

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2917

By: Richardson

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8 COMMITTEE SUBSTITUTE

9 An Act relating to agriculture; amending 2 O.S. 2011,
10 Sections 10-9.1 and 10-9.7, which relate to the
11 Oklahoma Registered Poultry Feeding Operations Act;
12 modifying definitions; requiring Nutrient Management
13 Plan for poultry feeding operation; authorizing
14 Oklahoma Department of Agriculture, Food, and
15 Forestry to promulgate certain rules; and providing
16 an effective date.

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

18 SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.1, is
19 amended to read as follows:

20 Section 10-9.1 A. Sections ~~±~~ 10-9.1 through ~~±~~ 10-9.12 of this
21 ~~act~~ title shall be known and may be cited as the "Oklahoma
22 Registered Poultry Feeding Operations Act".

23 B. As used in Sections ~~±~~ 10-9.1 through ~~±~~ 10-9.23 of this ~~act~~
24 title:

1 1. ~~"Animal Waste Management Plan" or "AWMP" means a written~~
2 ~~plan that includes a combination of conservation and management~~
3 ~~practices designed to protect the natural resources of the state as~~
4 ~~required by the State Department of Agriculture pursuant to the~~
5 ~~provisions of Section 7 of this act;~~

6 ~~2.~~ "Best Management Practices" or "BMPs" means schedules of
7 activities, prohibitions of practices, maintenance procedures and
8 other management practices which prevent or reduce the pollution of
9 waters of the state as established by the State Department of
10 Agriculture pursuant to Section 7 10-9.7 of this ~~act~~ title;

11 ~~3.~~ 2. "Board" means the State Board of Agriculture;

12 ~~4.~~ 3. "Certificate" means a written document issued to an
13 individual by the Board pursuant to Section ~~17~~ 10-9.17 of this ~~act~~
14 title which indicates that the individual is authorized to land
15 apply poultry waste by the Oklahoma Poultry Waste Applicators
16 Certification Act;

17 ~~5.~~ 4. "Certified poultry waste applicator" means a person who
18 has been certified by the Board to land apply poultry waste and
19 includes a commercial poultry waste applicator and a private poultry
20 waste applicator;

21 ~~6.~~ 5. "Commercial poultry waste applicator" means any person
22 who engages in commercial land application of poultry waste. Any
23 farmer while working for a neighbor in agricultural production, and
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1 not advertising, nor holding himself or herself out to be in the
2 business of land applying poultry waste, shall not be classified as
3 a commercial poultry waste applicator, but as a private poultry
4 waste applicator;

5 ~~7.~~ 6. "Contract growing arrangement" means any growout
6 contract, marketing agreement, or other arrangement under which a
7 contract poultry grower cares for or raises poultry;

8 ~~8.~~ 7. "Contract poultry grower" means any person engaged in the
9 business of caring for or raising poultry, under a contract growing
10 arrangement;

11 ~~9.~~ 8. "Common ownership" includes but is not limited to any
12 person who has power or authority to manage, direct, restrict,
13 regulate or oversee the operation or has financial control of two or
14 more poultry feeding operations;

15 ~~10.~~ 9. "Department" means the ~~State~~ Oklahoma Department of
16 Agriculture, Food, and Forestry;

17 ~~11.~~ 10. "Expanding operation" means a registered poultry
18 feeding operation that seeks to increase its registered capacity in
19 excess of ten percent (10%) of the facility's original registered
20 capacity;

21 ~~12.~~ 11. "Facility" means any place, site or location or part
22 thereof where poultry are kept, handled, housed or otherwise
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1 maintained including but not limited to buildings, lots, pens and
2 poultry waste management systems;

3 ~~13.~~ 12. "Integrator" means an entity which unites the elements
4 associated with the poultry industry, including but not limited to
5 hatching, feeding, processing and marketing. It includes, but is
6 not limited to, situations when growing is contracted out to others
7 and when the integrator operates its own growing facilities;

8 ~~14.~~ 13. "Land application" means the spreading on, or
9 incorporation into, the soil mantle primarily for beneficial
10 purposes;

11 14. "Nutrient Management Plan" means a written plan that
12 includes a combination of conservation and management practices
13 designed to protect the natural resources of the state as required
14 by the Oklahoma Department of Agriculture, Food, and Forestry
15 pursuant to the provisions of Section 10-9.7 of this title and shall
16 also include a certified nutrient management plan and animal waste
17 management plan;

18 15. "Operator" means the person who performs the daily
19 management functions associated with the poultry feeding operation;

20 16. "Person" means an individual, association, partnership,
21 firm, company, public trust, corporation, joint stock company, trust
22 estate, any other legal entity, or any agent, employee,
23 representative assignor or successor thereof;

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

4 18. "Nutrient-vulnerable groundwater" means groundwater which
5 is designated "nutrient-vulnerable" in the most recent Oklahoma's
6 Water Quality Standards;

7 19. "Poultry" includes chickens, turkeys, ducks, geese and any
8 other domesticated bird used for human food and/or animal feed;

9 20. "Poultry feeding operation" means a property or facility
10 where the following conditions are met:

11 a. poultry have been, are or will be confined and fed or
12 maintained for a total of forty-five (45) days or more
13 in any twelve-month period,

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 property or facility,
17 and

18 c. producing over ten (10) tons of poultry waste per
19 year;

20 21. "Poultry waste" means poultry excrement, poultry carcasses,
21 feed wastes or any other waste associated with the confinement of
22 poultry from a poultry feeding operation;

1 22. "Poultry waste utilization business" means a business at
2 which poultry waste is collected, recycled, processed or recovered
3 into reusable products including, but not limited to, fertilizer and
4 animal feed;

5 23. "Poultry waste management system" means a combination of
6 structures and practices serving a poultry feeding operation that
7 provides for the collection, treatment, disposal, distribution,
8 storage and land application of poultry waste;

9 24. "Private poultry waste applicator" means any person who is
10 not a commercial poultry waste applicator but engages in the land
11 application of poultry waste for purposes including, but not limited
12 to, producing any agricultural commodity on property owned or rented
13 by the person or such person's employer, or if applied without
14 compensation other than trading of personal services between
15 producers of agricultural commodities, on the property of another
16 person;

17 25. "Waste facility" means any structure or combination of
18 structures utilized to control poultry waste until it can be
19 utilized in an authorized manner; and

20 26. "Waters of the state" means all streams, lakes, ponds,
21 marshes, watercourses, waterways, wells, springs, irrigation
22 systems, drainage systems, storm sewers and all other bodies or
23 accumulations of water, surface and underground, natural or
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1 artificial, public or private, which are contained within, flow
2 through or border upon this state or any portion thereof, and shall
3 include under all circumstances the waters of the United States
4 which are contained within the boundaries of, flow through or border
5 upon this state or any portion thereof. Process wastewaters shall
6 not be considered as waters of the state if contaminated at the
7 site.

8 SECTION 2. AMENDATORY 2 O.S. 2011, Section 10-9.7, is
9 amended to read as follows:

10 Section 10-9.7 A. All poultry feeding operations shall utilize
11 Best Management Practices and shall meet the conditions and
12 requirements established by subsection B of this section and by
13 rules promulgated by the State Board of Agriculture pursuant to the
14 Oklahoma Registered Poultry Feeding Operations Act.

15 B. The criteria for Best Management Practices shall be
16 promulgated by rules by the Board and shall include, but not be
17 limited to, the following:

18 1. There shall be no discharge of poultry waste to waters of
19 the state;

20 2. Stored poultry waste shall be isolated from outside surface
21 drainage by ditches, dikes, berms, terraces or other such
22 structures;

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1 3. No waters of the state shall come into direct contact with
2 the poultry confined on the poultry feeding operation;

3 4. Poultry waste handling, treatment, management and removal
4 shall:

- 5 a. not create an environmental or a public health hazard,
- 6 b. not result in the contamination of waters of the
7 state, and
- 8 c. conform to such other handling, treatment and
9 management and removal requirements deemed necessary
10 by the ~~State~~ Oklahoma Department of Agriculture, Food,
11 and Forestry to implement the Oklahoma Registered
12 Poultry Feeding Operations Act and rules promulgated
13 pursuant thereto.

14 The rules promulgated by the Board pursuant to this section
15 shall provide for exceptions to the storage requirements for poultry
16 waste in emergency situations. Such exceptions shall include but
17 not be limited to allowing a contract poultry grower to take such
18 actions as are necessary to meet requirements imposed on a grower by
19 an integrator. In such situations growers shall be required to take
20 all actions feasible to prevent pollution from stored poultry waste.

21 C. Every poultry feeding operation shall have ~~an Animal Waste a~~
22 Nutrient Management Plan which shall include at a minimum:
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- 1 1. A description of poultry waste handling procedures and
2 availability of equipment and type of equipment to be used;
- 3 2. The calculations and assumptions used for determining land
4 application rates;
- 5 3. All nutrient analysis data, for soil and poultry waste
6 testing;
- 7 4. Legal description of lands to be used by an operation for
8 land application;
- 9 5. Land application rates of poultry waste shall be based on
10 the available nitrogen and phosphorous content of the poultry waste
11 and shall provide controls for runoff and erosion as appropriate for
12 site conditions;
- 13 6. The procedures documented in the ~~Animal Waste~~ Nutrient
14 Management Plan must ensure that the handling and utilization of
15 poultry waste complies with the following requirements:
- 16 a. adequate poultry waste storage shall be provided
17 consistent with rules promulgated by the ~~State~~
18 Oklahoma Department of Agriculture, Food, and Forestry
19 pursuant to subsection B of this section,
- 20 b. poultry waste shall not be applied to land when the
21 ground is saturated or during rainfall events.
22 Poultry waste shall not be applied to land when the

1 ground is frozen except in conformance with the ~~Animal~~
2 ~~Waste~~ Nutrient Management Plan,

3 c. poultry waste shall only be applied to suitable land
4 at appropriate times and rates. Discharge or runoff
5 of waste from the application site is prohibited.
6 Timing and rate of applications shall be based on
7 assimilation capacity of the soil profile, assuming
8 usual nutrient losses, expected precipitation, and
9 soil conditions, and

10 d. poultry waste application shall be prohibited on land
11 subject to excessive erosion;

12 7. Records shall be maintained of all poultry wastes applied on
13 land owned or controlled by the operator, and sold or given to other
14 persons:

15 a. if the poultry waste is sold or given to other persons
16 for land application or other use, the poultry feeding
17 operation shall maintain a log of: date of removal
18 from the poultry feeding operation; name of recipient
19 the poultry waste is sold or given to; and amount in
20 wet tons, dry tons or cubic yards of poultry waste
21 removed from the poultry feeding operation, and

1 b. the poultry feeding operation shall make available to
2 the recipient any nutrient sample analysis from that
3 year;

4 8. Any analysis required by the provisions of the Oklahoma
5 Registered Poultry Feeding Operations Act or rules promulgated
6 thereto shall be performed by a qualified environmental testing
7 laboratory certified by the Department of Environmental Quality and
8 approved by the ~~State~~ Oklahoma Department of Agriculture, Food, and
9 Forestry; and

10 9. Such other information deemed necessary by the ~~State~~
11 Oklahoma Department of Agriculture, Food, and Forestry to administer
12 the provisions of the Oklahoma Registered Poultry Feeding Operations
13 Act and rules promulgated pursuant thereto.

14 D. The Oklahoma Department of Agriculture, Food, and Forestry
15 may promulgate rules providing voluntary fees charged to registered
16 poultry feeding operations for the development and writing of
17 Nutrient Management Plans;

18 E. Every poultry feeding operation located in a non-nutrient-
19 limited watershed and non-nutrient-vulnerable groundwaters shall
20 perform soil testing on each land application and poultry waste
21 testing at least once every three (3) years to determine:

22 1. Soil pH and plant available nutrients including, at a
23 minimum, nitrogen, phosphorous and potassium;

- 1 2. Poultry waste nutrient concentrations and moisture; and
2 3. Application rate based upon current United States Department
3 of Agriculture Natural Resources Conservation Service Waste
4 Utilization Standards, unless the ~~State~~ Oklahoma Department of
5 Agriculture, Food, and Forestry approves other standards.

6 ~~E.~~ F. 1. Every poultry feeding operation located in a
7 nutrient-limited watershed and nutrient-vulnerable groundwater shall
8 perform an annual soil test on each land application area prior to
9 the first application of the calendar year. Poultry waste testing
10 shall be performed annually prior to the first application of the
11 calendar year. Soil and poultry waste testing shall be performed to
12 determine:

- 13 a. soil pH and plant available nutrients including at
14 least nitrogen, phosphorous and potassium,
- 15 b. poultry waste nutrient concentrations and moisture,
16 and
- 17 c. application rate based upon current United States
18 Department of Agriculture Natural Resources
19 Conservation Service Waste Utilization Standards,
20 unless the ~~State~~ Oklahoma Department of Agriculture,
21 Food, and Forestry approves other standards.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 2. Soil and poultry waste analysis data shall be retained by
2 the poultry feeding operation for as long as the site is in
3 operation.

4 ~~F.~~ G. 1. Poultry feeding operations shall develop a plan for
5 the disposal of carcasses associated with normal mortality.

6 2. In the event there is an outbreak of a major disease or
7 other emergency resulting in deaths significantly higher than normal
8 mortality rates, the ~~State~~ Oklahoma Department of Agriculture, Food,
9 and Forestry may approve, in writing, an alternate method of
10 disposal of carcasses or the storage of poultry waste during the
11 emergency period.

12 SECTION 3. This act shall become effective November 1, 2012.

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14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND
15 ENVIRONMENT, dated 02/23/2012 - DO PASS, As Amended.

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