

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 17. WATER QUALITY
SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS**

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.

"**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.

"**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;

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.

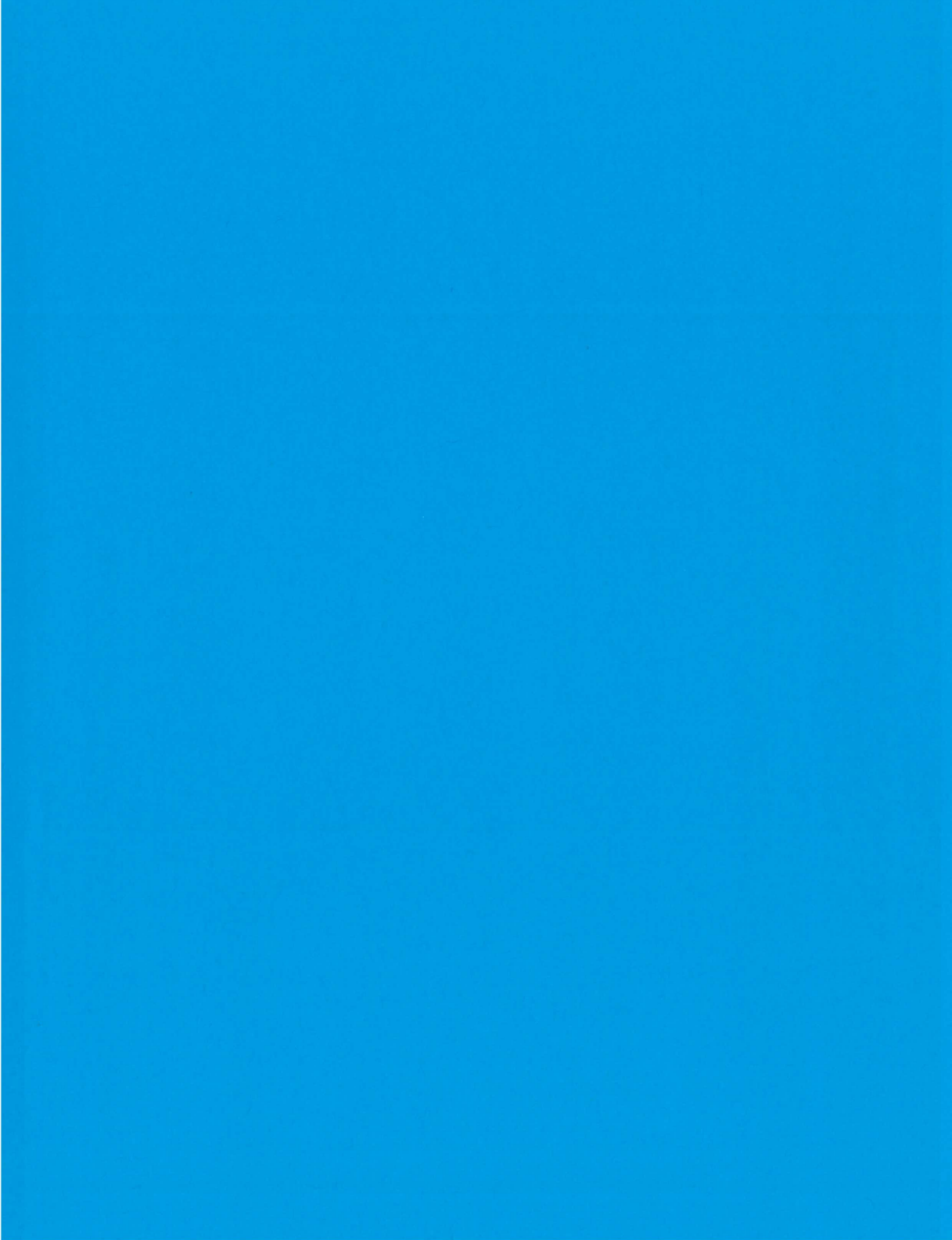
(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:

- (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.



RULE IMPACT STATEMENT

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 17. WATER QUALITY**

- (A) **PURPOSE OF THE PROPOSED RULE:**
The proposed new rule establishes setbacks for new or expanding construction of poultry barns.
- (B) **CLASSES OF PERSONS WHO MOST LIKELY WILL BE AFFECTED BY THE PROPOSED RULE AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:**
The proposed rule amendments affect persons regulated by the Department's poultry feeding operations. No cost impacts have been received to date.
- (C) **PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULE:**
Persons and municipalities relying Department's poultry feeding operations programs will benefit from the proposed rule amendments.
- (D) **DESCRIPTION OF THE PROBABLE IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS:**
Persons and municipalities relying on the Department's poultry feeding operations programs will be provided with notice relating to setbacks.
- (E) **PROBABLE COST AND BENEFITS TO AGENCY; SOURCE OF REVENUE FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULE:**
No additional cost to the Department is anticipated by the proposed rule amendments.
- (F) **DETERMINATION OF WHETHER IMPLEMENTATION WILL HAVE ANY ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE PROPOSED RULE:**
No effect on any political subdivision is anticipated by the proposed rule amendments.
- (G) **DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULE WILL HAVE AN ADVERSE EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**
The proposed rule amendments will have no adverse effect on small business.
- (H) **DETERMINATION OF WHETHER THERE ARE LESS COSTLY METHODS OR NON-REGULATORY METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:**
The Department is unaware of any non-regulatory methods to achieve the purpose of the proposed rule amendments.

(I) **DETERMINATION OF THE EFFECT OF THE PROPOSED RULE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The proposed rule amendments will not detrimentally affect the public health, safety, and environment.

(J) **DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT:**

The Department is not aware of any detrimental effect the proposed rule amendments will have on public health, safety, and environment.

(K) **DATE RULE IMPACT STATEMENT WAS PREPARED:**

This rule impact statement was prepared on December 20, 2018.