ENGROSSED HOUSE
BILL NO. 2415 By: Hutchison

(environment and natural resources - agriculture - Oklahoma Poultry Waste Applicators Certification Act - codification - effective date - emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-101 of Title 2, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 7 of this act shall be known and may be cited as the "Oklahoma Poultry Waste Applicators Certification Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-102 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Poultry Waste Applicators Certification Act:

1. "Board" means the State Board of Agriculture;

2. "Certificate" means a written document issued to an individual by the certifying authority pursuant to Section 3 of this act which indicates that the individual is authorized to land apply poultry waste by the Oklahoma Poultry Waste Applicators Certification Act;

3. "Certified poultry waste applicator" means a person who has been certified by the Board to land apply poultry waste from poultry

feeding operations and includes a commercial poultry waste land applicator and a private poultry waste applicator;

4. "Commercial poultry waste applicator" means any person who engages in commercial land application of poultry waste from poultry feeding operations. Any farmer while working for a neighbor in agricultural production on neighboring land, and not advertising, nor holding himself out to be in the business of land applying poultry waste, shall not be classified as a commercial poultry waste applicator, but as a private poultry waste applicator;

5. "Department" means the Department of Agriculture;

6. "Dry litter poultry waste management system" means a combination of structures and nonstructural practices serving a poultry feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of dry litter poultry waste. A dry litter poultry waste management system may also include liquid poultry waste;

7. "Facility" means any place, site or location or part thereof where poultry are kept, handled, housed or otherwise maintained including, but not limited to, buildings, hatcheries, processing sites, marketing lots, pens and poultry and dry litter waste management systems;

8. "Land application" means the removal of poultry waste from a waste facility and distribution to, or incorporation into, the soil mantle primarily for beneficial reuse purposes;

9. "Person" means any individual, partnership, firm, corporation, company, association, organized group of persons whether incorporated or not, or other legal entity;

10. "Poultry" includes chickens, turkeys, ducks, geese and any other domesticated bird used for human food and/or animal feed;

11. "Poultry feeding operation" means a lot or facility where the following conditions are met:

a. poultry have been, are or will be confined and fed or maintained for a total of thirty (30) days or more in any twelve-month period,

b. crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility,

c. poultry are primarily housed in a roof-covered structure, and

d. over fifteen thousand poultry are maintained;

12. "Poultry waste" means poultry excrement, poultry carcasses, feed wastes, dry litter or any other waste associated with the confinement of poultry from a poultry feeding operation;

13. "Private poultry waste applicator" means any person who is not a commercial poultry waste applicator but engages in the land application of poultry waste for purposes including, but not limited to, producing any agricultural commodity on property owned or rented by the person or such person's employer, or if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person;

14. "Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be applied to land or disposed of in an authorized manner. Such structures shall include but not be limited to pits, burial sites, barns or roof-covered structures housing poultry, compositors, waste storage sites, or retention structures or appurtenances or additions thereto; and

15. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow

through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Process wastewaters shall not be considered as waters of the state.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-103 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful and a misdemeanor for any person to act, operate, or do business or advertise as a commercial poultry waste applicator or to land apply poultry waste as a private poultry waste applicator unless such person has obtained a valid applicator's certificate issued by the State Board of Agriculture.

B. A certificate may be issued by the Board, provided the applicant qualifies under the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

C. Certifications shall be issued only upon application therefor to the Board on a form of application prescribed by the Board. The application shall contain information regarding the applicant's qualifications and proposed operations and such other information as may be specified by the Board.

D. 1. All certificates, except those of private applicators, shall expire on the thirty-first day of December following their issuance or renewal, and may be renewed for the ensuing calendar year, without penalty, if a properly completed application is filed with the Board not later than the first day of January of each year.

2. All private applicator certificates are in effect for five (5) years and may be renewed by application.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-104 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Prior to any land application of poultry waste by a certified poultry waste applicator, the applicator shall make a written report to the conservation district in which the land application site is located detailing the origination of the poultry waste, the location of the area where the poultry waste is to be land applied, the amount of poultry waste to be applied, when the application will be made, and the test results of a soil sample from the land application site for phosphorous.

B. The soil sample shall be taken in a location that is fairly representative of the soil on the land application site. The sample and test results must be collected not more than one (1) week prior to application.

C. Along with the written report and soil sample, the applicator shall also present a valid certificate authorizing the holder to land apply poultry waste.

D. If the soil test results indicate that the land application of poultry waste will not exceed soil limitations for phosphorous, the conservation service shall authorize the application of the poultry waste.

E. Every commercial and private poultry waste applicator shall keep an accurate record pertaining to land application of poultry waste, which, as a minimum, shall show the time and place of each application of poultry waste, name and address of applicator, name and address of person for whom used, legal description of land where used, date used, soil test, and such other information as may be required by the Board.

F. Such records shall be kept intact at the principal business location in this state of the applicator for at least two (2) years after their date of expiration and copies shall be furnished to any authorized agent of the Board, upon request, at any time during the regular business hours of the applicator.

G. It shall be the duty of the Board to audit the maintenance of such records as it deems necessary to carry out the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

H. The conservation districts shall report to the Department the total tonnage of poultry waste in the district for the past year.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-105 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Department of Agriculture shall administer and enforce the provisions of the Oklahoma Poultry Waste Applicators Certification Act and shall promulgate rules and standards for the application of poultry waste, work performance, the certification of application of poultry waste, recertification procedures and best management practices.

B. The State Board of Agriculture shall have the authority to negotiate reciprocal agreements with the federal government or any state, or any department or agency of either for the purpose of fulfilling the intent of the Oklahoma Poultry Waste Applicators Certification Act. A valid certification from another state authorizing the holder to land apply poultry waste shall be accepted as valid authorization to land apply poultry waste in this state.

C. The Department may take samples of poultry waste and soil at application sites in order to determine their concentration. If the Department finds that any sample is not within established standards, such finding shall be considered as prima facie evidence that a violation has occurred.

D. The Department may inspect any work of each applicator to determine whether or not the work is performed according to the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-106 of Title 2, unless there is created a duplication in numbering, reads as follows:

As conditions for authorization to land apply poultry waste, the Department of Agriculture shall require:

1. Best management practices;

2. Buffer zones or other barriers which would prevent any discharge of poultry waste to waters of the state;

3. Any stockpiling of poultry waste to be covered or otherwise protected from rainwater to prevent discharge to waters of the state; and

4. That land application of poultry waste shall be made in accordance with a poultry waste management plan developed by the certified poultry waste applicator.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-107 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Any certificate issued pursuant to the Oklahoma Poultry Waste Applicators Certification Act may be suspended, canceled, or revoked by the Department of Agriculture after a hearing and opportunity to be heard has been given to the holder of the certificate.

2. Notice thereof shall be given to the holder of the certificate by registered or certified mail at least ten (10) days prior to the date of the hearing.

B. Suspension, cancellation, or revocation of a certificate may be made if the Department finds the holder of the certificate:

1. Has used methods or poultry waste not suitable or safe for the land application site for which they shall have been employed;

2. Has failed or refused to furnish the Department, upon request, true information regarding methods and safety measures used, work performed, or other information deemed essential by the

Department, or has made any false statement or representation in such person's application for issuance or renewal of a certificate;

3. Has violated any state law, rule, or standard prescribed or order issued by the Board;

4. Has failed or refused to maintain records as specified in the Oklahoma Poultry Waste Applicators Certification Act;

5. Has failed to perform work according to minimum standards authorized by the Oklahoma Poultry Waste Applicators Certification Act;

6. Has acted, operated, done business, or advertised as an applicator without having obtained a valid certificate issued by the Department;

7. Has acted or operated as a private applicator without having obtained a valid private poultry waste applicator certificate issued by the Department;

8. Has been convicted in any court of a violation of the Oklahoma Poultry Waste Applicators Certification Act; or

9. Has given the Department other proper cause.

SECTION 8. This act shall become effective July 1, 1998.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 9th day of March, 1998.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1998.

President of the Senate