

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

HOUSE BILL HB2349

By: Liotta

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2001, Sections 10-9.1 and 10-9.2, which relate to the Oklahoma Registered Poultry Feeding Operations Act; clarifying and updating language; adding member to the Rule Advisory Committee; specifying qualifications and terms; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 10-9.1, is amended to read as follows:

Section 10-9.1 A. Sections ~~1~~ 10-9.1 through ~~12~~ 10-9.12 of this ~~act~~ title shall be known and may be cited as the "Oklahoma Registered Poultry Feeding Operations Act".

B. As used in ~~Sections 1 through 23 of this act~~ the Oklahoma Registered Poultry Feeding Operations Act:

1. "Animal Waste Management Plan" or "AWMP" means a written plan that includes a combination of conservation and management practices designed to protect the natural resources of the state as required by the State Department of Agriculture pursuant to the provisions of Section ~~7~~ 10-9.7 of this ~~act~~ title;

2. "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices which prevent or reduce the pollution of waters of the state as established by the State Department of Agriculture pursuant to Section ~~7~~ 10-9.7 of this ~~act~~ title;

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

4. "Certificate" means a written document issued to an individual by the Board pursuant to Section ~~17~~ 10-9.17 of this ~~act~~ title which indicates that the individual is authorized to land apply poultry waste by the Oklahoma Poultry Waste Applicators Certification Act;

5. "Certified poultry waste applicator" means a person who has been certified by the Board to land apply poultry waste and includes a commercial poultry waste applicator and a private poultry waste applicator;

6. "Commercial poultry waste applicator" means any person who engages in commercial land application of poultry waste. Any farmer while working for a neighbor in agricultural production, and not advertising, nor holding himself or herself 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;

7. "Contract growing arrangement" means any growout contract, marketing agreement, or other arrangement under which a contract poultry grower cares for or raises poultry;

8. "Contract poultry grower" means any person engaged in the business of caring for or raising poultry, under a contract growing arrangement;

9. "Common ownership" includes but is not limited to any person who has power or authority to manage, direct, restrict, regulate or oversee the operation or has financial control of two or more poultry feeding operations;

10. "Department" means the State Department of Agriculture;

11. "Expanding operation" means a registered poultry feeding operation that seeks to increase its registered capacity in excess of ten percent (10%) of the facility's original registered capacity;

12. "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, lots, pens and poultry waste management systems;

13. "Integrator" means an entity which unites the elements associated with the poultry industry, including but not limited to hatching, feeding, processing and marketing. It includes, but is not limited to, situations when growing is contracted out to others and when the integrator operates its own growing facilities;

14. "Land application" means the spreading on, or incorporation into, the soil mantle primarily for beneficial purposes;

15. "Operator" means the person who performs the daily management functions associated with the poultry feeding operation;

16. "Person" means an individual, association, partnership, firm, company, public trust, corporation, joint stock company, trust estate, any other legal entity, or any agent, employee, representative assignor or successor thereof;

17. "Nutrient-limited watershed" means a watershed of a water body which is designated as "nutrient-limited" in the most recent Oklahoma's Water Quality Standards;

18. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent Oklahoma's Water Quality Standards;

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

20. "Poultry feeding operation" means a property 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 forty-five (45) days or more in any twelve-month period,
- b. crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the property or facility, and

c. producing over ten (10) tons of poultry waste per year;

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

22. "Poultry waste utilization business" means a business at which poultry waste is collected, recycled, processed or recovered into reusable products including, but not limited to, fertilizer and animal feed;

23. "Poultry waste management system" means a combination of structures and practices serving a poultry feeding operation that provides for the collection, treatment, disposal, distribution, storage and land application of poultry waste;

24. "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;

25. "Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner; and

26. "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 if contaminated at the site.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 10-9.2, is amended to read as follows:

Section 10-9.2 A. The State Board of Agriculture shall appoint a rule advisory committee who, without compensation, shall act as advisors to the Board in the formulation of the rules promulgated pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

1. One member shall represent the integrators;
2. Three members shall represent the contract growers;
3. One member shall represent the field of hydrogeology;
4. One member shall be a soil scientist;
5. One member of a local conservation district;
6. One member employed by the Oklahoma Water Resources Board;
7. One member shall represent the field of water quality

science; and

8. ~~Three~~ Four members shall represent the general public, ~~one~~ two of which shall represent ~~the water department~~ departments of a ~~municipality~~ municipalities in this state with populations of over two hundred fifty thousand (250,000) residents.

B. 1. Of the initial members, four shall serve for one-year terms; four shall serve for two-year terms; and four shall serve for three-year terms. The position created pursuant to this act shall be for a three-year term as provided by paragraph 2 of this subsection.

2. Upon reappointment for the one-year terms and the two-year terms herein created, all appointments shall be for a three-year term. All members shall serve in such capacity during said term at the pleasure of the Board.

~~B.~~ C. Except for emergency rules, the State Department of Agriculture shall submit proposed rules to the rule advisory

committee at the same time as the Department causes notice to be published in "The Oklahoma Register" pursuant to subsection B of Section 303 of Title 75 of the Oklahoma Statutes. Comments of the rule advisory committee shall be submitted to the members of the Board at least fifteen (15) days prior to any official action by the Board on the rules.

~~C.~~ D. Proposed emergency rules shall be submitted by the Department to the rule advisory committee at least five (5) days prior to the rules being considered by the Board.

SECTION 3. This act shall become effective November 1, 2002.

48-2-8258            KSM            6/12/15