

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2792

By: Hardin (David) of the House

and

7 **Murdock** of the Senate

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11 COMMITTEE SUBSTITUTE

12 An Act relating to agriculture; amending 2 O.S. 2011,
13 Section 10-9.7, as last amended by Section 5, Chapter
14 313, O.S.L. 2015 (2 O.S. Supp. 2019, Section 10-9.7),
15 which relates to the Oklahoma Registered Poultry
16 Feeding Operations Act; requiring Nutrient Management
17 Plans to be prepared by certain persons; allowing
18 certain plan corrections or modifications; providing
19 plan renewal period; providing exception to renewals;
20 and declaring an emergency.

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

22 SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.7, as
23 last amended by Section 5, Chapter 313, O.S.L. 2015 (2 O.S. Supp.
24 2019, Section 10-9.7), is 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 covers, 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 Oklahoma Department of Agriculture, Food, and
24 Forestry to implement the Oklahoma Registered Poultry

1 Feeding Operations Act and rules promulgated pursuant
2 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 a Nutrient
11 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 if land application is applicable;

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~~ 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 Nutrient Management Plan
2 shall 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 Oklahoma
6 Department of Agriculture, Food, and Forestry pursuant
7 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
12 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 Oklahoma Department of Agriculture, Food, and
16 Forestry; and

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

21 D. 1. The Nutrient Management Plan for new or expanding
22 poultry feeding operations submitted after the effective date of
23 this act shall be prepared by the operator or designee of the
24 operator.

1 2. After the plan is submitted to the Oklahoma Department of
2 Agriculture, Food, and Forestry ~~may promulgate rules providing~~
3 ~~voluntary fees charged to registered~~ for review and approval if the
4 Department determines that a submitted plan needs or requires any
5 corrections or modifications, the Department shall return the
6 Nutrient Management Plan to the operator for corrections.

7 3. For a renewal, if the Department determines the Nutrient
8 Management Plan needs or requires corrections or modification, the
9 Department shall make any and all appropriate corrections, approve
10 the plan and notify the poultry feeding ~~operations for the~~
11 ~~development and writing of Nutrient Management Plans; operation of~~
12 the modifications.

13 E. 1. Except as otherwise provided in this subsection, a
14 Nutrient Management Plan for every poultry feeding operation shall
15 be renewed and an updated plan shall be submitted to the Oklahoma
16 Department of Agriculture, Food, and Forestry every six (6) years
17 from the date the initial or previous plan was submitted.

18 2. The operator shall have the option to submit the renewed or
19 updated plan through the Department's website or a printable online
20 form designed by the Department.

21 3. A current operator may submit a one-page amendment to the
22 most recently submitted plan in lieu of a renewal plan through the
23 Department's website, if applicable. Poultry feeding operations
24 submitting an amendment pursuant to this subsection shall still be

1 subject to the soil and poultry waste testing requirements under
2 subsections F and G of this section. The amendment shall contain
3 the following statements:

4 a. no changes in the waste utilization standards have
5 occurred since the most recently submitted Nutrient
6 Management Plan,

7 b. there has been no change to the number of poultry
8 housed since the most recently submitted Nutrient
9 Management Plan,

10 c. there has been no expansion in the poultry feeding
11 operation since the most recently submitted Nutrient
12 Management Plan, and

13 d. the entirety of the poultry waste is:

14 (1) removed off site as provided in the poultry
15 feeding operation's annual report, as required by
16 subsection J of this section, and will continue
17 to be removed off site for the next six (6)
18 years, or

19 (2) land-applied and will continue to be land-applied
20 for the next six (6) years.

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

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

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

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

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

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

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

5 2. In the event there is an outbreak of a major disease or
6 other emergency resulting in deaths significantly higher than normal
7 mortality rates, the Oklahoma Department of Agriculture, Food, and
8 Forestry may approve, in writing, an alternate method of disposal of
9 carcasses or the storage of poultry waste during the emergency
10 period.

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

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

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

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

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

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

- (1) the date of the ~~land-application~~ land application,
- (2) the total amount of poultry waste land-applied in wet tons, dry tons, or cubic yards,
- (3) the name, mailing address, and telephone number of the poultry waste applicator, and
- (4) the number of acres under the control of the poultry feeding operation for ~~land-application~~ land application of poultry waste, or

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

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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4 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
5 dated 02/26/2020 - DO PASS, As Amended and Coauthored.
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