

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2917

6 By: Richardson

7 COMMITTEE SUBSTITUTE

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

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

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

19 Section 10-9.1 A. Sections ~~±~~ 10-9.1 through ~~±2~~ 10-9.12 of this
20 ~~act~~ title shall be known and may be cited as the "Oklahoma
21 Registered Poultry Feeding Operations Act".

22 B. As used in Sections ~~±~~ 10-9.1 through ~~±3~~ 10-9.23 of this ~~act~~
23 title:

24 1. ~~"Animal Waste Management Plan" or "AWMP" means a written
plan that includes a combination of conservation and management
practices designed to protect the natural resources of the state as~~

1 ~~required by the State Department of Agriculture pursuant to the~~
2 ~~provisions of Section 7 of this act;~~

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

8 ~~3.~~ 2. "Board" means the State Board of Agriculture;

9 ~~4.~~ 3. "Certificate" means a written document issued to an
10 individual by the Board pursuant to Section ~~17~~ 10-9.17 of this ~~act~~
11 title which indicates that the individual is authorized to land
12 apply poultry waste by the Oklahoma Poultry Waste Applicators
13 Certification Act;

14 ~~5.~~ 4. "Certified poultry waste applicator" means a person who
15 has been certified by the Board to land apply poultry waste and
16 includes a commercial poultry waste applicator and a private poultry
17 waste applicator;

18 ~~6.~~ 5. "Commercial poultry waste applicator" means any person
19 who engages in commercial land application of poultry waste. Any
20 farmer while working for a neighbor in agricultural production, and
21 not advertising, nor holding himself or herself out to be in the
22 business of land applying poultry waste, shall not be classified as
23 a commercial poultry waste applicator, but as a private poultry
24 waste applicator;

1 ~~7.~~ 6. "Contract growing arrangement" means any growout
2 contract, marketing agreement, or other arrangement under which a
3 contract poultry grower cares for or raises poultry;

4 ~~8.~~ 7. "Contract poultry grower" means any person engaged in the
5 business of caring for or raising poultry, under a contract growing
6 arrangement;

7 ~~9.~~ 8. "Common ownership" includes but is not limited to any
8 person who has power or authority to manage, direct, restrict,
9 regulate or oversee the operation or has financial control of two or
10 more poultry feeding operations;

11 ~~10.~~ 9. "Department" means the ~~State~~ Oklahoma Department of
12 Agriculture, Food, and Forestry;

13 ~~11.~~ 10. "Expanding operation" means a registered poultry
14 feeding operation that seeks to increase its registered capacity in
15 excess of ten percent (10%) of the facility's original registered
16 capacity;

17 ~~12.~~ 11. "Facility" means any place, site or location or part
18 thereof where poultry are kept, handled, housed or otherwise
19 maintained including but not limited to buildings, lots, pens and
20 poultry waste management systems;

21 ~~13.~~ 12. "Integrator" means an entity which unites the elements
22 associated with the poultry industry, including but not limited to
23 hatching, feeding, processing and marketing. It includes, but is
24

1 not limited to, situations when growing is contracted out to others
2 and when the integrator operates its own growing facilities;

3 ~~14.~~ 13. "Land application" means the spreading on, or
4 incorporation into, the soil mantle primarily for beneficial
5 purposes;

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

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

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

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

22 18. "Nutrient-vulnerable groundwater" means groundwater which
23 is designated "nutrient-vulnerable" in the most recent Oklahoma's
24 Water Quality Standards;

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

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

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

8 b. crops, vegetation, forage growth or post-harvest
9 residues are not sustained in the normal growing
10 season over any portion of the property or facility,
11 and

12 c. producing over ten (10) tons of poultry waste per
13 year;

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

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

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

1 24. "Private poultry waste applicator" means any person who is
2 not a commercial poultry waste applicator but engages in the land
3 application of poultry waste for purposes including, but not limited
4 to, producing any agricultural commodity on property owned or rented
5 by the person or such person's employer, or if applied without
6 compensation other than trading of personal services between
7 producers of agricultural commodities, on the property of another
8 person;

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

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

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

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

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

9 1. There shall be no discharge of poultry waste to waters of
10 the state;

11 2. Stored poultry waste shall be isolated from outside surface
12 drainage by ditches, dikes, berms, terraces or other such
13 structures;

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

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

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

19 b. not result in the contamination of waters of the
20 state, and

21 c. conform to such other handling, treatment and
22 management and removal requirements deemed necessary
23 by the ~~State~~ Oklahoma Department of Agriculture, Food,
24 and Forestry to implement the Oklahoma Registered

1 Poultry Feeding Operations Act and rules promulgated
2 pursuant thereto.

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

10 C. Every poultry feeding operation shall have ~~an Animal Waste a~~
11 Nutrient Management Plan which shall include at a minimum:

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

14 2. The calculations and assumptions used for determining land
15 application rates;

16 3. All nutrient analysis data, for soil and poultry waste
17 testing;

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

20 5. Land application rates of poultry waste shall be based on
21 the available nitrogen and phosphorous content of the poultry waste
22 and shall provide controls for runoff and erosion as appropriate for
23 site conditions;

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

- 4 a. adequate poultry waste storage shall be provided
5 consistent with rules promulgated by the ~~State~~
6 Oklahoma Department of Agriculture, Food, and Forestry
7 pursuant to subsection B of 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~~ Nutrient 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 the poultry waste is sold or given to other persons
2 for land application or other use, the poultry feeding
3 operation shall maintain a log of: date of removal
4 from the poultry feeding operation; name of recipient
5 the poultry waste is sold or given to; and amount in
6 wet tons, dry tons or cubic yards of poultry waste
7 removed from the poultry feeding operation, and
8 b. the poultry feeding operation shall make available to
9 the recipient any nutrient sample analysis from that
10 year;

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

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

21 D. The Oklahoma Department of Agriculture, Food, and Forestry
22 may promulgate rules providing voluntary fees charged to registered
23 poultry feeding operations for the development and writing of
24 Nutrient Management Plans;

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

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

7 2. Poultry waste nutrient concentrations and moisture; and

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

12 ~~E.~~ F. 1. Every poultry feeding operation located in a
13 nutrient-limited watershed and nutrient-vulnerable groundwater shall
14 perform an annual soil test on each land application area prior to
15 the first application of the calendar year. Poultry waste testing
16 shall be performed annually prior to the first application of the
17 calendar year. Soil and poultry waste testing shall be performed to
18 determine:

19 a. soil pH and plant available nutrients including at
20 least nitrogen, phosphorous and potassium,

21 b. poultry waste nutrient concentrations and moisture,
22 and

23 c. application rate based upon current United States
24 Department of Agriculture Natural Resources

1 Conservation Service Waste Utilization Standards,
2 unless the ~~State~~ Oklahoma Department of Agriculture,
3 Food, and Forestry approves other standards.

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

7 F. G. 1. Poultry feeding operations shall develop a plan for
8 the 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 ~~State~~ Oklahoma Department of Agriculture, Food,
12 and Forestry may approve, in writing, an alternate method of
13 disposal of carcasses or the storage of poultry waste during the
14 emergency period.

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

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