

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2792 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: David Hardin

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2792

By: Hardin (David)

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 2011, Section 10-9.7, as last amended by Section 5, Chapter 313, O.S.L. 2015 (2 O.S. Supp. 2019, Section 10-9.7), which relates to the Oklahoma Registered Poultry Feeding Operations Act; requiring Nutrient Management Plans to be prepared by certain persons; allowing certain plan corrections or modifications; providing plan renewal period; providing exception to renewals; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.7, as last amended by Section 5, Chapter 313, O.S.L. 2015 (2 O.S. Supp. 2019, Section 10-9.7), is amended to read as follows:

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

22 The rules promulgated by the Board pursuant to this section
23 shall provide for exceptions to the storage requirements for poultry
24 waste in emergency situations. Such exceptions shall include but

1 not be limited to allowing a contract poultry grower to take such
2 actions as are necessary to meet requirements imposed on a grower by
3 an integrator. In such situations growers shall be required to take
4 all actions feasible to prevent pollution from stored poultry waste.

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

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

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

11 3. All nutrient analysis data, for soil and poultry waste
12 testing;

13 4. Legal description of lands to be used by an operation for
14 ~~land-application~~ land application;

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

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

- 22 a. adequate poultry waste storage shall be provided
23 consistent with rules promulgated by the Oklahoma
24

Department of Agriculture, Food, and Forestry pursuant to subsection B of this section,

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

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

c. poultry waste shall only be applied to suitable land at appropriate times and rates. Discharge or runoff of waste from the application site is prohibited.

Timing and rate of applications shall be based on assimilation capacity of the soil profile, assuming usual nutrient losses, expected precipitation, and soil conditions, and

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

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

a. if the poultry waste is sold or given to other persons for land application or other use, the poultry feeding operation shall maintain a log of: date of removal from the poultry feeding operation; name of recipient the poultry waste is sold or given to; and amount in

1 wet tons, dry tons or cubic yards of poultry waste
2 removed from the poultry feeding operation, and

3 b. the poultry feeding operation shall make available to
4 the recipient any nutrient sample analysis from that
5 year;

6 8. Any analysis required by the provisions of the Oklahoma
7 Registered Poultry Feeding Operations Act or rules promulgated
8 thereto shall be performed by a qualified environmental testing
9 laboratory certified by the Department of Environmental Quality and
10 approved by the Oklahoma Department of Agriculture, Food, and
11 Forestry; and

12 9. Such other information deemed necessary by the Oklahoma
13 Department of Agriculture, Food, and Forestry to administer the
14 provisions of the Oklahoma Registered Poultry Feeding Operations Act
15 and rules promulgated pursuant thereto.

16 D. The original Nutrient Management Plans submitted after the
17 effective date of this act shall be prepared by the producer or
18 designee of the producer. After the plan is submitted to the
19 Oklahoma Department of Agriculture, Food, and Forestry may
20 ~~promulgate rules providing voluntary fees charged to registered~~ for
21 review and approval and the Department determines that a submitted
22 plan needs or requires any corrections or modifications, the
23 Department shall return an original plan to the producer for needed
24 corrections. However, if the Department determines a renewal plan

1 needs or requires corrections or modification, the Department shall
2 make any and all needed corrections to approve the plan and notify
3 the poultry feeding operations for the development and writing of
4 Nutrient Management Plans, operation of the modifications and
5 approve the plan.

6 E. Except as otherwise provided in this subsection, a Nutrient
7 Management Plan for every poultry feeding operation shall be renewed
8 and an updated plan shall be submitted to the Oklahoma Department of
9 Agriculture, Food, and Forestry every six (6) years from the date
10 the initial or previous plan was submitted. The producer shall have
11 the option to submit the renewed or updated plan through the
12 Department's website or a printable online form designed by the
13 Department. However, a current poultry operator may submit a one-
14 page amendment to the most recently submitted plan in lieu of a
15 renewal plan through the Department's website. Poultry feeding
16 operations submitting an amendment pursuant to this subsection shall
17 still be subject to the soil and poultry waste testing requirements
18 under subsections F and G of this section. The amendment shall
19 contain the following statements:

20 1. No changes in the waste utilization standards have occurred
21 since the most recently submitted Nutrient Management Plan;

22 2. There has been no change to the number of poultry housed
23 since the most recently submitted Nutrient Management Plan;
24

1 3. There has been no expansion in the poultry feeding operation
2 since the most recently submitted Nutrient Management Plan; and

3 4. The entirety of the poultry waste is:

- 4 a. removed off site as provided in the poultry feeding
5 operation's annual report, as required by subsection J
6 of this section, and will continue to be removed off
7 site for the next six (6) years, or
8 b. land-applied and will continue to be land-applied for
9 the next six (6) years.

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

- 14 1. Soil pH and plant-available nutrients including, at a
15 minimum, nitrogen, phosphorous and potassium;
16 2. Poultry waste nutrient concentrations and moisture; and
17 3. Application rate based upon current United States Department
18 of Agriculture Natural Resources Conservation Service Waste
19 Utilization Standards, unless the Oklahoma Department of
20 Agriculture, Food, and Forestry approves other standards.

21 ~~F.~~ G. Every poultry feeding operation located in a nutrient-
22 limited watershed and nutrient-vulnerable groundwater shall perform
23 an annual soil test on each land-application area prior to the first
24 application of the calendar year. Poultry waste testing shall be

1 performed annually prior to the first application of the calendar
2 year. Soil and poultry waste testing shall be performed to
3 determine:

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

6 2. Poultry waste nutrient concentrations and moisture; and

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

11 ~~G.~~ H. 1. Soil and poultry waste analysis data shall be
12 retained by the poultry feeding operation for a minimum of six (6)
13 years.

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

16 ~~H.~~ I. 1. Poultry feeding operations shall develop a plan for
17 the disposal of carcasses associated with normal mortality.

18 2. In the event there is an outbreak of a major disease or
19 other emergency resulting in deaths significantly higher than normal
20 mortality rates, the Oklahoma Department of Agriculture, Food, and
21 Forestry may approve, in writing, an alternate method of disposal of
22 carcasses or the storage of poultry waste during the emergency
23 period.

1 ~~F.~~ J. Every poultry feeding operation shall file by September 1
2 of each year an annual report with the Department regarding all
3 poultry waste removed from or land-applied by the facility for the
4 period from July 1 of the previous year through June 30 of that
5 year. The report shall contain the following information:

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

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

11 3. The county and, if applicable, the name of the Nutrient
12 Limited Watershed where the poultry waste was produced; and

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

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

15 (1) the date of the ~~land-application~~ land
16 application,

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

19 (3) the name, mailing address, and telephone number
20 of the poultry waste applicator, and

21 (4) the number of acres under the control of the
22 poultry feeding operation for ~~land-application~~
23 land application of poultry waste, or

24 b. if removed off site, provide the following:

- (1) the date of the removal off site,
- (2) the amount of poultry waste removed in wet tons,
dry tons, or cubic yards,
- (3) the name, mailing address, and telephone number
of the person the poultry waste is sold or
transferred to,
- (4) the name, mailing address, telephone number, and
poultry waste applicator license number of the
poultry waste applicator, if known, and
- (5) the name, mailing address, and telephone number
of the hauler of the poultry waste.

SECTION 2. It being immediately necessary for the preservation
of the public peace, health or 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.

57-2-10807 AMM 02/13/20