

Texas Administrative Code

TITLE 31	NATURAL RESOURCES AND CONSERVATION
PART 17	TEXAS STATE SOIL AND WATER CONSERVATION BOARD
CHAPTER 523	AGRICULTURAL AND SILVICULTURAL WATER QUALITY MANAGEMENT
RULE §523.3	Water Quality Management Plan Certification Program

(j) Water Quality Management Plans for Poultry Facilities.

(1) All poultry facilities producing poultry for commercial purposes are required to develop and implement a certified water quality management plan covering the poultry operating unit. Poultry facilities must request development and certification or recertification of a water quality management plan prior to placing poultry at a new facility or placing additional poultry at an existing facility.

(2) Poultry facilities may obtain a water quality management plan as prescribed in subsections (e) - (h), unless a facility is unable to attain certification based on conditions prescribed in paragraph (3) of this subsection.

(3) After September 1, 2009 the State Board may not certify a water quality management plan for a proposed newly constructed poultry facility, or an existing poultry facility that proposes to expand by more than 50 percent the number of birds included in the existing certified water quality management plan as of September 1, 2009, that is located less than one half of one mile from a neighbor if the presence of the facility is likely to create a persistent nuisance odor for such neighbors, unless the facility provides an odor control plan the Texas Commission on Environmental Quality determines is sufficient to control odors. A facility that will house fewer than 10,000 total birds is unlikely to create a persistent nuisance odor. Within this paragraph and subparagraphs, the term neighbor includes business, off-site permanently inhabited residence, place of worship, or other poultry farm under separate ownership; and proposed facility has the meaning described above in this paragraph.

(A) Factors that are considered likely to create a persistent nuisance odor and will require the proposed facility to submit an odor control plan are:

- (i) Any neighbor within one quarter of one mile of a proposed facility or;
- (ii) Any neighbor between one quarter and one half of one mile in the prevailing wind direction of a proposed facility, considering both cool and warm seasons or;
- (iii) Any school, place of worship, healthcare facility, or other poultry facility within one half of one mile of a proposed facility or;
- (iv) Proposed facility will house more than 225,000 birds per flock or;
- (v) Proposed facility will use a liquid waste handling system or;
- (vi) A notice of violation for odor has been issued to the proposed facility within the previous 12 months.

(B) If none of the factors in subparagraph (A) apply to the proposed facility, the following table will be used to assess the site to determine if the proposed facility is likely to create a persistent nuisance odor for neighbors. If the total score from the assessment of each of the factors exceeds 50 points, the presence of the proposed facility is likely to cause a persistent nuisance odor for neighbors, and the proposed facility must provide an odor control plan the Texas Commission on Environmental Quality determines is sufficient to control odors.

SITE ASSESSMENT TOOL				
	POTENTIAL FOR PERSISTENT ODOR NUISANCE			
FACTOR	LOW	MEDIUM	HIGH	SCORE
Birds Per Flock	<100,000 = 1 pt	100K-165K = 20 pts	>165K = 30 pts	
Maximum Length of Flocks	<42 days = 1 pt	42-49 days = 10 pts	>49 days = 30 pts	
Litter Application Planned On-Farm	No = 0 pts	N/A	Yes = 30 pts	
Number of Neighbors	1 = 3 pts	2 = 5 pts	>2 = 10 pts	
Topography Influence*	None = 0 pts	Medium = 5 pts	High = 10 pts	
Number of Incinerators	None = 0 pts	1 = 5 pts	>1 = 10 pts	
Vegetation (as odor buffer)*	Heavy = 1 pt	Medium = 3 pts	None = 5 pts	
Property Line Distance	>300' = 0 pts	150-300' = 3 pts	<150' = 5 pts	
<p>*Vegetation (as buffer between proposed facility and any neighbor to filter dust and dilute odors)</p> <p>None: no significant vegetation capable of dispersing or deflecting odors</p> <p>Medium: scattered or intermittent brushy herbaceous vegetation and trees with under-, mid-, and overstories.</p> <p>Heavy: continuous 3-tiered forested woody vegetation</p>				
<p>*Topography Influence</p> <p>None: topography is level, upslope from proposed facility, or hill/ridge separates proposed facility and any neighbors.</p> <p>Medium: topography is downslope from proposed facility toward any neighbor, but no valley.</p> <p>High: topography forms downslope valley from proposed facility toward any neighbor.</p>				

(C) Any facility whose water quality management plan was previously certified by meeting the conditions of subparagraphs (A) or (B) or an approved odor control plan and proposes to expand the number of poultry at the facility, regardless of the percent of the expansion, must again submit to the process in subparagraphs (A) or (B) before the water quality management plan can be recertified.

(D) Alternatively to meeting conditions of subparagraphs (A), (B), or (C) a proposed facility may obtain certification of a water quality management plan if subsections (e) – (h) are met and each neighbor within one half of one mile of the proposed facility provides a notarized letter of consent signed by the neighbor or authorized legal representative(s) of the neighbor. The letter must contain the name, physical and mailing addresses, and phone number of the neighbor and consent to location and operation of permanent odor sources of a poultry facility within one half of one mile of the neighbor. Such letter(s) must be contained in the water quality management plan.

(4) The State Board will maintain a listing of poultry facilities that have requested a certified water quality management plan. The list will indicate date of plan approval by the SWCD and date of certification by the State Board. The listing will also indicate status of implementation.

(5) The State Board in consultation with the local SWCD will conduct status reviews of certified water quality management plans covering poultry facilities on a schedule determined by the State Board.

(6) The State Board, in consultation with the local SWCD may withdraw certification of a water quality management plan that is not being implemented according to its schedule. Prior to certification being withdrawn, the owner/operator of the facilities will be notified and provided a reasonable period of time, as determined by the State Board, to implement the water quality management plan, which may, at the discretion of the local SWCD in accordance with State Board guidance be modified to allow implementation to occur.

(7) The list developed and maintained under paragraph (4) of this subsection will be made available to the Texas Commission on Environmental Quality.

(8) Landowners and operators after consultation with the SWCD may appeal SWCD decisions to the State Board.