

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1872 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Jeff Hickman

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1872

By: Hickman

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to agriculture; amending 2 O.S. 2001,
9 Section 9-205.3, as renumbered by Section 25, Chapter
10 292, O.S.L. 2005, and as last amended by Section 10,
11 Chapter 31, O.S.L. 2007 (2 O.S. Supp. 2008, Section
12 20-10, which relates to swine waste management plans;
13 eliminating certain liability; requiring certain
14 records to be maintained; providing for certain
15 certification; and providing an effective date.

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

17 SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-205.3, as
18 renumbered by Section 25, Chapter 292, O.S.L. 2005, and as last
19 amended by Section 10, Chapter 31, O.S.L. 2007 (2 O.S. Supp. 2008,
20 Section 20-10), is amended to read as follows:

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

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

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

13 1. There shall be no discharge of process wastewater to waters
14 of the state except in accordance with the provisions of the
15 Oklahoma Swine Feeding Operations Act;

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

19 3. No waters of the state shall come into direct contact with
20 the swine confined on the swine feeding operation;

21 4. Swine waste handling, treatment, management and removal
22 shall:

23 a. not create an environmental or a public health hazard,
24

- 1 b. not result in the contamination of public or private
2 drinking water supplies,
3 c. conform with Oklahoma Water Quality Standards,
4 d. comply with the Odor Abatement Plan for licensed
5 managed feeding operations and shall not otherwise
6 create unnecessary and unreasonable odors. Odors are
7 unnecessary and unreasonable if odors may be reduced
8 by more efficient management practices at a reasonable
9 expense,
10 e. not violate any state or federal laws relating to
11 endangered or threatened species of plant, fish or
12 wildlife, or to migratory birds,
13 f. conform to the Pest Management Plans for licensed
14 managed feeding operations as required by rules
15 promulgated by the State Board of Agriculture,
16 g. conform to such other handling, treatment and
17 management and removal requirements deemed necessary
18 by the Oklahoma Department of Agriculture, Food, and
19 Forestry to implement the Oklahoma Swine Feeding
20 Operations Act and rules promulgated pursuant thereto,
21 and
22 h. ensure that watersheds and groundwater are adequately
23 protected;
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1 5. If, for any reason, there is a discharge other than a spill
2 of less than one hundred (100) gallons, the licensee is required to
3 make immediate notification to the Department. The report of the
4 discharge shall include:

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

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

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

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

6 1. Swine waste removal procedures;

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

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

12 4. Requirements including that:

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

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

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

3 (1) the discharge of process water or swine waste to
4 waters of the state,

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

6 (3) odor,

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

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

16 5. Other information deemed necessary by the Department to
17 administer the provisions of the Oklahoma Swine Feeding Operations
18 Act and rules promulgated pursuant thereto.

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

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

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

4 F. 1. If the 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 swine
7 waste.

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

13 3. ~~The~~ Any person who obtains swine waste from a licensed
14 managed feeding operation for land application shall ~~remain liable~~
15 ~~and responsible for compliance with all rules promulgated by the~~
16 ~~Board regarding proper handling and disposing of swine waste even if~~
17 ~~disposal or application is performed by persons not employed or~~
18 ~~controlled by the licensed managed feeding operation~~ keep the
19 following records that shall be maintained for a period of three (3)
20 years and provided to the Department upon request:

21 a. a copy of the sample analysis of the swine waste
22 provided by the licensed managed feeding operation,

23 b. a copy of the written notification of requirements for
24 swine waste land application requirements provided by

1 the licensed managed feeding operation to the person
2 obtaining the swine waste,

3 c. current soil test results,

4 d. swine waste application records, rates, and date of
5 application, and

6 e. any other record required by the Department.

7 4. Any person who obtains swine waste from a licensed managed
8 feeding operation for land application shall certify to the
9 Department that the person agrees to accept the swine waste, has
10 knowledge of the law and rules regarding land application of swine
11 waste, and agrees to follow the law and rules regarding the land
12 application of swine waste.

13 G. Soils in areas in which swine waste is applied shall be
14 analyzed, annually, for phosphates, nitrates and soil pH prior to
15 the first application of the swine waste in the calendar year. A
16 copy of the results of the analysis shall be submitted to the
17 Department upon request by the Department. Such analysis shall be
18 retained by the swine feeding operation as long as the facility is
19 in operation.

20 H. Every swine feeding operation licensed pursuant to the
21 provisions of the Oklahoma Swine Feeding Operations Act shall
22 develop a plan approved by the Department for the disposal of
23 carcasses associated with normal mortality.

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

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

12 SECTION 2. This act shall become effective November 1, 2009.

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14 52-1-6874 SAB 02/17/09

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