

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 1478

By: Armes

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5  
6 AS INTRODUCED

7 An Act relating to agriculture; amending 2 O.S. 2001,  
8 Section 10-9.5, as amended by Section 1, Chapter 412,  
9 O.S.L. 2005 (2 O.S. Supp. 2010, Section 10-9.5),  
10 which relates to the Oklahoma Registered Poultry  
11 Feeding Operations Act; requiring certified poultry  
12 waste applicators attend educational training  
13 courses; authorizing Department to promulgate rules  
14 for additional training; directing applicator receive  
15 certificate verifying completion of training; making  
16 failure to obtain training a violation of the  
17 Oklahoma Poultry Waste Applicators Certification Act;  
18 mandating certain annual deadline for training;  
19 amending 2 O.S. 2001, Sections 10-9.17 and 10-9.21,  
20 which relate to the Oklahoma Poultry Waste  
21 Applicators Certification Act; mandating compliance  
22 with educational training courses; allowing certain  
23 penalties if educational training courses not  
24 completed; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 10-9.5, as  
amended by Section 1, Chapter 412, O.S.L. 2005 (2 O.S. Supp. 2010,  
Section 10-9.5), is amended to read as follows:

Section 10-9.5 A. The State Board of Agriculture shall cause  
to be prepared and available the necessary forms and applications

1 for any person desiring or required to register a poultry feeding  
2 operation or expanding operation.

3 B. The application to register to operate a new or previously  
4 unregistered poultry feeding operation or expanding operation shall  
5 be under oath and shall contain, as a minimum, the following  
6 information:

7 1. Name and address of the owner and operator of the facility;

8 2. Name and address of the poultry feeding operation;

9 3. Number and type of poultry housed or confined;

10 4. Name and address of the integrator whose poultry will be  
11 raised by the poultry feeding operation;

12 5. A diagram or map and legal description showing geographical  
13 location of the facility on which the perimeters of the facility are  
14 designated, location of waters of the state, including, but not  
15 limited to, drainage from the facility, poultry waste storage  
16 facilities and land application sites owned or leased by the  
17 applicant or which the applicant has contracted with for the  
18 application of poultry waste;

19 6. A copy of the Animal Waste Management Plan, or proof of  
20 application for such plan, Best Management Practices or any other  
21 plans authorized by the Oklahoma Department of Agriculture, Food,  
22 and Forestry;

23 7. A statement of ownership.  
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1 a. If the applicant is a corporation, the name and  
2 address of the corporation and the name and address of  
3 each officer and registered agent of the corporation  
4 shall be included in the application.

5 b. If the applicant is a partnership or other legal  
6 entity, the name and address of each partner and  
7 stockholder with an ownership interest of ten percent  
8 (10%) or more shall be included in the statement.

9 c. The information contained in the statement of  
10 ownership shall be public information and shall be  
11 available upon request from the Board;

12 8. The name and address of the person having day-to-day control  
13 of the operation, if such person is not the applicant and is acting  
14 as agent for the applicant;

15 9. a. An environmental history from the past three (3) years  
16 of any poultry feeding operation established and  
17 operated by the applicant or any other operation with  
18 common ownership in this state or any other state.  
19 Such environmental history shall include but not be  
20 limited to all citations, administrative orders or  
21 penalties, civil injunctions or other civil actions,  
22 criminal actions, past, current and ongoing, taken by  
23 any person, agency or court relating to noncompliance  
24 with any environmental law, rule, agency order, or

1 court action relating to the operation of a poultry  
2 feeding operation.

3 b. A copy of all records relating to the environmental  
4 history required by this paragraph shall accompany the  
5 application.

6 c. Noncompliance with a final agency order or final order  
7 or judgment of a court of record which has been set  
8 aside by a court on appeal of such final order or  
9 judgment shall not be considered a final order or  
10 judgment for the purposes of this subsection;

11 10. Environmental awards or citations received or pollution  
12 prevention or voluntary remediation efforts undertaken by the  
13 applicant; and

14 11. Any other information or records required by the Department  
15 for purposes of implementing the Oklahoma Registered Poultry Feeding  
16 Operations Act or rules promulgated pursuant thereto.

17 C. In addition to other penalties as may be imposed by law, any  
18 person who knowingly makes any false statement, representation, or  
19 certification in, omits material data from, or tampers with any  
20 application for registration shall, upon conviction, be guilty of a  
21 misdemeanor and may be subject to a fine of not more than Ten  
22 Thousand Dollars (\$10,000.00) for each such violation.

1 D. The owner of a poultry feeding operation shall be  
2 responsible for sending written notification to the Department upon  
3 changing integrators.

4 E. For a transfer of registration to a new owner, the new owner  
5 shall register the operation pursuant to the rules of the  
6 Department.

7 F. 1. All operators of poultry feeding operations and  
8 certified poultry waste applicators shall attend educational courses  
9 on poultry waste handling. All such operators and applicators shall  
10 attend educational training on poultry waste management as provided  
11 by Oklahoma State University through the Oklahoma Cooperative  
12 Extension Service. All current and new operators and applicators  
13 shall receive no less than nine (9) hours of training in the first  
14 year and ~~no less than three (3) hours each year~~ additional training  
15 thereafter as specified in rules promulgated by the Department. The  
16 Oklahoma Cooperative Extension Service shall develop the educational  
17 training course to aid in certification. Curricula for the training  
18 course will include the Oklahoma Cooperative Extension Service Waste  
19 Management Facts series and record books or their current  
20 equivalent. Courses for poultry waste management shall include the  
21 following topics:

22 a. environmental process relevant to protecting water  
23 quality in poultry production,  
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- b. basic handling systems to manage poultry waste from all types of poultry operations,
- c. nutrient management, including sampling procedures, application rate determination, equipment calibration, and record-keeping systems,
- d. relevant laws and rules applicable to poultry waste management in the State of Oklahoma, and
- e. any other related subject as determined by Oklahoma State University in consultation with the Department.

2. At the completion of each course, the operator or applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

3. Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act for operators and the Oklahoma Poultry Waste Applicators Certification Act for applicators.

4. All operators and applicators shall meet the educational requirements of this section no later than December 31 of each year.

G. No integrator shall enter into any contract with an operator or applicator of a poultry feeding operation who is not in compliance with the requirements of subsection F of this section.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 10-9.17, is amended to read as follows:

1 Section 10-9.17 A. It shall be unlawful and a misdemeanor  
2 punishable by a fine of not more than Five Thousand Dollars  
3 (\$5,000.00) for any person to act, operate, or do business or  
4 advertise as a commercial poultry waste applicator or to land apply  
5 poultry waste as a private poultry waste applicator unless such  
6 person has obtained a valid applicator's certificate issued by the  
7 State Board of Agriculture.

8 B. Applicator's certificates shall be issued by the Board, to  
9 applicants who qualify under the provisions of the Oklahoma Poultry  
10 Waste Applicators Certification Act.

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

16 D. A certificate shall be issued only after satisfactory  
17 completion of such certification standards as determined by the  
18 Board.

19 E. 1. All commercial applicator certificates shall expire on  
20 the thirty-first day of December following their issuance or  
21 renewal, and may be renewed for the ensuing calendar year, without  
22 penalty, if a properly completed application is filed with the Board  
23 not later than the first day of January of each year. A  
24 registration fee of Fifteen Dollars (\$15.00) shall accompany every

1 initial application for certification. A renewal fee of Fifteen  
2 Dollars (\$15.00) shall accompany every renewal application.

3 2. All private applicator certificates shall be in effect for  
4 five (5) years and may be renewed by application. A registration  
5 fee of Fifteen Dollars (\$15.00) shall accompany every initial  
6 application for certification. A renewal fee of Fifteen Dollars  
7 (\$15.00) shall accompany every renewal application. The ~~Fifteen~~  
8 ~~Dollar~~ ~~(\$15.00)~~ fifteen-dollar registration and renewal fee shall be  
9 waived if the private applicator is also registered pursuant to the  
10 Oklahoma Registered Poultry Feeding Operations Act.

11 3. All such fees shall be deposited in the Agriculture  
12 Regulation Revolving Fund to be used for the purpose of implementing  
13 the provisions of the Oklahoma Registered Poultry Feeding Operations  
14 Act and the Oklahoma Poultry Waste Applicators Certification Act.

15 F. Any person issued an applicator's certificate shall comply  
16 with the provisions of subsection F of Section 10-9.5 of this title.

17 SECTION 3. AMENDATORY 2 O.S. 2001, Section 10-9.21, is  
18 amended to read as follows:

19 Section 10-9.21 A. Any certificate issued pursuant to the  
20 Oklahoma Poultry Waste Applicators Certification Act may be  
21 suspended, canceled, denied, or revoked by the ~~State~~ Oklahoma  
22 Department of Agriculture, Food, and Forestry after notice and an  
23 opportunity to be heard has been given to the holder of the  
24 certificate.

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

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

6 2. Has failed or refused to furnish the Department, upon  
7 request, true information regarding methods and safety measures  
8 used, work performed, or other information deemed essential by the  
9 Department, or has made any false statement or representation in  
10 such person's application for issuance or renewal of a certificate;

11 3. Has violated any state law, rule, or standard prescribed or  
12 order issued by the State Board of Agriculture;

13 4. Has failed or refused to file annual reports as specified in  
14 the Oklahoma Poultry Waste Applicators Certification Act;

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

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

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

24

1       8. Has failed to comply with the provisions of subsection F of  
2 Section 10-9.5 of this title; or

3       9. Has been convicted in any court of a violation of the  
4 Oklahoma Poultry Waste Applicators Certification Act.

5       SECTION 4. This act shall become effective November 1, 2011.

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