

THE HOUSE OF REPRESENTATIVES  
Tuesday, February 24, 2009

Committee Substitute for  
House Bill No. 1872

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 1872 - By: HICKMAN of the House and JUSTICE of the Senate.

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

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

1           SECTION 1.    AMENDATORY    2 O.S. 2001, Section 9-205.3, as renumbered by  
2    Section 25, Chapter 292, O.S.L. 2005, and as last amended by Section 10, Chapter 31,  
3    O.S.L. 2007 (2 O.S. Supp. 2008, Section 20-10), is amended to read as follows:  
4           Section 20-10. A. 1. All licensed managed feeding operations shall utilize Best  
5    Management Practices meeting the conditions and requirements established by  
6    subsection B of this section and by rules promulgated by the State Board of Agriculture  
7    pursuant to the Oklahoma Swine Feeding Operations Act.  
8           2. Swine feeding operations licensed pursuant to the provisions of the Oklahoma  
9    Swine Feeding Operations Act other than licensed managed feeding operations shall  
10   utilize Best Management Practices, or may substitute for best management practice

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

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

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

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

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

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

- 15 a. not create an environmental or a public health hazard,  
16 b. not result in the contamination of public or private drinking water  
17 supplies,  
18 c. conform with Oklahoma Water Quality Standards,  
19 d. comply with the Odor Abatement Plan for licensed managed feeding  
20 operations and shall not otherwise create unnecessary and  
21 unreasonable odors. Odors are unnecessary and unreasonable if odors

- 1                    may be reduced by more efficient management practices at a  
2                    reasonable expense,
- 3                    e.        not violate any state or federal laws relating to endangered or  
4                    threatened species of plant, fish or wildlife, or to migratory birds,
- 5                    f.        conform to the Pest Management Plans for licensed managed feeding  
6                    operations as required by rules promulgated by the State Board of  
7                    Agriculture,
- 8                    g.        conform to such other handling, treatment and management and  
9                    removal requirements deemed necessary by the Oklahoma Department  
10                   of Agriculture, Food, and Forestry to implement the Oklahoma Swine  
11                   Feeding Operations Act and rules promulgated pursuant thereto, and  
12                   h.        ensure that watersheds and groundwater are adequately protected;

13                   5. If, for any reason, there is a discharge other than a spill of less than one hundred  
14 (100) gallons, the licensee is required to make immediate notification to the Department.

15                   The report of the discharge shall include:

- 16                   a.        a description and cause of the discharge, including a description of the  
17                   flow path to the receiving water body,
- 18                   b.        an estimation of the flow rate and volume discharged,
- 19                   c.        the period of discharge, including exact dates and times, and if not  
20                   already corrected, the anticipated time the discharge is expected to  
21                   continue,

- 1           d.     steps taken to reduce, eliminate and prevent recurrence of the  
2                    discharge, and
- 3           e.     test results for fecal coliform bacteria, five-day biochemical oxygen  
4                    demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total  
5                    Kjeldahl nitrogen (TKN), any pesticides which the operator has reason  
6                    to believe could be in the discharge, or other parameters as required by  
7                    the Department which the Department has reason to believe could be  
8                    in the discharge;

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

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

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

15           1. Swine waste removal procedures;

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

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

21           4. Requirements including that:

- 1 a. (1) land application of swine waste shall not exceed the nitrogen  
2 uptake of the crop coverage or planned crop planting with any  
3 land application of wastewater or manure. Where local water  
4 quality is threatened by phosphorous, in no case shall the  
5 applicant or licensee exceed the application rates in the most  
6 current Natural Resources Conservation Service publication  
7 titled Waste Utilization Standard, and  
8 (2) timing and rate of applications shall be in response to crop  
9 needs, expected precipitation and soil conditions,  
10 b. land application practices shall be managed so as to reduce or  
11 minimize:  
12 (1) the discharge of process water or swine waste to waters of the  
13 state,  
14 (2) contamination of waters of the state, and  
15 (3) odor,  
16 c. facilities including waste retention structures, waste storage sites,  
17 ponds, pipes, ditches, pumps, and diversion and irrigation equipment  
18 shall be maintained to ensure the ability to fully comply with the  
19 terms of the Oklahoma Swine Feeding Operations Act, and  
20 d. adequate equipment and land application area shall be available for  
21 removal of waste and wastewater as required to maintain the proper  
22 operating volume of the retention structure; and

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

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

6           E. If the swine waste from a licensed managed feeding operation is sold or given to  
7 other persons for land application or disposal, the licensed managed feeding operation  
8 shall maintain a log of: date of removal from the swine feeding operation; names of such  
9 other persons; and amount, in wet tons, dry tons or cubic yards, of swine waste removed  
10 from the swine feeding operation.

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

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

18          3. ~~The~~ Any person who obtains swine waste from a licensed managed feeding  
19 operation for land application shall ~~remain liable and responsible for compliance with all~~  
20 ~~rules promulgated by the Board regarding proper handling and disposing of swine waste~~  
21 ~~even if disposal or application is performed by persons not employed or controlled by the~~

1 ~~licensed managed feeding operation~~ keep the following records that shall be maintained  
2 for a period of three (3) years and provided to the Department upon request:

- 3 a. a copy of the sample analysis of the swine waste provided by the  
4 licensed managed feeding operation,
- 5 b. a copy of the written notification of requirements for swine waste land  
6 application requirements provided by the licensed managed feeding  
7 operation to the person obtaining the swine waste,
- 8 c. current soil test results,
- 9 d. swine waste application records, rates, and date of application, and  
10 e. any other record required by the Department.

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

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

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

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL  
14 DEVELOPMENT, dated 02-23-09 - DO PASS, As Amended and Coauthored.