

Title 35 - Oklahoma Department of Agriculture, Food, and Forestry
Chapter 17 - Water Quality
Subchapter 5 - Registered Poultry Feeding Operations

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:

"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 required by the State Department of Agriculture pursuant to the provisions of Section 10-9.7 at Title 2 of the Oklahoma Statutes. The plan shall be prepared by the USDA NRCS or an entity approved by the State Department of Agriculture.

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

"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]

35:17-5-3. Registration and Animal Waste Management Plan required

(a) Registration.

(1) Every poultry feeding operation in operation on July 1, 1998 shall register by January 1, 1999. All registrations shall be received by the State Department of Agriculture prior to January 1, 1999.

(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.

(5) 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.

(b) Animal Waste Management Plan.

(1) Every poultry feeding operation shall obtain or apply for an approved Animal Waste Management Plan addressing both nitrogen and phosphorus by January 1, 1999.

(2) All new operators of poultry feeding operations shall obtain or apply for an Animal Waste Management Plan prior to construction of the facility.

(3) The Animal Waste Management Plan shall be prepared by USDA NRCS or an entity approved by the State Department of Agriculture.

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

(A) When a change in the waste utilization standards occurs and upon notification by the State Department of Agriculture.

(B) Upon recommendation of the State Department of Agriculture.

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

(6) All poultry feeding operations with an existing Animal Waste Management Plan not based on a soil test and current USDA NRCS phosphorus standards shall update the plan or apply for an update by January 1, 1999 and the plan shall address both nitrogen and phosphorus.

(7) Implementation of the AWMP shall occur within ninety (90) days of receipt of the AWMP unless otherwise determined by the State Department of Agriculture. In no event shall the poultry feeding operation land apply poultry waste in excess of the current USDA NRCS Waste Utilization Standards, unless the State Department of Agriculture approves other standards.

[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]

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

[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]

35:17-5-5. Animal Waste Management Plan requirements

(a) The Animal Waste Management Plan 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 AWMP 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 AWMP.
 - (C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the AWMP. 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 AWMP.
 - (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.
- (b) The AWMP shall also include a method for the disposal of carcasses. The AWMP 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 AWMP.
 - (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]

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 period 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 as long as the site is in operation.

[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]

35:17-5-8. Inspections [REVOKED]

[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. 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]

35:17-5-10. Investigations and penalties [REVOKED]

[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]

35:17-5-10.1. Violation points system

In addition to the State Department of Agriculture's enforcement authority, the following violation points system shall be utilized to assess points prior to designating a poultry feeding operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act pursuant to Section 9-201 et seq. of Title 2 of the Oklahoma Statutes.

(1) When any poultry feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, that poultry feeding operation shall be designated a concentrated animal feeding operation and shall comply with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act.

(2) Points shall accrue based on the following violations of the Oklahoma Registered Poultry Feeding Operations Act:

(A) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for registration shall be a significant violation and accrue three (3) to five (5) points.

(B) Constructing or operating a new poultry feeding operation without first registering with the State Board of Agriculture shall accrue two (2) to five (5) points.

(C) Failure to register a poultry feeding operation by January 1, 1999 which was in operation on July 1, 1998 shall accrue two (2) to five (5) points.

- (D) Failure by a poultry feeding operation to annually reregister with the State Board of Agriculture shall accrue one (1) to three (3) points.
 - (E) Increasing the capacity of a poultry feeding operation in excess of ten percent (10%) of the facility's original licensed capacity prior to reregistering with the State Board of Agriculture shall accrue one (1) to two (2) points.
 - (F) Failure of a poultry feeding operation to send written notification to the State Department of Agriculture upon changing integrators shall accrue one (1) point.
 - (G) Failure by the operator of a poultry feeding operation to attend the required hours of educational courses on poultry waste handling and management specified by the Oklahoma Registered Poultry Feeding Operations Act shall accrue two (2) to four (4) points.
 - (H) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the Animal Waste Management Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue three (3) to five (5) points.
 - (I) Failure by a poultry feeding operation to utilize or comply with Best Management Practices or the Animal Waste Management Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue one (1) to three (3) points.
 - (J) Failure by a poultry feeding operation to keep all records as required by the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated thereunder shall accrue one (1) to three (3) points.
 - (K) Failure by a poultry feeding operation to properly dispose of carcasses or failure to follow the carcass disposal plan as outlined in the Animal Waste Management Plan shall accrue two (2) to four (4) points.
 - (L) Failure to allow inspections of the poultry feeding operation facility or records for purposes of routine inspections, complaint investigations, or any other type of inspection shall be a significant violation and accrue three (3) to five (5) points.
 - (M) Knowingly making any false statement, representation, or certification form, notice, or report, or knowingly rendering inaccurate any monitoring device or method required to be maintained shall be a significant violation and accrue three (3) to five (5) points.
 - (N) Any other violation of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder shall accrue one (1) to five (5) points, depending upon the severity of the violation as determined by the State Board of Agriculture.
 - (O) If a violation is deemed to be willful or intentional, up to an additional five (5) points may be added to the total points per violation by the State Board of Agriculture and the violation shall be deemed significant.
- (3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Water Quality Services Division of the State Department of

Agriculture. Assessment of points by the Water Quality Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) In the event that a violation is not corrected within sixty (60) days, an additional accrual of assessed points may occur.

(5) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate designation as a concentrated animal feeding operation and subject to the Oklahoma Concentrated Animal Feeding Operations Act.

(6) Any poultry feeding operation designated as a concentrated animal feeding operation shall be so designated for a minimum of one (1) year and the registration as a poultry feeding operation shall be suspended. At the State Department of Agriculture's discretion, the poultry feeding operation may reinstate the registration and the designation as a concentrated animal feeding operation may be removed so long as the poultry feeding operation complies with all conditions which the State Department of Agriculture imposes on the poultry feeding operation.

(7) Conditions for removal from the designation as a concentrated animal feeding operation shall at a minimum include compliance during the entire designation with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act and its attendant rules, and correction of all conditions which caused the designation as a concentrated animal feeding operation.

[Source: Added at 15 Ok Reg 4271, eff 8-2-98 (emergency); Added 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 no less than nine (9) hours of education in the first year and no less than three (3) hours each year thereafter.

(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) An operator may carry forward up to three (3) education hours to the next calendar year.

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

(i) 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]

35:17-5-12. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)]

EDITOR'S NOTE: *'This emergency action reserving Section number 35:17-5-12 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action]*

35:17-5-13. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)]

EDITOR'S NOTE: *'This emergency action reserving Section number 35:17-5-13 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action]*

35:17-5-14. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)]

EDITOR'S NOTE: *'This emergency action reserving Section number 35:17-5-14 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action]*

35:17-5-15. Floodplain restrictions [EXPIRED]

[Source: Added at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)]

EDITOR'S NOTE: *'This emergency action expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action] Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-02 (after the 7-14-02 expiration of this emergency action), Section 35:17-5-15 was no longer effective. For the official text of the emergency rule that was in effect from 1-29-02 through 7-14-02, see 19 Ok Reg 719.*