

ENGROSSED HOUSE
BILL NO. 2614

By: Hilliard of the House

and

Easley of the Senate

(agriculture - Confined Poultry Feeding Operations Act -
prohibiting certain transportation - codification -
emergency)

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-101 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Confined Poultry Feeding Operations Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-102 of Title 2, unless there is created a duplication in numbering, reads as follows:

In addition to the terms defined by the Oklahoma Concentrated Animal Feeding Operations Act, for purposes of the Confined Poultry Feeding Operations Act:

1. "Average daily basis" means the arithmetic mean for the number of poultry in a confined poultry feeding operation during any period of ninety (90) consecutive days; that is, the total number of poultry on the premises added daily for a consecutive ninety-day period divided by ninety (90);

2. "Confined poultry feeding operation" means a confined, concentrated poultry facility operated for meat or egg production, growing, stabling, or housing poultry in pens or houses wherein poultry are fed at the place of confinement and crop or forage growth or production of feed is not sustained in the area of confinement, having more than thirty thousand (30,000) poultry on an average daily basis unless the Department determines upon notice and hearing that an operator's means of disposal constitutes a disease threat;

3. "Housed lot" means totally roofed buildings with open or enclosed sides wherein poultry are housed on solid concrete or dirt floors, or slotted, partially open, floors over pits or poultry litter collection areas, in pens, stalls or cages, with or without bedding materials and mechanical ventilation. For the purposes of the Confined Poultry Feeding Operations Act, the term "housed lot" is synonymous with the terms slotted floor building, barn, stable, or house, for poultry, as these terms are commonly used in the agriculture industry;

4. "Major enforcement action" means those enforcement actions in which the State Department of Agriculture has determined that a violation which would contribute to pollution of surface water or groundwater or an unauthorized discharge has occurred, and that such discharge was within the reasonable control of the registrant, and such discharge could have been reasonably foreseen by the registrant;

5. "Operator" means the owner of a poultry facility;

6. "Registrant" means any person whose confined poultry feeding operation is subject to the registration requirements of this act;

7. "Poultry facility" means a facility which is used to raise, grow, feed or otherwise produce poultry for commercial purposes, or is a commercial poultry hatchery which is used to produce baby poultry;

8. "Poultry" means chickens, turkeys, ducks or other fowl being raised or kept on any premises in the state for profit;

9. "Poultry carcasses" means dead poultry, the carcasses, parts of carcasses, effluent, down, or blood of poultry, which carcasses are those which died as the result of sickness, suffocation, accident, or from any cause other than intentional slaughter for use for human consumption;

10. "Poultry litter" means poultry litter, poultry excrement, manure (feces and urine), litter, bedding, or feedwaste from confined poultry feeding operations;

11. "Poultry-related concentrated animal feeding operation" means a concentrated poultry facility that is operated for poultry or egg production or for growing, stabling, or housing poultry in pens or houses in which the poultry are fed at the place of confinement and crop or forage growth or feed is not produced in the confinement area;

12. "Poultry wastewater" means water containing poultry litter or contaminated by poultry litter contact, including process-generated and contaminated rainfall runoff;

13. "Provider" means the person providing poultry litter to a user;

14. "Refrigerated" means refrigerated to a temperature of forty degrees (40°) Fahrenheit or less; and

15. "User" means a person who land applies poultry litter.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-103 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The purpose of this section is to control, eradicate, and prevent the spread of contagious and infectious diseases of poultry, and the protection of water quality through the proper destruction and disposal of dead poultry, unhatched or unused eggs, and other poultry litter by requiring commercial growers of poultry and

commercial hatcheries to be equipped with and to use disposal facilities as provided in this section.

B. Every person who owns or operates a poultry facility shall ensure that the poultry facility is equipped with adequate facilities for the handling, destruction, and disposal of all poultry carcasses, unhatched or unused eggs, and other poultry waste. If a person, other than the operator or owner of a poultry facility, owns the poultry, either in a present or future interest, that person shall also ensure that the owner or operator of the poultry facility complies with this act by requiring compliance with the Confined Poultry Feeding Operations Act in that person's contract with the owner or operator.

C. Every person who operates a poultry facility shall file with the State Department of Agriculture a plan, embracing at a minimum the provisions consistent with the requirements of this section and the rules promulgated by the Department pursuant to subsection F of this section.

D. No person may transport, or arrange for the transportation of, any poultry carcasses from any poultry facility premises without the prior approval, granted by registration, from the Department. The Department may assess a fee of Fifty Dollars (\$50.00) per year for the registration. Prior to granting a registration, the transporter must show the Department that the vessel in which the carcasses are transported is refrigerated, sealed, and is leak and spill proof. All carcasses must be transported in refrigerated vessels, and such vessels must be properly sealed in order to prevent spillage or leakage. Further, after unloading the carcasses, the vessel must be cleaned and disinfected prior to leaving the disposal site.

E. Poultry carcasses on site at a poultry facility must be maintained in refrigerated, sealed receptacles or vessels in order to prevent leakage or spillage until the carcasses are transported

or disposed of as required by this section. If the poultry carcasses are disposed of on site by a method permitted by this section, the carcasses do not have to be refrigerated.

F. The Department shall promulgate rules pertaining to minimum requirements of the safe and adequate storage, handling, and transportation of poultry carcasses at and from poultry facilities.

G. The employees of the Department are authorized to enter any poultry facility, place, premise, building, or other enclosure where poultry is produced, stored, or disposed of to perform any inspections or to otherwise enforce the provisions of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-104 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The disposal of poultry carcasses by open pit burial, landfill, or other similar disposal is prohibited. Carcasses may be disposed of in landfills permitted by the State Department of Agriculture to receive municipal solid waste.

B. The State Department of Agriculture shall, by rule, specify other acceptable methods for the disposal of poultry carcasses, including, but not limited to:

1. Composting;
2. Cremation or incineration;
3. Extrusion;
4. On-farm freezing;
5. Rendering; and
6. Cooking for swine food.

C. This section shall not affect other requirements of law, if any, for the permitting of any of the disposal activities in subsection B of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-105 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any operator who disposes of a poultry carcass in violation of the provisions of the Confined Poultry Feeding Operations Act, or transports or arranges for transportation of poultry in violation of the provisions of the Confined Poultry Feeding Operations Act, upon conviction thereof, shall be guilty of a misdemeanor for each poultry carcass improperly disposed of or transported.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-106 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Poultry litter shall be disposed of as set forth in this section. The provisions of this section are applicable to all confined poultry feeding operations, either housed or open lots, including chickens, broilers, layers and/or breeders; and turkeys, including breeders and/or feeders.

B. Operators desiring to dispose of poultry litter by land application shall apply for registration from the Department.

C. Operators transporting poultry litter off site shall ensure that the poultry litter does not leak, spill, or otherwise emanate from the transportation vessel.

D. Nothing in this section shall limit the powers of the Department to regulate poultry facilities, feedlots, concentrated poultry feeding operations, or poultry litter under other law.

E. The Department shall develop an application form. Applicants shall pay such application fees and annual registration fees as provided by Department rule. Registrations authorized pursuant to this section shall demonstrate compliance with the technical requirements set forth in this section, and shall:

1. Include a description of the intended use of the poultry litter;
2. Clearly indicate the means for compliance with this act;
3. Include a waste management plan which shall contain, as a minimum, the quantity, origin, application rate, and location of the

intended use of the poultry litter, a full discussion of Best Management Practices to be applied, and a statement of how the plan will manage or control the application of phosphorus; and

4. Include a copy of a signed contract between the user and provider.

F. Notification for use of poultry litter is required without consideration of the origin of the poultry litter.

G. Any change in a waste management plan for the handling of poultry litter must be promptly provided to the Department.

H. The user shall annually certify compliance with the waste management plan to the Department.

I. The poultry litter provider and user shall maintain records on site for a period of three (3) years.

1. Records to be maintained by the provider include:

- a. copies of notifications and certifications made to the Department concerning poultry litter use,
- b. copies of contracts made with each poultry litter user, and
- c. records of volume of poultry litter delivered to each user per delivery.

2. The user shall maintain on site records for three (3) years of the date and volume of poultry litter applied, the location of the application areas, and the waste management plan. The records shall be made available to the provider and the Department upon request.

J. The poultry litter provider and user are responsible and liable for meeting the conditions of the Confined Poultry Feeding Operations Act. If a person, other than the operator or owner of a poultry facility, owns the poultry, either in a present or future interest, that person shall also ensure that the owner or operator of the poultry facility complies with the Confined Poultry Feeding Operations Act by requiring compliance with the Confined Poultry

Feeding Operations Act in that person's contract with the owner or operator or user. The poultry litter provider shall not be liable for misapplication of poultry litter by users, unless the provider knows of the misapplication. Each party has, but is not limited to, the following responsibilities:

1. The poultry litter provider shall:

- a. notify the Department in writing within five (5) days of obtaining knowledge of misapplication of poultry litter in noncompliance with this act, and
- b. not be responsible for the misuse of the poultry litter by the user if the deliveries of poultry litter cease promptly upon knowledge of misuse regardless of contract provisions; and

2. The poultry litter user:

- a. shall use the poultry litter in accordance with this section, and
- b. must maintain and provide records as required by this section.

K. Upon notice and hearing, a registration may be cancelled if the registrant is deemed to have violated the Confined Poultry Feeding Operations Act in a major enforcement action.

L. If land application is utilized for disposal of litter and/or wastewater, the following requirements shall apply:

1. Utilization and disposal methods:

- a. liquid and solid poultry litter shall be distributed on agricultural lands so that neither the litter nor rainfall runoff will adversely affect the quality of receiving waters,
- b. when irrigation disposal of wastewater is used, tailwater facilities shall be provided as necessary to prevent the release of applied wastewater,

- c. disposal of litter and wastewater shall be done in such a manner as to prevent nuisance conditions such as odors and flies, and
- d. wastewater shall not be irrigated when the ground is frozen or saturated or during rainfall events; and

2. The collection, storage, and disposal of liquid and solid waste and poultry litter shall be managed in accordance with recognized practices of good agricultural management.

M. All solid waste and poultry litter materials stockpiled or retained on site shall be isolated from all run-on storm waters by dikes, terraces, berms, ditches, or other similar structures and shall be maintained so as to retain all rainfall which comes in contact with the stockpiled material.

N. The operator shall prevent the discharge of waters which have been contaminated by pesticides and shall notify the Department immediately if such discharge occurs.

O. The following Best Management Practices (BMPs) shall be utilized by poultry facilities and users:

- 1. Do not stockpile poultry litter near watercourses;
- 2. Provide adequate poultry litter storage capacity based upon poultry litter production and land availability; and

3. Apply poultry litter to suitable land at appropriate times and rates:

- a. adjust timing and rate of applications to crop needs, assuming usual nutrient losses, expected precipitation and soil conditions,
- b. avoid applications of frozen or saturated soils,
- c. avoid land subject to excessive erosion,
- d. use edge-of-field, grassed strips to separate eroded soil and poultry litter particles from the field runoff,

- e. utilize off-site areas of poultry litter application in a manner consistent with the Confined Poultry Feeding Operations Act,
- f. locate poultry litter management facilities a minimum horizontal distance of one hundred fifty (150) feet from all water wells, springs, and watercourses,
- g. when applying poultry litter/wastewater to land, utilize a buffer area around water wells to prevent the possibility of waste or litter transport to groundwater via the well or well casing,
- h. other buffer zones shall be maintained as follows:
 - (1) two hundred (200) feet from occupied dwellings, unless the occupant of the dwellings signs a waiver of the buffer zone,
 - (2) twenty-five (25) feet from rock outcroppings, except limestone, for which there is a fifty-foot buffer.

P. An operator of a poultry facility shall develop and maintain on site a waste management plan to handle poultry litter in compliance with the Confined Poultry Feeding Operations Act. If a person, other than the operator or owner of a poultry facility, owns the poultry, either in a present or future interest, that person shall also ensure that the owner or operator of the poultry facility complies with the Confined Poultry Feeding Operations Act by requiring compliance with the Confined Poultry Feeding Operations Act in that person's contract with the owner or operator.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-107 of Title 2, unless there is created a duplication in numbering, reads as follows:

The State Department of Agriculture shall regulate discharges from poultry-related concentrated animal feeding operations and shall regulate all poultry operations which stable, and confine and

feed or maintain for a total of forty-five (45) days or more in any twelve-month period more than thirty thousand (30,000) laying hens or broilers. There shall be no differentiation in regulation between facilities which have liquid or dry waste handling systems.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of March, 1998.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate