

TEXAS WATER CODE
TITLE 2. WATER ADMINISTRATION
SUBTITLE D. WATER QUALITY CONTROL
CHAPTER 26. WATER QUALITY CONTROL

SUBCHAPTER H. POULTRY OPERATIONS

§26.301. DEFINITIONS.

In this subchapter:

- (1) "Poultry" means chickens or ducks being raised or kept on any premises in the state for profit.
- (2) "Poultry carcass" means the carcass, or part of a carcass, of poultry that died as a result of a cause other than intentional slaughter for use for human consumption.
- (3) "Poultry facility" means a facility that:
 - (A) is used to raise, grow, feed, or otherwise produce poultry for commercial purposes; or
 - (B) is a commercial poultry hatchery that is used to produce chicks or ducklings.
- (4) "Poultry litter" includes poultry excrement, bedding, and feed waste.
- (5) "Liquid waste handling system" has the meaning assigned by Section 26.0286.

Added by Acts 1997, 75th Leg., ch. 1074, Sec. 1, eff. March 1, 1998.

Amended by: Acts 2005, 79th Leg., Ch. [418](#), Sec. 3, eff. September 1, 2005.

§26.302. REGULATION OF POULTRY FACILITIES.

- (a) A person who owns or operates a poultry facility shall ensure that the facility has adequate means or is adequately equipped to handle and dispose of poultry carcasses, poultry litter, and other poultry waste regardless of whether the person owns the poultry.
- (b) A person who owns or operates a poultry facility shall implement and maintain a water quality management plan for the facility that is certified by the State Soil and Water Conservation Board under Section 201.026, Agriculture Code.
 - (b-1) The State Soil and Water Conservation Board may certify a water quality management plan for a poultry facility that:
 - (1) does not use a liquid waste handling system; and
 - (2) is required to obtain a permit or other authorization from the commission.
 - (b-2) The State Soil and Water Conservation Board in consultation with the Texas Commission on Environmental Quality by rule shall establish criteria to determine the geographic, seasonal, and agronomic factors that the board will consider to determine whether a persistent nuisance odor condition is likely to occur when assessing the siting and construction of new poultry facilities.
 - (b-3) The State Soil and Water Conservation Board may not certify a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors. This subsection does not apply to:

(1) a revision of a previously certified and existing water quality management plan unless the revision is necessary because of an increase in poultry production of greater than 50 percent than the amount included in the existing certified water quality management plan for the facility; or

(2) any poultry facility located more than one-half of one mile from a surrounding business, permanently inhabited off-site residence, or place of worship established before the date of construction of the poultry facility.

(c) The commission may bring a cause of action to remedy or prevent a violation of this section.

(d) This section does not affect the authority of the commission to investigate or take enforcement action against an unauthorized discharge under Section 26.121.

Added by Acts 1997, 75th Leg., ch. 1074, Sec. 1, eff. March 1, 1998. Amended by Acts 2001, 77th Leg., ch. 277, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. [418](#), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [1386](#), Sec. 2, eff. September 1, 2009.

§26.303. HANDLING AND DISPOSAL OF POULTRY CARCASSES.

(a) Except as provided by Subsection (a-1), the commission by rule shall adopt requirements for the safe and adequate handling, storage, transportation, and disposal of poultry carcasses. The rules must:

(1) specify the acceptable methods for disposal of poultry carcasses, including:

(A) placement in a landfill permitted by the commission to receive municipal solid waste;

(B) composting;

(C) cremation or incineration;

(D) extrusion;

(E) on-farm freezing;

(F) rendering; and

(G) any other method the commission determines to be appropriate;

(2) require poultry carcasses stored on the site of a poultry facility to be stored in a varmint-proof receptacle to prevent odor, leakage, or spillage;

(3) prohibit the storage of poultry carcasses on the site of a poultry facility for more than 72 hours unless the carcasses are refrigerated or frozen; and

(4) authorize the on-site burial of poultry carcasses only in the event of a major die-off that exceeds the capacity of a poultry facility to handle and dispose of poultry carcasses by the normal means used by the facility.

(a-1) A rule adopted under Subsection (a) may not apply to the disposal of carcasses of poultry that died as a result of a disease, which is governed by Section 161.004, Agriculture Code.

(b) A person must obtain any permit required by other law before disposing of poultry carcasses as provided by Subsection (a)(1).

Added by Acts 1997, 75th Leg., ch. 1074, Sec. 1, eff. March 1, 1998.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1198](#), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1242](#), Sec. 17, eff. September 1, 2007.

§26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR APPLICATION OF POULTRY LITTER.

(a) A poultry facility that sells or transfers poultry litter for off-site application must maintain until the second anniversary of the date of sale or transfer a record regarding:

- (1) the identity of the purchaser or applicator;
- (2) the physical destination of the poultry litter identified by the purchaser or transferee;
- (3) the date the poultry litter was removed from the poultry facility; and
- (4) the number of tons of poultry litter removed.

(b) A person that purchases or obtains poultry litter for land application must maintain until the second anniversary of the date of application a signed and dated proof of delivery document for every load of poultry litter applied to land. The landowner or the owner's tenant or agent shall note on the document the date or dates on which the poultry litter was applied to land.

(c) Subsection (b) does not apply to poultry litter that is:

- (1) taken to a composting facility;
- (2) used as a bio-fuel;
- (3) used in a bio-gasification process; or
- (4) otherwise beneficially used without being applied to land.

Added by Acts 2009, 81st Leg., R.S., Ch. [1386](#), Sec. 3, eff. September 1, 2009.

§ 26.305. INSPECTION OF RECORDS.

The commission may inspect any record required to be maintained under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [1386](#), Sec. 3, eff. September 1, 2009.