

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2792

6 By: Hardin (David)

7 COMMITTEE SUBSTITUTE

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

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

18 SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.7, as
19 last amended by Section 5, Chapter 313, O.S.L. 2015 (2 O.S. Supp.
20 2019, Section 10-9.7), is amended to read as follows:

21 Section 10-9.7 A. All poultry feeding operations shall utilize
22 Best Management Practices and shall meet the conditions and
23 requirements established by subsection B of this section and by
24 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

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

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

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

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

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

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

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

20 a. if the poultry waste is sold or given to other persons
21 for land application or other use, the poultry feeding
22 operation shall maintain a log of: date of removal
23 from the poultry feeding operation; name of recipient
24 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. 1. The Nutrient Management Plan for new or expanding
17 poultry feeding operations submitted after the effective date of
18 this act shall be prepared by the operator or designee of the
19 operator.

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

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

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

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

17 3. A current operator may submit a one-page amendment to the
18 most recently submitted plan in lieu of a renewal plan through the
19 Department's website, if applicable. Poultry feeding operations
20 submitting an amendment pursuant to this subsection shall still be
21 subject to the soil and poultry waste testing requirements under
22 subsections F and G of this section. The amendment shall contain
23 the following statements:

1 a. no changes in the waste utilization standards have
2 occurred since the most recently submitted Nutrient
3 Management Plan,

4 b. there has been no change to the number of poultry
5 housed since the most recently submitted Nutrient
6 Management Plan,

7 c. there has been no expansion in the poultry feeding
8 operation since the most recently submitted Nutrient
9 Management Plan, and

10 d. the entirety of the poultry waste is:

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

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

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

22 1. Soil pH and plant-available nutrients including, at a
23 minimum, nitrogen, phosphorous and potassium;

24 2. Poultry waste nutrient concentrations and moisture; and

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

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

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

14 2. Poultry waste nutrient concentrations and moisture; and

15 3. Application rate based upon current United States Department
16 of Agriculture Natural Resources Conservation Service Waste
17 Utilization Standards, unless the Oklahoma Department of
18 Agriculture, Food, and Forestry approves other standards.

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

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

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

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

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

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

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

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

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

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

23 (1) the date of the ~~land-application~~ land
24 application,

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

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

- 9 (1) the date of the removal off site,
- 10 (2) the amount of poultry waste removed in wet tons,
- 11 dry tons, or cubic yards,
- 12 (3) the name, mailing address, and telephone number
- 13 of the person the poultry waste is sold or
- 14 transferred to,
- 15 (4) the name, mailing address, telephone number, and
- 16 poultry waste applicator license number of the
- 17 poultry waste applicator, if known, and
- 18 (5) the name, mailing address, and telephone number
- 19 of the hauler of the poultry waste.

20 SECTION 2. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
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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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