

Title 35. Oklahoma Department of Agriculture, Food, and Forestry
Chapter 17 – Water Quality
SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

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35:17-5-1. Purpose

These rules shall serve to control nonpoint source runoff and discharges from poultry waste application of poultry feeding operations. The rules allow for the monitoring of poultry waste application to land or removal from these operations and assist in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma. These rules are promulgated pursuant to and are read in conjunction with the Oklahoma Registered Poultry Feeding Operations Act found at Section 10-9.1 et seq. at Title 2 of the Oklahoma Statutes. The provisions of the Oklahoma Registered Poultry Feeding Operations Act are incorporated by reference.

[**Source:** Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-2. Definitions

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Discharge" means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State.

"Nutrient Management Plan" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the Oklahoma Department of Agriculture, Food and Forestry pursuant to the

provisions of Section 10-9.7 of Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.

"Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions, and:

(A) Is not readily mobile,

(B) Is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and

(C) Is occupied as a residence.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99; Amended at 30 Ok Reg 813, eff 7-1-13; Amended at 33 Ok Reg 1164, eff 9-11-16; Amended at 36 Ok Reg 1362, eff 9-14-19]

35:17-5-3. Registration, Nutrient Management Plan (NMP) required

(a) Registration.

(1) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.

(2) Every poultry feeding operation shall be required to reregister annually by January 1 to operate.

(3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

(4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) Nutrient Management Plan.

(1) Every poultry feeding operation shall obtain or apply for an approved NMP addressing both nitrogen and phosphorus.

(2) All new operators of poultry feeding operations shall obtain or apply for a NMP prior to construction of the facility. The NMP shall be completed and implemented within one year of application.

(3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.

(4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans shall also be reviewed and updated in the following circumstances:

(A) When the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards or

(B) Upon notification of the Oklahoma Department of Agriculture, Food, and Forestry.

(5) The NMP shall be updated prior to the expansion of a facility.

(6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and Forestry. In no event shall the poultry feeding operation land apply poultry waste in excess of the standards contained in Appendix A.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99; Amended at 30 Ok Reg 813, eff 7-1-13; Amended at 33 Ok Reg 1164, eff 9-11-16; Amended at 37 Ok Reg 957, eff 9-14-20; Amended at 40 Ok Reg 123, eff 10-20-22 (emergency); Amended at 40 Ok Reg 1504, eff 9-11-23]

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

(B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.

(C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility;

(2) Public school shall be one thousand five hundred (1,500) feet;

(3) Incorporated city limits shall be one thousand five hundred (1,500) feet;

(4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;

(5) Property line shall be one hundred and fifty (150) feet;

(6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;

(7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and

(8) Public well shall be five hundred (500) feet.

(b) The setbacks contained in subsections (a)(1), (2) and (3) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), and (3) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.

(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:

- (1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and
 - (2) Identification of all locations listed in subsection (a) within one (1) mile of the facility.
- (d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.
- (e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.
- (f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.
- [Source: Added at 36 Ok Reg 1362, eff 9-14-19]

35:17-5-3.2. Cancellation of poultry feeding operation registration

- (a) A request to cancel registration of a poultry feeding operation shall be in writing and include a final annual report for the current fiscal year.
- (b) Poultry waste shall be property removed from all poultry waste management systems prior to request for cancellation of a poultry feeding operation registration.
- [Source: Added at 37 Ok Reg 957, eff 9-14-20]

35:17-5-4. Soil and litter tests required

- (a) All soil and poultry waste analysis data shall be dated prior to land application.
- (b) Poultry waste shall be applied only by a certified poultry waste applicator.
- [Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98; Revoked at 15 Ok Reg 4266, eff 8-20-98 (emergency); Revoked at 16 Ok Reg 2119, eff 6-25-99; Added at 33 Ok Reg 1164, eff 9-11-16; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-5-5. Nutrient Management Plan

- (a) The NMP shall comply with all requirements contained in Appendix B and shall contain, at a minimum, the following:
- (1) A description of poultry waste handling procedures and availability of equipment and type of equipment to be used.
 - (2) The calculations and assumptions used for determining land application rates.
 - (3) All nutrient analysis data, including soil and poultry waste testing.
 - (4) Legal description of lands to be used by an operation for land application.
 - (5) Soils map with description and type or series.
 - (6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.
 - (7) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:
 - (A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are

necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(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 or snow covered except in conformance with the NMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(H) Poultry waste shall only be applied by a certified poultry waste applicator.

(b) The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(2) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.

(3) Composting by methods as approved in the NMP.

(4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.

(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99; Amended at 30 Ok Reg 813, eff 7-1-13; Amended at 33 Ok Reg 1164, eff 9-11-16; Amended at 37 Ok Reg 957, eff 9-14-20; Amended at 40 Ok Reg 123, eff 10-20-22 (emergency); Amended at 40 Ok Reg 1504, eff 9-11-23]

35:17-5-6. Poultry waste Transfers

In the event poultry waste cannot be used on the premises of the poultry feeding operation, the poultry waste shall be sold, given away, or otherwise safely removed from the premises.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-7. Record keeping

(a) The following records shall be maintained for a minimum of six (6) years and shall be available at all times to the State Department of Agriculture:

- (1) Poultry waste application records, rates, and dates of application.
- (2) If the poultry waste is sold or given to other persons, the poultry feeding operation shall maintain a log of:
 - (A) Date of removal from the poultry feeding operation.
 - (B) Name of recipient the poultry waste is sold or given to.
 - (C) Amount in wet tons, dry tons, or cubic yards of poultry waste removed from the poultry feeding operation.
 - (D) Poultry feeding operations located in a nutrient limited watershed or nutrient vulnerable groundwaters as defined by the Oklahoma Water Resources Board shall make available to the recipient any nutrient sample analysis from that year. Poultry feeding operations located in non-nutrient limited watersheds or non-nutrient vulnerable groundwaters shall make available to the recipient the most recent nutrient sample analysis.

(b) Education certifications shall be maintained for a period of five (5) years and shall be available at all times to the State Department of Agriculture.

(c) Soil and poultry waste analysis data shall be retained by the poultry feeding operation for no less than six (6) years.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99; Amended at 33 Ok Reg 1164, eff 9-11-16]

35:17-5-9. Complaints

Upon receipt of a complaint, the State Department of Agriculture shall notify the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, will be notified within five (5) working days. The State Department of Agriculture or its authorized agents are empowered to enter upon the premises of any poultry feeding operation for the purpose of investigating complaints regarding the operation or to determine compliance with the Oklahoma Registered Poultry Feeding Operations Act. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent determined necessary by the State Department of Agriculture. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-9.1. Biosecurity

(a) Standard precautions for the prevention of the transmission of communicable diseases to humans and animals shall be used by employees of the State Department of Agriculture when inspecting poultry feeding operations pursuant to their official duties specified by the Oklahoma Registered Poultry Feeding Operations Act.

(b) Except for emergency situations or when enforcement of the provisions of the Oklahoma Registered Poultry Feeding Operations Act is required, the State Department of Agriculture shall observe the health standards and sanitary requirements of the facility.

[Source: Added at 15 Ok Reg 2520, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-11. Education

(a) All operators of poultry feeding operations shall attend educational courses on poultry waste handling provided by the Oklahoma Cooperative Extension Service.

(b) All operators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the operator has received a total of nineteen (19) hours of training. Any operator may attend more hours than are required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator will graduate from the program but shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) Courses for poultry waste management shall include the following topics:

(A) Environmental process relevant to protecting water quality in poultry production;

(B) Basic handling systems to manage poultry waste from all types of poultry operations;

(C) Nutrient management, including sampling procedures, application rate determination, equipment calibration, and record keeping systems;

(D) Relevant laws and rules applicable to poultry waste management in the State of Oklahoma; and

(E) Any other related subject as determined by Oklahoma Cooperative Extension Service in consultation with the Department.

(d) At the completion of each course, the operator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

(e) Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act.

(f) No integrator shall enter into any contract with an operator of a poultry feeding operation who is not in compliance with the education requirements of this section.

(g) All operators shall obtain the required education no later than December 31st of each calendar year.

(h) Oklahoma Cooperative Extension Service education courses previously taken by an operator pursuant to rules promulgated by the State Board of Agriculture for Commercial Poultry Operations shall count towards the mandatory education requirements contained in the Oklahoma Registered Poultry Feeding Operations Act.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98; Amended at 15 Ok Reg 4266, eff 8-20-98; Amended at 16 Ok Reg 2119, eff 6-25-99; Amended at 22 Ok Reg 2306, eff 7-11-05; Amended at 29 Ok Reg 1694, eff 8-1-12]