

1 **SENATE FLOOR VERSION**

2 March 20, 2012

3 ENGROSSED HOUSE  
4 BILL NO. 2917

By: Richardson of the House

5 and

6 Justice of the Senate

7  
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;

24



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.

16 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,  
17 dated 3-19-12 - DO PASS.