 D. The notice shall:

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

15 2. Include an estimate of the number of animals exceeding the
16 animal unit capacity at the concentrated animal unit feeding
17 operation.

18 SECTION 48. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 20-61 of Title 2, unless there
20 is created a duplication in numbering, reads as follows:

21 A. 1. The State Board of Agriculture is authorized and
22 directed to promulgate a violation points system for violating the
23 Oklahoma Concentrated Animal Feeding Operations Act, which provides

24

1 greater punishment for violations which are intentional and for
2 violations which pose a greater threat to the environment.

3 2. The State Board of Agriculture shall have the power to
4 suspend, revoke or not renew the license of any animal feeding
5 operation based on such point system after a hearing, and after an
6 administrative determination that such animal feeding operation has
7 violated or has failed to comply with any of the provisions of the
8 Oklahoma Concentrated Animal Feeding Operations Act, or any rule
9 promulgated pursuant thereto.

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

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

24

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

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

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

12 SECTION 49. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 20-62 of Title 2, unless there
14 is created a duplication in numbering, reads as follows:

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

21 B. Any owner or operator who fails to take such action as may
22 be reasonable and necessary to avoid pollution of any stream, lake,
23 river or creek, except as otherwise provided by law, or who violates
24 any rule of the Board adopted to prevent water pollution from animal

1 feeding operations pursuant to the Oklahoma Concentrated Animal
2 Feeding Operations Act shall, upon conviction, be deemed guilty of a
3 misdemeanor, and upon conviction thereof may be punished by a fine
4 of Five Hundred Dollars (\$500.00) to Ten Thousand Dollars
5 (\$10,000.00) for each violation, by imprisonment in the county jail
6 for not more than six (6) months for each violation, or by the
7 assessment of a civil penalty up to Ten Thousand Dollars
8 (\$10,000.00) for each violation or by any of such fine,
9 imprisonment, and civil penalty.

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

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

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

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

23 3. Nothing in this section shall preclude the Department from
24 seeking penalties in district court in the maximum amount allowed by

1 law. The assessment of penalties in an administrative enforcement
2 proceeding shall not prevent the subsequent assessment by a court of
3 the maximum civil or criminal penalties for violations of the
4 Oklahoma Concentrated Animal Feeding Operations Act.

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

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

15 F. 1. Any action for injunctive relief to redress or restrain
16 a violation by any person of the Oklahoma Concentrated Animal
17 Feeding Operations Act or for any rule promulgated thereunder, or
18 order, license, or permit issued pursuant thereto or recovery of any
19 administrative or civil penalty assessed pursuant to the Oklahoma
20 Concentrated Animal Feeding Operations Act may be brought by:

- 21 a. the district attorney of the appropriate district
22 court of the State of Oklahoma,
- 23 b. the Attorney General on behalf of the State of
24 Oklahoma, or

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

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

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

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

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

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

1 J. In addition to other penalties as may be imposed by law, any
2 person who knowingly makes any false statement, representation or
3 certification in any water pollution form, notice or report, or who
4 knowingly renders inaccurate any monitoring device or method
5 required to be maintained by any water pollution rules promulgated
6 by the Board, shall, upon conviction, be guilty of a misdemeanor and
7 may be subject to a fine of not more than Five Thousand Dollars
8 (\$5,000.00) for each such violation.

9 SECTION 50. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 20-64 of Title 2, unless there
11 is created a duplication in numbering, reads as follows:

12 The Oklahoma Concentrated Animal Feeding Operations Act shall be
13 enacted as a part of the Agricultural Code.

14 SECTION 51. RECODIFICATION 2 O.S. 2001, Section 9-212.1,
15 as renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.
16 2006, Section 20-27), shall be recodified as Section 20-63 of Title
17 2 unless there is created a duplication in numbering.

18 SECTION 52. This act shall become effective November 1, 2007.

19

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