

**Rules Governing the Poultry Feeding Operations
Registration Program**

I. General provisions

A. Purpose.

1. These rules govern the Arkansas Department of Agriculture's Poultry Feeding Operations Registration Program.
2. Poultry feeding operations are registered to locate litter sources and estimate the amount of litter produced.

B. Enabling and pertinent legislation.

1. Ark. Code Ann. § 15-20-901 et seq., "Arkansas Poultry Feeding Operations Registration Act."
2. Ark. Code Ann. § 25-15-201 et seq., "Administrative Procedure Act."

C. Definitions.

The following definitions shall apply to all parts of this Rule:

1. "Administrative consent order" means a legal agreement signed by the Secretary or his or her designee and the owner or operator of a poultry feeding operation.
2. "Department" means the Arkansas Department of Agriculture.
3. "Secretary" means the Secretary of the Arkansas Department of Agriculture or his or her designee.
4. "Land Application" means the application of litter, in whole or in part, to land.
5. "Litter" means byproducts associated with the confinement of poultry, including excrement, feed wastes, bedding materials, composted carcasses, and any combinations thereof.
6. "Litter Management System" means any method to dispose or use litter.
7. "Nutrient" means a substance or recognized plant nutrient, element or compound, which is used or sold for its plant nutritive content or its claimed nutritive value. The term includes substances found in, but is not limited to, livestock manure and poultry litter, compost as fertilizer, commercially manufactured chemical fertilizers, sewage sludge or combinations thereof.
8. "Permit" or "permit coverage" refers to an authorization to operate that is required by the United States Environmental Protection Agency's Concentrated Animal Feeding Operations (CAFO) program for poultry feeding operations meeting the size thresholds listed on the Department's registration form.
9. "Person" means any individual, partnership, company, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.
10. "Poultry" means chickens, turkeys, ducks, geese, and any other domesticated birds.
11. "Poultry feeding operation" means any lot or facility where two thousand five hundred (2,500) or more poultry are housed or confined and fed or maintained on any one day in the preceding twelve-month period. For the purposes of determining the number of animals at an operation, multiple poultry houses under common ownership are considered to be a single poultry feeding operation if they adjoin each other or if they share a common area or system for the disposal of wastes.
12. "Poultry processor" means an entity that processes poultry or eggs for commercial sale.
13. "Warning letter" means a written description signed by the Secretary or his or her designee of a violation of this Rule and the necessary corrective action. A warning letter cannot be used to assess civil penalties, is not appealable, and is not final agency action.

II. Registration program

A. Applicability.

Persons in the state of Arkansas who own or operate poultry feeding operations where 2,500 or more poultry are housed or confined on any given day in the preceding 12-month period will be required to register annually with the Department.

B. Registration period.

1. All poultry feeding operations shall register from January 1 to March 31 each year, and facilities constructed after March 31 of any year shall register during the next available period of registration.
2. All poultry feeding operations shall register in the manner denoted below or be deemed out of compliance and subject to penalties set forth in these regulations.
3. Facilities must annually renew registration by submitting a renewal form made available by the Department.

C. Registration information.

1. Poultry Feeding Operations shall submit to the Department, on forms made available by the Department, the following information concerning the previous calendar year:
 - (a) The number and type of birds housed or maintained by the operation;
 - (b) The location of the operation;
 - (c) The type of waste handling system;
 - (d) The type of litter management system used;
 - (e) The type of litter storage system used and the amount of litter stored;
 - (f) The method used for carcass disposal;
 - (g) The acreage owned, controlled, or used by the poultry feeding operation and used for land application of litter;
 - (h) The land application practices used by the poultry feeding operation and the amount of litter applied;
 - (i) Tons of litter produced, removed, transferred or otherwise used by the poultry feeding operation, the type of transfer or usage, and the destination of the litter;
 - (j) The poultry processor or processors with which the poultry feeding operation has contracted to provide poultry or poultry litter; and
 - (k) Any other relevant information deemed necessary by the Department.

D. Submission of materials.

1. Registration information shall be submitted online.

E. Requirement to keep current address on file.

1. All persons registering operations are required to provide the Department with current address and other requested contact information within fifteen working days of change.
2. Mail will be addressed to the most recent address on file with the Department. Registered or certified mail sent with proper postage to the last known address that is returned unclaimed shall be considered adequate notification of notice served.
3. Failure to update the Department with current address may be considered refusal to accept mail which is a violation of these rules and could result in disciplinary action.

F. Not a public record.

1. Registration information collected about an individual poultry feeding operation shall not be a public record.
2. Summary information that prevents identification of individual poultry feeding operations shall be a public record.

G. Fees.

1. Poultry Feeding Operation owners shall pay an annual \$10 fee for every poultry feeding operation under the owner's control.
2. Fees are non-refundable and shall not be prorated.
3. Fees shall be submitted to the Department at the time of registration.

III. Penalty for noncompliance

A. Noncompliance.

1. The registered owner must comply with all conditions of registration. It shall be a violation of Ark. Code Ann. §15-20-901 et seq. and these rules for any person to:
 - (a). Provide misleading, false, or fraudulent registration information; or
 - (b). Fail to register annually or promptly provide any record or allow the Department access to inspect any records required to be kept by these rules.

B. Review of suspected noncompliance.

1. Upon complaint or suspicion of noncompliance, the Department may investigate an owner or operator of a poultry feeding operation and may recommend disciplinary action to the Secretary or his or her designee.
2. Anyone providing information to the Department about a possible violation must provide a written complaint stating the complainant's legal name and current mailing and physical addresses.
 - (a). The complaint must be verified by the notarized signature of the complainant.
 - (b). Complaints are subject to the Freedom of Information Act, Ark. Code Ann. § 25-19-101 et seq.
3. After reviewing evidence regarding a possible violation, the Secretary or his or her designee will determine whether a violation has occurred. If the Secretary or his or her designee finds that a violation occurred, the Secretary or his or her designee may issue a warning letter or administrative consent order to the alleged violator, stating the violation and the resulting corrective or disciplinary action. If an incomplete complaint is received or the Secretary or his or her designee finds that there is not sufficient evidence of a violation, the Secretary or his or her designee will inform the complainant and alleged violator in writing.

C. Administrative penalties.

1. Upon the first violation of these rules by an owner or operator within any one-year period, the owner or operator shall be issued a warning letter. For the second violation within any one-year period, the Secretary or his or her designee may assess up to fifty dollars (\$50) in cumulative civil penalties. Upon the third violation within any one-year period, the Secretary or his or her designee may impose a penalty not to exceed five hundred dollars (\$500) for each violation of Ark. Code Ann. § 15-20-901 et seq. and this Rule.
2. A warning letter or administrative consent order may be served by certified mail, restricted delivery, return receipt requested to the address on file with the Department or by any means sufficient for service of process in a civil court action.
3. The owner or operator may choose to sign an administrative consent order and thereby agree to the penalties contained within the order. The owner or operator will also be deemed to have consented to the order if he or she fails to respond to the Department in writing within thirty days of receipt of the administrative consent order and the Department has proof that the owner or operator was served with the administrative consent order.

4. If the owner or operator disputes that a violation occurred or believes the assessed penalty is too harsh, the owner or operator must respond to the administrative consent order within thirty days by requesting a hearing before the Department. The hearing will be conducted in accordance with the Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

5. The Department will not take final administrative action against persons accused of violating this Title or Ark. Code Ann. § 15-20-901 et seq. until the accused person has executed an administrative consent order or been given opportunity for a hearing.