

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 1

An Act to amend the Code of Virginia by adding in Article 3 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.17:1.1, relating to poultry waste management.

[H 1207]

Approved January 29, 1999

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 3 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.17:1.1 as follows:

§ 62.1-44.17:1.1. Poultry waste management program.

A. As used in this section, unless the context requires a different meaning:

"Commercial poultry processor" means any animal food manufacturer, as defined in § 3.1-884.18, that contracts with poultry growers for the raising of poultry.

"Confined poultry feeding operation" means any confined animal feeding operation with 200 or more animal units of poultry.

"Nutrient management plan" means a plan developed or approved by the Department of Conservation and Recreation that requires proper storage, treatment and management of poultry waste, including dry litter, and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters.

"Poultry grower" means any person who owns or operates a confined poultry feeding operation.

B. The Board shall develop a regulatory program governing the storage, treatment and management of poultry waste, including dry litter, that:

1. Requires the development and implementation of nutrient management plans for any person owning or operating a confined poultry feeding operation;

2. Provides for waste tracking and accounting; and

3. Ensures proper storage of waste consistent with the terms and provisions of a nutrient management plan.

C. The program shall include, at a minimum:

1. Provisions for permitting confined poultry feeding operations under a general permit; however, the Board may require an individual permit upon determining that an operation is in violation of the program developed under this section;

2. Provisions requiring that:

a. Nitrogen application rates contained in nutrient management plans developed pursuant to this section shall not exceed crop nutrient needs as determined by the Department of Conservation and Recreation. The application of poultry waste shall be managed to minimize runoff, leaching, and volatilization losses, and reduce adverse water quality impacts from nitrogen;

b. For all nutrient management plans developed pursuant to this section after October 1, 2001, phosphorus application rates shall not exceed the greater of crop nutrient needs or crop nutrient removal, as determined by the Department of Conservation and Recreation. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous;

c. By December 31, 2005, the Department of Conservation and Recreation, in consultation with the Department of Environmental Quality, shall (i) complete an examination of current developments in scientific research and technology which shall include a review of land application of poultry waste, soil nutrient retention capacity, and water quality degradation and (ii) adopt and implement regulatory or other changes, if any, to its nutrient management plan program that it concludes are appropriate as a result of this examination; and

d. For all nutrient management plans developed pursuant to this section after December 31, 2005, and not prior thereto, phosphorous application rates shall conform to the provisions of subdivision 2 b of this subsection and shall be in accordance with other regulatory criteria and standards, if any, amended or adopted by the Department of Conservation and Recreation pursuant to subdivision 2 c of this subsection to protect water quality or to reduce soil concentrations of phosphorous or phosphorous loadings. The application of poultry waste shall be managed to minimize runoff and leaching and reduce adverse water quality impacts from phosphorous.

D. The program shall reflect Board consideration of existing state-approved nutrient management plans and existing general permit programs for other confined animal feeding operations, and may include such other provisions as the Board determines appropriate for the protection of state waters.

E. After October 1, 2001, all persons owning or operating a confined poultry feeding operation shall operate in compliance with the provisions of this section and any regulations promulgated thereunder.

F. Any person violating this section shall be subject only to the provisions of §§ 62.1-44.23 and 62.1-44.32 (a), except that any civil penalty shall not exceed \$2,500.

G. On or before January 1, 2000, or prior to commencing operations, each commercial poultry processor operating in the Commonwealth shall file with the Board a plan under which the processor, either directly or under contract with a third party, shall:

1. Provide technical assistance to the poultry growers with whom it contracts on the proper management and storage of poultry waste in accordance with best management practices;

2. Provide education programs on poultry waste nutrient management for the poultry growers with whom it contracts as well as for poultry litter brokers and persons utilizing poultry waste;

3. Provide a toll-free hotline and advertising program to assist poultry growers with excess amounts of poultry waste to make available such waste to persons in other areas who can use such waste as a fertilizer consistent with the provisions of subdivision C 2 or for other alternative purposes;

4. Participate in the development of a poultry waste transportation and alternative use equal matching grant program between the Commonwealth and commercial poultry processors to (i) facilitate the transportation of excess poultry waste in the possession of poultry growers with whom it contracts to persons in other areas who can use such waste as a fertilizer consistent with the provisions of subdivision C 2 or for other alternative purposes and (ii) encourage alternative uses to land application of poultry waste;

5. Conduct research on the reduction of phosphorus in poultry waste, innovative best management practices for poultry waste, water quality issues concerning poultry waste, or alternative uses of poultry waste; and

6. Conduct research on and consider implementation of nutrient reduction strategies in the formulation of feed. Such nutrient reduction strategies may include the addition of phytase or other feed additives or modifications to reduce nutrients in poultry waste.

H. Any amendments to the plan required by subsection G shall be filed with the Board before they are implemented. After January 1, 2000, each commercial poultry processor shall implement its plan and any amendments thereto. Each commercial poultry processor shall report annually to the Board on the activities it has undertaken pursuant to its plan and any amendments thereto. Failure to comply with the provisions of this section or to implement and follow a filed plan or any amendments thereto shall constitute a violation of this section.

2. That the State Water Control Board shall adopt the regulations required by § 62.1-44.17:1.1 no later than October 1, 2000. The Board shall impanel an advisory group to assist in the development of the program in accordance with its public participation guidelines. Membership of the group shall be balanced among organizations and persons expressing an interest in the program and shall include a minimum of three representatives of poultry growers, three representatives of commercial poultry processors, and three representatives of environmental organizations.

3. That the Director of the Department of Conservation and Recreation, with the consultation of the Director of the Department of Environmental Quality and the Commissioner of Agriculture and Consumer Services, shall, by December 20, 1999, recommend to the Governor, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Conservation and Natural Resources, and the House Committee on the Chesapeake and Its Tributaries ways that the Commonwealth should assist poultry growers and processors to improve the economic feasibility of transporting and selling poultry waste, and pursue alternative uses for poultry waste, including the establishment of the equal matching grant program referred to in subdivision G 4 of § 62.1-44.17:1.1.

4. That on or before December 31, 2003, the Director of the Department of Environmental Quality, in consultation with the Director of the Department of Conservation and Recreation and the Commissioner of Agriculture and Consumer Services, shall report to the Governor and the General Assembly on the effectiveness of the plans implemented by commercial poultry processors pursuant to subsection G of § 62.1-44.17:1.1 in assisting poultry growers with whom they contract with the proper management, storage, disposal, and transportation of poultry waste, including excess poultry waste, for the protection of water quality.