

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 20, 2024

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1424

By: Howard and Bullard of the Senate and Pfeiffer of the House


Title: Oklahoma Registered Poultry Feeding Operations Act; modifying provisions related to certain administrative penalties and notice requirements. Effective date.


together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:


1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3792) be adopted.


Respectfully submitted,


SENATE CONFEREES:



Howard


Kidd


Hall


Green


Hamilton


Jech

Young

HOUSE CONFEREES:

Conference Committee on Agriculture

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1424

6 By: Howard and Bullard of the
7 Senate

8 and

9 Pfeiffer of the House

10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to the Oklahoma Registered Poultry
12 Feeding Operations Act; amending 2 O.S. 2021, Section
13 10-9.5, which relates to applications to register or
14 expand poultry operations; establishing certain
15 responsibility; amending 2 O.S. 2021, Section 10-9.7,
16 as amended by Section 1, Chapter 239, O.S.L. 2022 (2
17 O.S. Supp. 2023, Section 10-9.7), which relates to
18 Nutrient Management Plans; providing that compliance
19 with a certain Nutrient Management Plan shall be
20 deemed compliant with Best Management Practices;
21 modifying requirements of a Nutrient Management Plan;
22 amending 2 O.S. 2021, Section 10-9.11, which relates
23 to penalties for violations; increasing certain
24 fines; creating misdemeanor offense; authorizing
Oklahoma Department of Agriculture, Food, and
Forestry to take certain actions; requiring certain
administrative penalty to fund certain enforcement;
modifying provisions related to the granting of
certain relief; modifying provisions related to
certain notice; authorizing extension of time periods
for certain compliance; prohibiting use of certain
notice as evidence of certain relationship;
establishing the exclusive enforcement jurisdiction
of the Oklahoma Department of Agriculture, Food, and
Forestry for acts or omissions relating to the
Oklahoma Registered Poultry Feeding Operations Act;
creating a presumption that compliance with a current
Nutrient Management Plan insulates poultry growers,
operators, integrators, and waste applicators from

1 any private right of action or any collateral
2 enforcement; establishing that the Oklahoma
3 Registered Poultry Feeding Operations Act grants
4 statutory immunity from nuisance liability;
5 authorizing civil actions for damages caused by
6 violation of a Nutrient Management Plan; updating
7 statutory language and references; and declaring an
8 emergency.

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

10 SECTION 1. AMENDATORY 2 O.S. 2021, Section 10-9.5, is
11 amended to read as follows:

12 Section 10-9.5. A. The State Board of Agriculture shall
13 provide the necessary forms and applications for any person desiring
14 or required to register a poultry feeding operation or expanding
15 operation.

16 B. The application to register to operate a new or previously
17 unregistered poultry feeding operation or expanding operation shall
18 contain, at a minimum, the following information:

- 19 1. Name and address of the owner and operator of the facility;
- 20 2. Name and address of the poultry feeding operation;
- 21 3. Number and type of poultry housed or confined;
- 22 4. Name and address of the integrator whose poultry will be
23 raised by the poultry feeding operation;
- 24 5. A diagram or map and legal description showing geographical
location of the facility on which the perimeters of the facility are
designated, location of waters of the state, including, but not

1 limited to, drainage from the facility, poultry waste storage
2 facilities, and land-application sites owned or leased by the
3 applicant or which the applicant has contracted with for the
4 application of poultry waste;

5 6. A copy of the Nutrient Management Plan, or proof of
6 application for such plan, Best Management Practices or any other
7 plans authorized by the Oklahoma Department of Agriculture, Food,
8 and Forestry;

9 7. A statement of ownership.

10 a. If the applicant is a corporation, the name and
11 address of the corporation and the name and address of
12 each officer and registered agent of the corporation
13 shall be included in the application.

14 b. If the applicant is a partnership or other legal
15 entity, the name and address of each partner and
16 stockholder with an ownership interest of ten percent
17 (10%) or more shall be included in the statement.

18 c. The information contained in the statement of
19 ownership shall be public information and shall be
20 available upon request from the Board;

21 8. The name and address of the person having day-to-day control
22 of the operation, if such person is not the applicant and is acting
23 as agent for the applicant;

24

1 9. An environmental history from the past three (3) years of
2 any poultry feeding operation established and operated by the
3 applicant or any other operation with common ownership in this state
4 or any other state;

5 10. Environmental awards or citations received or pollution
6 prevention or voluntary remediation efforts undertaken by the
7 applicant; and

8 11. Any other information or records required by the Department
9 for purposes of implementing the Oklahoma Registered Poultry Feeding
10 Operations Act or rules promulgated pursuant thereto.

11 C. In addition to other penalties as may be imposed by law, any
12 person who knowingly makes any false statement, representation, or
13 certification in, omits material data from, or tampers with any
14 application for registration shall, upon conviction, be guilty of a
15 misdemeanor and may be subject to a fine ~~of~~ not more than Ten
16 Thousand Dollars (\$10,000.00) for each such violation.

17 D. The owner of a poultry feeding operation shall be
18 responsible for sending written notification to the Department upon
19 changing integrators.

20 E. For a transfer of registration to a new owner, the new owner
21 shall register the operation pursuant to the rules of the
22 Department.

23 F. 1. All operators of poultry feeding operations and poultry
24 waste applicators shall attend educational courses on poultry waste

1 handling. All such operators and applicators shall attend
2 educational training on poultry waste management as provided by
3 Oklahoma State University through the ~~Oklahoma~~ Cooperative Extension
4 Service. All current and new operators and applicators shall
5 receive the initial nine (9) hours of training in the first year and
6 two (2) hours of continuing education every year until the operator
7 or applicator has received a total of nineteen (19) hours of
8 training. Any operator or applicator may attend more hours than is
9 required⁷; however, those hours shall not be carried forward. Upon
10 receiving the nineteen (19) required hours, the operator or
11 applicator shall be required to receive two (2) hours of continuing
12 education every three (3) years. The ~~Oklahoma~~ Cooperative Extension
13 Service shall develop the educational training course to aid in
14 certification. Curricula for the training course will include the
15 ~~Oklahoma~~ Cooperative Extension Service ~~Waste Management Facts~~ waste
16 management facts series and record books or their current
17 equivalent. Courses for poultry waste management shall include the
18 following topics:

- 19 a. environmental process relevant to protecting water
20 quality in poultry production,
- 21 b. basic handling systems to manage poultry waste from
22 all types of poultry operations,

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- 1 c. nutrient management, including sampling procedures,
2 application rate determination, equipment calibration,
3 and record-keeping systems,
4 d. relevant laws and rules applicable to poultry waste
5 management in ~~the State of Oklahoma~~ this state, and
6 e. any other related subject as determined by Oklahoma
7 State University in consultation with the Department.

8 2. At the completion of each course, the operator or applicator
9 shall receive a certification verifying completion. The
10 certificates shall be kept on site for five (5) years.

11 3. Failure to obtain the initial nine-hour training and any
12 continuing education as provided in this subsection shall be deemed
13 a violation of the Oklahoma Registered Poultry Feeding Operations
14 Act for operators and the Oklahoma Poultry Waste Applicators
15 Certification Act for applicators.

16 4. All operators or applicators shall meet the educational
17 requirements of this section no later than December 31 of each year.

18 5. All operators and applicators are solely responsible for
19 obtaining and maintaining all educational requirements established
20 pursuant to the provisions of this subsection.

21 G. No integrator shall enter into any contract with an operator
22 of a poultry feeding operation who is not in compliance with the
23 education requirements of subsection F of this section.

1 SECTION 2. AMENDATORY 2 O.S. 2021, Section 10-9.7, as
2 amended by Section 1, Chapter 239, O.S.L. 2022 (2 O.S. Supp. 2023,
3 Section 10-9.7), is amended to read as follows:

4 Section 10-9.7. A. All poultry feeding operations shall
5 utilize Best Management Practices and shall meet the conditions and
6 requirements established by subsection B of this section and by
7 rules promulgated by the State Board of Agriculture pursuant to the
8 Oklahoma Registered Poultry Feeding Operations Act. Compliance with
9 a Nutrient Management Plan developed under subsections B and C of
10 this section shall be deemed compliant with Best Management
11 Practices.

12 B. ~~The criteria for~~ Best Management Practices shall be
13 promulgated by rules by the Board and shall include, but not be
14 limited to, the following when developing Nutrient Management Plans:

15 1. ~~There shall be no~~ Measures designed to prevent the discharge
16 of poultry waste to waters of the state;

17 2. ~~Stored~~ Measures requiring stored poultry waste shall be
18 isolated from outside surface drainage by covers, ditches, dikes,
19 berms, terraces, or other such structures;

20 3. ~~No~~ Measures designed to prevent waters of the state ~~shall~~
21 ~~come from coming~~ into direct contact with the poultry confined on
22 the poultry feeding operation; and

23 4. Poultry Measures designed to ensure that poultry waste
24 handling, treatment, management, and removal shall:

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

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

18 C. Every poultry feeding operation shall have a Nutrient
19 Management Plan which shall include at a minimum:

20 1. A description of poultry waste handling procedures and
21 availability of equipment and type of equipment to be used;

22 2. The calculations and assumptions used for determining land-
23 application rates if land application is applicable;

1 3. All nutrient analysis data for soil and poultry waste
2 testing;

3 4. Legal description and latitude and longitude of lands to be
4 used by an operation for land application;

5 5. Land-application rates of poultry waste shall be based on
6 the available nitrogen and phosphorous content of the poultry waste
7 and shall provide controls for runoff and erosion as appropriate for
8 site conditions;

9 6. The procedures documented in the Nutrient Management Plan
10 shall ensure that the handling and utilization of poultry waste
11 complies with the following requirements:

12 a. adequate poultry waste storage shall be provided
13 consistent with rules promulgated by the Oklahoma
14 Department of Agriculture, Food, and Forestry pursuant
15 to subsection B of this section,

16 b. poultry waste shall not be applied to land when the
17 ground is saturated or during rainfall events.

18 Poultry waste shall not be applied to land when the
19 ground is frozen except in conformance with the
20 Nutrient Management Plan,

21 c. poultry waste shall only be applied to suitable land
22 at appropriate times and rates. Discharge or runoff
23 of waste from the application site is ~~prohibited~~
24 evidence that the Nutrient Management Plan requires

1 revisions. Timing and rate of applications shall be
2 based on assimilation capacity of the soil profile,
3 assuming usual nutrient losses, expected
4 precipitation, and soil conditions, and

5 d. poultry waste application shall be prohibited on land
6 subject to excessive erosion;

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

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

17 b. the poultry feeding operation shall make available to
18 the recipient any nutrient sample analysis of the
19 poultry waste from that year;

20 8. Any analysis required by the provisions of the Oklahoma
21 Registered Poultry Feeding Operations Act or rules promulgated
22 thereto shall be performed by a qualified environmental testing
23 laboratory certified by the Department of Environmental Quality and
24

1 approved by the Oklahoma Department of Agriculture, Food, and
2 Forestry; and

3 9. Such other information deemed necessary by the Oklahoma
4 Department of Agriculture, Food, and Forestry to administer the
5 provisions of the Oklahoma Registered Poultry Feeding Operations Act
6 and rules promulgated pursuant thereto.

7 D. 1. The Nutrient Management Plan for new or expanding
8 poultry feeding operations submitted after July 1, 1998, shall be
9 prepared by the operator or designee of the operator.

10 2. After the plan is submitted to the Oklahoma Department of
11 Agriculture, Food, and Forestry for review and approval if the
12 Department determines that a submitted plan needs or requires any
13 corrections or modifications, the Department shall return the
14 Nutrient Management Plan to the operator for corrections.

15 3. For a renewal, if the Department determines the Nutrient
16 Management Plan needs or requires corrections or modifications, the
17 Department shall make appropriate corrections, approve the plan, and
18 notify the poultry feeding operation of the modifications.

19 E. 1. Except as otherwise provided in this subsection, a
20 Nutrient Management Plan for every poultry feeding operation shall
21 be renewed and an updated plan shall be submitted to the Oklahoma
22 Department of Agriculture, Food, and Forestry every six (6) years
23 from the date the initial or previous plan was submitted.

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1 2. The operator shall have the option to submit the renewed or
2 updated plan through the Department's website or a printable online
3 form designed by the Department.

4 3. A current operator may submit a one-page amendment to the
5 most recently submitted plan in lieu of a renewal plan through the
6 Department's website, if applicable. Poultry feeding operations
7 submitting an amendment pursuant to this subsection shall still be
8 subject to the soil and poultry waste testing requirements under
9 subsections F and G of this section. The amendment shall contain
10 the following statements:

11 a. no changes in the Department's promulgated standards
12 for land application of poultry waste have occurred
13 since the most recently submitted Nutrient Management
14 Plan,

15 b. there has been no change to the number of poultry
16 housed since the most recently submitted Nutrient
17 Management Plan,

18 c. there has been no expansion in the poultry feeding
19 operation since the most recently submitted Nutrient
20 Management Plan, and

21 d. the entirety of the poultry waste is:

22 (1) removed off-site as provided in the poultry
23 feeding operation's annual report, as required by
24 subsection J of this section, and will continue

1 to be removed off-site for the next six (6)
2 years, or

3 (2) land-applied and will continue to be land-applied
4 for the next six (6) years.

5 F. Every poultry feeding operation located in a non-nutrient-
6 limited watershed and non-nutrient-vulnerable groundwaters shall
7 perform soil testing on each land-application area and poultry waste
8 testing at least once every three (3) years to determine:

9 1. Soil pH and plant-available nutrients including, at a
10 minimum, nitrogen, phosphorous, and potassium;

11 2. Poultry waste nutrient concentrations and moisture; and

12 3. Application rate based upon the Department's standards for
13 land application for poultry waste as promulgated by rules.

14 G. Every poultry feeding operation located in a nutrient-
15 limited watershed and nutrient-vulnerable groundwater shall perform
16 an annual soil test on each land-application area prior to the first
17 application of the calendar year. Poultry waste testing shall be
18 performed annually prior to the first application of the calendar
19 year. Soil and poultry waste testing shall be performed to
20 determine:

21 1. Soil pH and plant-available nutrients including at least
22 nitrogen, phosphorous, and potassium;

23 2. Poultry waste nutrient concentrations and moisture; and
24

1 3. Application rate based upon the Department's standards for
2 land application of poultry waste as promulgated by rules.

3 H. 1. Soil and poultry waste analysis data shall be retained
4 by the poultry feeding operation for a minimum of six (6) years.

5 2. All soil and poultry waste analysis data shall be dated
6 prior to land application.

7 I. 1. Poultry feeding operations shall develop a plan for the
8 disposal of carcasses associated with normal mortality.

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

15 J. Every poultry feeding operation shall file by September 1 of
16 each year an annual report with the Department regarding all poultry
17 waste removed from or land-applied by the facility for the period
18 from July 1 of the previous year through June 30 of that year. The
19 report shall contain the following information:

20 1. The date and amount of poultry waste removed from or land-
21 applied at the facility;

22 2. The type of poultry waste removed or land-applied, whether a
23 cake out, full clean out, in-house windrow or compost, poultry waste
24 stack shed, or other type;

1 3. The county and, if applicable, the name of the ~~Nutrient~~
2 ~~Limited Watershed~~ nutrient-limited watershed where the poultry waste
3 was produced; and

4 4. The location where the poultry waste is removed to:

5 a. if land-applied on-site, provide the following:

6 (1) the date of the land application,

7 (2) the total amount of poultry waste land-applied in
8 wet tons, dry tons, or cubic yards,

9 (3) the name, mailing address, and telephone number
10 of the poultry waste applicator, and

11 (4) the number of acres under the control of the
12 poultry feeding operation for land application of
13 poultry waste, or

14 b. if removed off-site, provide the following:

15 (1) the date of the removal off-site,

16 (2) the amount of poultry waste removed in wet tons,
17 dry tons, or cubic yards,

18 (3) the name, mailing address, and telephone number
19 of the person the poultry waste is sold or
20 transferred to,

21 (4) the name, mailing address, telephone number, and
22 poultry waste applicator license number of the
23 poultry waste applicator, if known, and
24

1 (5) the name, mailing address, and telephone number
2 of the hauler of the poultry waste.

3 SECTION 3. AMENDATORY 2 O.S. 2021, Section 10-9.11, is
4 amended to read as follows:

5 Section 10-9.11. A. 1. Any person violating the provisions of
6 the Oklahoma Registered Poultry Feeding Operations Act shall, upon
7 conviction, be guilty of a misdemeanor and may be punished by a fine
8 not to exceed ~~Two Hundred Dollars (\$200.00)~~ One Thousand Dollars
9 (\$1,000.00).

10 2. Any owner or operator who fails to take such action as may
11 be reasonable and necessary to avoid pollution of any stream, lake,
12 river, or creek, except as otherwise provided by law, or who
13 violates any rule adopted by the State Board of Agriculture to
14 prevent water pollution from poultry feeding operations pursuant to
15 this act shall, upon conviction, be guilty of a misdemeanor
16 punishable for each violation by a fine not less than Five Hundred
17 Dollars (\$500.00) nor more than Ten Thousand Dollars (\$10,000.00),
18 imprisonment in the county jail for not more than six (6) months, or
19 by both such fine and imprisonment.

20 3. The Attorney General or the district attorney of the
21 appropriate district court of ~~Oklahoma~~ this state may bring an
22 action in a court of competent jurisdiction for the prosecution of a
23 violation by any person of a provision of the Oklahoma Registered
24 Poultry Feeding Operations Act or any rule promulgated thereunder.

1 B. 1. In addition to the criminal penalties specified by this
2 section, the Oklahoma Department of Agriculture, Food, and Forestry
3 may take one or more of the following actions:

4 a. ~~assess an administrative penalty of not more than Two~~
5 ~~Hundred Dollars (\$200.00) per day of noncompliance, or~~
6 pursuant to Section 2-18 of this title for each day of
7 noncompliance related to administrative violations
8 including but not limited to late filing of paperwork
9 or incomplete paperwork,

10 b. assess an administrative penalty of Ten Thousand
11 Dollars (\$10,000.00) for each day of noncompliance
12 with provisions of the user's nutrient management plan
13 that has led to pollution of any stream, lake, river,
14 or creek, or

15 c. bring an action for injunctive relief granted by a
16 district court.

17 2. A district court may grant injunctive relief to prevent a
18 violation of, or to compel compliance with, any of the provisions of
19 the Oklahoma Registered Poultry Feeding Operations Act or any rule
20 promulgated thereunder or order, registrations, and certificates
21 issued pursuant to the Oklahoma Registered Poultry Feeding
22 Operations Act.

23 3. Nothing in this section shall preclude the Department from
24 seeking penalties in district court in the maximum amount allowed by

1 law. The assessment of penalties in an administrative enforcement
2 proceeding shall not prevent the subsequent assessment by a court of
3 the maximum criminal penalties for violations of the Oklahoma
4 Registered Poultry Feeding Operations Act.

5 4. Any person assessed an administrative penalty may be
6 required to pay, in addition to such penalty amount and interest
7 thereon, attorney fees and costs associated with the collection of
8 such penalties.

9 5. Any administrative penalty required to be paid pursuant to
10 the provisions of this subsection shall be used to fund enforcement
11 of the Oklahoma Registered Poultry Feeding Operations Act.

12 C. 1. Any action for injunctive relief to redress or restrain
13 a violation by any person of the Oklahoma Registered Poultry Feeding
14 Operations Act, or for any rule promulgated thereunder, or order
15 issued pursuant thereto, or recovery of any administrative penalty
16 assessed pursuant to the Oklahoma Registered Poultry Feeding
17 Operations Act may be brought by:

18 a. the district attorney of the appropriate district
19 court of ~~the State of Oklahoma~~ this state,

20 b. the Attorney General on behalf of ~~the State of~~
21 ~~Oklahoma~~ this state, or

22 c. the Department on behalf of ~~the State of Oklahoma~~ this
23 state.

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1 2. The court shall have jurisdiction to determine the action,
2 and to grant the necessary or appropriate relief, including, but not
3 limited to, mandatory or prohibitive injunctive relief, ~~interim~~
4 ~~equitable relief, and punitive damages.~~

5 3. It shall be the duty of the Attorney General and district
6 attorney if requested by the Commissioner of Agriculture to bring
7 such actions.

8 D. Except as otherwise provided by law, administrative and
9 civil penalties shall be paid into the ~~State Department of~~
10 Agriculture Regulation Revolving Fund.

11 E. For the purposes of the Oklahoma Registered Poultry Feeding
12 Operations Act, each day upon which a violation is committed or is
13 permitted to continue shall be deemed a separate offense.

14 F. 1. Any contract poultry grower determined after notice and
15 opportunity for a hearing by the Department as flagrantly
16 disregarding Best Management Practices shall result in the
17 Department notifying the integrator in writing. Notice provided to
18 the integrator shall detail any remediation, education, or other
19 measures the grower is required to take to prevent the furtherance
20 of the violation and to prevent future violations. Upon receipt of
21 such notice, the integrator shall respond, as prescribed by the
22 Department, that a producer has received the notice and will work
23 with the grower to ensure compliance is achieved within thirty (30)
24 days. If the grower fails to achieve compliance of the terms of the

1 notice within thirty (30) days, the integrator shall submit
2 correspondence to the Department detailing additional measures to
3 assist the grower to achieve compliance. If the Department does not
4 approve these additional measures or if they are approved and are
5 not achieved within the timeline approved by the Department, the
6 integrator shall issue a notice of suspension-of-delivery of birds
7 to the grower within thirty (30) days, or give ninety (90) days'
8 notice of termination of the integrator-producer relationship to the
9 producer within thirty (30) days.

10 2. The Department may extend the time periods for compliance
11 pursuant to this subsection upon the request of an integrator. An
12 integrator who fails to comply with the provisions of this
13 subsection shall be assessed an administrative penalty pursuant to
14 Section 2-18 of this title.

15 3. Nothing provided in response to or in association with a
16 notice given pursuant to this subsection may be used as evidence to
17 establish an employer-employee relationship between a grower and the
18 integrator with whom the grower contracts.

19 G. The Department shall notify all integrators of any
20 violations assessed against an operator who is under a contract
21 growing arrangement with that integrator and, upon the written
22 request of the integrator, notify that integrator of all violations
23 assessed against an operator with whom the integrator contemplates
24 entering into a contract.

1 H. In addition to other penalties as may be imposed by law, any
2 person who knowingly makes any false statement, representation or
3 certification form, notice or report, or who knowingly renders
4 inaccurate any monitoring device or method required to be maintained
5 by any rule promulgated by the State Board of Agriculture, shall,
6 upon conviction, be guilty of a misdemeanor and may be subject to a
7 fine ~~of~~ not more than Five Thousand Dollars (\$5,000.00) for each
8 such violation.

9 I. Land application of poultry litter in compliance with a
10 current Nutrient Management Plan shall not be the basis for criminal
11 or civil liability in this state, whether relating to that single
12 plan, or aggregated with the application of poultry waste pursuant
13 to other Nutrient Management Plans. An administrative violation
14 shall not be the basis for a criminal or civil action, nor shall any
15 alleged violation be the basis for any private right of action, nor
16 any action other than enforcement of the terms of the Nutrient
17 Management Plan and other sections of this title by the Oklahoma
18 Department of Agriculture, Food, and Forestry. A current plan means
19 a plan approved by the Oklahoma Department of Agriculture, Food, and
20 Forestry that has not been revoked or rescinded by the state or
21 suspended by a more recent plan.

22 1. The provisions of this subsection shall apply both directly
23 and vicariously to the integrator with whom a contract poultry
24 grower contracts, and to any poultry grower, operator, contractor

1 of, or employee for a certified poultry waste applicator or a
2 poultry waste owner's agent, as long as the land application is
3 performed pursuant to and in compliance with the current Nutrient
4 Management Plan.

5 2. Compliance with a current Nutrient Management Plan, as
6 determined by the Oklahoma Department of Agriculture, Food, and
7 Forestry, shall create a presumption that no violation of this
8 section has occurred and shall insulate the poultry grower,
9 integrator, and waste applicator from any private right of action
10 and shall constitute express authority for purposes of Section 4 of
11 Title 50 of the Oklahoma Statutes.

12 3. Nothing in this subsection shall be construed to restrict
13 the Oklahoma Department of Agriculture, Food, and Forestry's
14 exclusive authority from enforcing the terms of Nutrient Management
15 Plans or the Department's authority to enforce the Oklahoma
16 Registered Poultry Feeding Operations Act and the Oklahoma Poultry
17 Waste Applicators Certification Act.

18 4. Nothing in this subsection shall be construed to prohibit a
19 civil action as otherwise provided by law for any damages caused by
20 a violation of a Nutrient Management Plan. A civil action shall
21 only be filed upon the completion of an enforcement action by the
22 State Board of Agriculture.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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