

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1977

By: Bailey

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5
6 AS INTRODUCED

7 An Act relating to agriculture; amending 2 O.S. 2001,
8 Sections 10-9.5, as amended by Section 1, Chapter
9 412, O.S.L. 2005, and 10-9.7 (2 O.S. Supp. 2008,
10 Section 10-9.5), which relate to poultry feeding
11 operations; modifying educational training
12 requirement on poultry waste management; setting
13 certain standards for land application; specifying
14 application of standards; and providing an effective
15 date.

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

17 SECTION 1. AMENDATORY 2 O.S. 2001, Section 10-9.5, as
18 amended by Section 1, Chapter 412, O.S.L. 2005 (2 O.S. Supp. 2008,
19 Section 10-9.5), is amended to read as follows:

20 Section 10-9.5 A. The State Board of Agriculture shall cause
21 to be prepared and available the necessary forms and applications
22 for any person desiring or required to register a poultry feeding
23 operation or expanding operation.

24 B. The application to register to operate a new or previously
unregistered poultry feeding operation or expanding operation shall

1 be under oath and shall contain, as a minimum, the following
2 information:

3 1. Name and address of the owner and operator of the facility;

4 2. Name and address of the poultry feeding operation;

5 3. Number and type of poultry housed or confined;

6 4. Name and address of the integrator whose poultry will be
7 raised by the poultry feeding operation;

8 5. A diagram or map and legal description showing geographical
9 location of the facility on which the perimeters of the facility are
10 designated, location of waters of the state, including, but not
11 limited to, drainage from the facility, poultry waste storage
12 facilities and land application sites owned or leased by the
13 applicant or which the applicant has contracted with for the
14 application of poultry waste;

15 6. A copy of the Animal Waste Management Plan, or proof of
16 application for such plan, Best Management Practices or any other
17 plans authorized by the Oklahoma Department of Agriculture, Food,
18 and Forestry;

19 7. A statement of ownership.

20 a. If the applicant is a corporation, the name and
21 address of the corporation and the name and address of
22 each officer and registered agent of the corporation
23 shall be included in the application.

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1 b. If the applicant is a partnership or other legal
2 entity, the name and address of each partner and
3 stockholder with an ownership interest of ten percent
4 (10%) or more shall be included in the statement.

5 c. The information contained in the statement of
6 ownership shall be public information and shall be
7 available upon request from the Board;

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

11 9. a. An environmental history from the past three (3) years
12 of any poultry feeding operation established and
13 operated by the applicant or any other operation with
14 common ownership in this state or any other state.
15 Such environmental history shall include but not be
16 limited to all citations, administrative orders or
17 penalties, civil injunctions or other civil actions,
18 criminal actions, past, current and ongoing, taken by
19 any person, agency or court relating to noncompliance
20 with any environmental law, rule, agency order, or
21 court action relating to the operation of a poultry
22 feeding operation.

1 b. A copy of all records relating to the environmental
2 history required by this paragraph shall accompany the
3 application.

4 c. Noncompliance with a final agency order or final order
5 or judgment of a court of record which has been set
6 aside by a court on appeal of such final order or
7 judgment shall not be considered a final order or
8 judgment for the purposes of this subsection;

9 10. Environmental awards or citations received or pollution
10 prevention or voluntary remediation efforts undertaken by the
11 applicant; and

12 11. Any other information or records required by the
13 Department for purposes of implementing the Oklahoma Registered
14 Poultry Feeding Operations Act or rules promulgated pursuant
15 thereto.

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

22 D. The owner of a poultry feeding operation shall be
23 responsible for sending written notification to the Department upon
24 changing integrators.

1 E. For a transfer of registration to a new owner, the new owner
2 shall register the operation pursuant to the rules of the
3 Department.

4 F. 1. All operators of poultry feeding operations shall attend
5 educational courses on poultry waste handling. All such operators
6 shall attend educational training on poultry waste management as
7 provided by Oklahoma State University through the Oklahoma
8 Cooperative Extension Service. All current and new operators shall
9 receive no less than nine (9) hours of training in the first year
10 and no less than ~~three (3)~~ two (2) hours ~~each~~ every other year
11 thereafter. The Oklahoma Cooperative Extension Service shall
12 develop the educational training course to aid in certification.
13 Curricula for the training course will include the Oklahoma
14 Cooperative Extension Service Waste Management Facts series and
15 record books or their current equivalent. Courses for poultry waste
16 management shall include the following topics:

- 17 a. environmental process relevant to protecting water
18 quality in poultry production,
- 19 b. basic handling systems to manage poultry waste from
20 all types of poultry operations,
- 21 c. nutrient management, including sampling procedures,
22 application rate determination, equipment calibration,
23 and record-keeping systems,

1 d. relevant laws and rules applicable to poultry waste
2 management in the State of Oklahoma, and

3 e. any other related subject as determined by Oklahoma
4 State University in consultation with the Department.

5 2. At the completion of each course, the operator shall receive
6 a certification verifying completion. The certificates shall be
7 kept on site for five (5) years.

8 3. Failure to obtain the prerequisite and ~~annual~~ continuing
9 training and education as provided in this subsection shall be
10 deemed a violation of the Oklahoma Registered Poultry Feeding
11 Operations Act.

12 4. All operators shall meet the educational requirements of
13 this section no later than December 31 of each year.

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

17 SECTION 2. AMENDATORY 2 O.S. 2001, Section 10-9.7, is
18 amended to read as follows:

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

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

4 1. There shall be no discharge of poultry waste to waters of
5 the state;

6 2. Stored poultry waste shall be isolated from outside surface
7 drainage by ditches, dikes, berms, terraces or other such
8 structures;

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

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

13 a. not create an environmental or a public health hazard,

14 b. not result in the contamination of waters of the
15 state, and

16 c. conform to such other handling, treatment and
17 management and removal requirements deemed necessary
18 by the State Department of Agriculture to implement
19 the Oklahoma Registered Poultry Feeding Operations Act
20 and rules promulgated pursuant thereto; and

21 5. The land application standards for poultry waste shall be
22 three percent (3%) for nitrogen, four percent (4%) for phosphorus,
23 and three percent (3%) for potassium. These standards shall be
24 utilized in lieu of poultry waste testing.

1 The rules promulgated by the Board pursuant to this section
2 shall provide for exceptions to the storage requirements for poultry
3 waste in emergency situations. Such exceptions shall include but
4 not be limited to allowing a contract poultry grower to take such
5 actions as are necessary to meet requirements imposed on a grower by
6 an integrator. In such situations growers shall be required to take
7 all actions feasible to prevent pollution from stored poultry waste.

8 C. Every poultry feeding operation shall have an Animal Waste
9 Management Plan which shall include at a minimum:

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

12 2. The calculations and assumptions used for determining land
13 application rates;

14 3. All nutrient analysis data, for soil ~~and poultry waste~~
15 testing;

16 4. Legal description of lands to be used by an operation for
17 land application;

18 5. Land application rates of poultry waste shall be based on
19 the set standard percentages provided for in paragraph 5 of
20 subsection B of this section available nitrogen and phosphorous
21 content of the poultry waste and shall provide controls for runoff
22 and erosion as appropriate for site conditions;

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1 6. The procedures documented in the Animal Waste Management
2 Plan must ensure that the handling and utilization of poultry waste
3 complies with the following requirements:

4 a. adequate poultry waste storage shall be provided
5 consistent with rules promulgated by the State
6 Department of Agriculture pursuant to subsection B of
7 this section,

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

10 Poultry waste shall not be applied to land when the
11 ground is frozen except in conformance with the Animal
12 Waste Management Plan,

13 c. poultry waste shall only be applied to suitable land
14 at appropriate times and rates. Discharge or runoff
15 of waste from the application site is prohibited.
16 Timing and rate of applications shall be based on
17 assimilation capacity of the soil profile, assuming
18 usual nutrient losses, expected precipitation, and
19 soil conditions, and

20 d. poultry waste application shall be prohibited on land
21 subject to excessive erosion;

22 7. Records shall be maintained of all poultry wastes applied on
23 land owned or controlled by the operator, and sold or given to other
24 persons+.

1 ~~a.~~ if If the poultry waste is sold or given to other
2 persons for land application or other use, the poultry
3 feeding operation shall:

4 a. maintain a log of: date of removal from the poultry
5 feeding operation; name of recipient the poultry waste
6 is sold or given to; and amount in wet tons, dry tons
7 or cubic yards of poultry waste removed from the
8 poultry feeding operation, and

9 ~~b.~~ ~~the poultry feeding operation shall~~ make available to
10 the recipient any nutrient sample analysis from that
11 year or the set standard percentages used in the
12 application of poultry waste;

13 8. Any analysis required by the provisions of the Oklahoma
14 Registered Poultry Feeding Operations Act or rules promulgated
15 thereto shall be performed by a qualified environmental testing
16 laboratory certified by the Department of Environmental Quality and
17 approved by the State Department of Agriculture; and

18 9. Such other information deemed necessary by the State
19 Department of Agriculture to administer the provisions of the
20 Oklahoma Registered Poultry Feeding Operations Act and rules
21 promulgated pursuant thereto.

22 D. Every poultry feeding operation located in a non-nutrient-
23 limited watershed and non-nutrient-vulnerable groundwaters shall
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1 perform soil testing on each land application ~~and poultry waste~~
2 ~~testing~~ at least once every three (3) years to determine:

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

5 2. ~~Poultry waste nutrient concentrations and moisture~~
6 Compliance with the set standard percentages, provided for in
7 paragraph 5 of subsection B of this section, of nutrient
8 concentration; and

9 3. Application rate based upon current United States Department
10 of Agriculture Natural Resources Conservation Service Waste
11 Utilization Standards, unless the State Department of Agriculture
12 approves other standards.

13 E. 1. Every poultry feeding operation located in a nutrient-
14 limited watershed and nutrient-vulnerable groundwater shall perform
15 an annual soil test on each land application area prior to the first
16 application of the calendar year. Poultry waste testing shall be
17 performed annually prior to the first application of the calendar
18 year if the set standard percentages in paragraph 5 of subsection B
19 of this section are not used in application. Soil and poultry waste
20 testing shall be performed to determine:

21 a. soil pH and plant available nutrients including at
22 least nitrogen, phosphorous and potassium,

23 b. poultry waste nutrient concentrations and moisture, or
24 the use of standard values, and

1 c. application rate based upon current United States
2 Department of Agriculture Natural Resources
3 Conservation Service Waste Utilization Standards,
4 unless the State Department of Agriculture approves
5 other standards.

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

9 F. 1. Poultry feeding operations shall develop a plan for the
10 disposal of carcasses associated with normal mortality.

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

16 SECTION 3. This act shall become effective November 1, 2009.

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