

EHB 1872

1 THE STATE SENATE
2 Thursday, April 2, 2009

3 ENGROSSED

4 House Bill No. 1872

5 ENGROSSED HOUSE BILL NO. 1872 - By: Hickman of the House and Justice
6 of the Senate.

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

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

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

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

25 2. Swine feeding operations licensed pursuant to the provisions
26 of the Oklahoma Swine Feeding Operations Act other than licensed
27 managed feeding operations shall utilize Best Management Practices,

1 or may substitute for best management practice equivalent measures
2 contained in a site-specific Swine Waste Management Plan meeting the
3 conditions and requirements established by subsection C of this
4 section and by rules promulgated by the Board pursuant to the
5 Oklahoma Swine 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 Swine Feeding Operations Act;

13 2. Swine waste shall be isolated from outside surface drainage
14 by ditches, dikes, berms, terraces or other such structures except
15 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 swine confined on the swine feeding operation;

18 4. Swine waste handling, treatment, management and removal
19 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,

- 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 odors may be reduced
5 by more efficient management practices at a reasonable
6 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 Swine Feeding
17 Operations Act and rules promulgated pursuant thereto,
18 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

1 make immediate notification to the Department. The report of the
2 discharge shall include:

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

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

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

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

4 1. Swine waste removal procedures;

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

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

10 4. Requirements including that:

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

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

1 the licensed managed feeding operation shall maintain a log of: date
2 of removal from the swine feeding operation; names of such other
3 persons; and amount, in wet tons, dry tons or cubic yards, of swine
4 waste removed from the swine feeding operation.

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

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

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

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

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

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

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

22 H. Every swine feeding operation licensed pursuant to the
23 provisions of the Oklahoma Swine Feeding Operations Act shall

1 develop a plan approved by the Department for the disposal of
2 carcasses associated with normal mortality.

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
16 dated 3-30-09 - DO PASS.