

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1872

By: Hickman

4
5 AS INTRODUCED

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

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

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

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

23 2. Swine feeding operations licensed pursuant to the provisions
24 of the Oklahoma Swine Feeding Operations Act other than licensed
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,

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- 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
23 make immediate notification to the Department. The report of the
24 discharge shall include:

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

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

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

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

- 1 1. Swine waste removal procedures;
- 2 2. Records of inspections of retention structures, including,
3 but not limited to, specific measurement of wastewater level;
- 4 3. All calculations in determining land application rates,
5 acreage and crops for the land application rate of both solid and
6 liquid swine wastes on land owned or controlled by the licensee;
- 7 4. Requirements including that:
 - 8 a. (1) land application of swine waste shall not exceed
9 the nitrogen uptake of the crop coverage or
10 planned crop planting with any land application
11 of wastewater or manure. Where local water
12 quality is threatened by phosphorous, in no case
13 shall the applicant or licensee exceed the
14 application rates in the most current Natural
15 Resources Conservation Service publication titled
16 Waste Utilization Standard, and
 - 17 (2) timing and rate of applications shall be in
18 response to crop needs, expected precipitation
19 and soil conditions,
 - 20 b. land application practices shall be managed so as to
21 reduce or minimize:
 - 22 (1) the discharge of process water or swine waste to
23 waters of the state,
 - 24 (2) contamination of waters of the state, and

1 (3) odor,

2 c. facilities including waste retention structures, waste
3 storage sites, ponds, pipes, ditches, pumps, and
4 diversion and irrigation equipment shall be maintained
5 to ensure the ability to fully comply with the terms
6 of the Oklahoma Swine Feeding Operations Act, and

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

11 5. Other information deemed necessary by the Department to
12 administer the provisions of the Oklahoma Swine Feeding Operations
13 Act and rules promulgated pursuant thereto.

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

17 E. If the swine waste from a licensed managed feeding operation
18 is sold or given to other persons for land application or disposal,
19 the licensed managed feeding operation shall maintain a log of: date
20 of removal from the swine feeding operation; names of such other
21 persons; and amount, in wet tons, dry tons or cubic yards, of swine
22 waste removed from the swine feeding operation.

23 F. 1. If the swine waste is to be land applied by other
24 persons, a licensed managed feeding operation shall make available

1 to such other person the most current sample analysis of the swine
2 waste.

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

8 ~~3. The licensed managed feeding operation shall remain liable~~
9 ~~and responsible for compliance with all rules promulgated by the~~
10 ~~Board regarding proper handling and disposing of swine waste even if~~
11 ~~disposal or application is performed by persons not employed or~~
12 ~~controlled by the licensed managed feeding operation.~~

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.

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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 52-1-6274 SAB 01/03/09

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