

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1271

By: Justice

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5
6 AS INTRODUCED

7 An Act relating to poultry waste applicators;
8 amending 2 O.S. 2011, Sections 10-9.5, 10-9.17 and
9 10-9.21, which relate to poultry waste applicator
10 educational training and certification; exempting
11 commercial poultry waste applicators from required
educational courses and training; exempting
commercial poultry waste applicators from
certification requirements; and providing an
effective date.

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

15 SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.5, is
16 amended to read as follows:

17 Section 10-9.5. A. The State Board of Agriculture shall cause
18 to be prepared and available the necessary forms and applications
19 for any person desiring or required to register a poultry feeding
20 operation or expanding operation.

21 B. The application to register to operate a new or previously
22 unregistered poultry feeding operation or expanding operation shall
23 be under oath and shall contain, as a minimum, the following
24 information:

- 1 1. Name and address of the owner and operator of the facility;
- 2 2. Name and address of the poultry feeding operation;
- 3 3. Number and type of poultry housed or confined;
- 4 4. Name and address of the integrator whose poultry will be
- 5 raised by the poultry feeding operation;
- 6 5. A diagram or map and legal description showing geographical
- 7 location of the facility on which the perimeters of the facility are
- 8 designated, location of waters of the state, including, but not
- 9 limited to, drainage from the facility, poultry waste storage
- 10 facilities and land application sites owned or leased by the
- 11 applicant or which the applicant has contracted with for the
- 12 application of poultry waste;
- 13 6. A copy of the Animal Waste Management Plan, or proof of
- 14 application for such plan, Best Management Practices or any other
- 15 plans authorized by the Oklahoma Department of Agriculture, Food,
- 16 and Forestry;
- 17 7. A statement of ownership.
- 18 a. If the applicant is a corporation, the name and
- 19 address of the corporation and the name and address of
- 20 each officer and registered agent of the corporation
- 21 shall be included in the application.
- 22 b. If the applicant is a partnership or other legal
- 23 entity, the name and address of each partner and
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1 stockholder with an ownership interest of ten percent
2 (10%) or more shall be included in the statement.

3 c. The information contained in the statement of
4 ownership shall be public information and shall be
5 available upon request from the Board;

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

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

21 b. A copy of all records relating to the environmental
22 history required by this paragraph shall accompany the
23 application.
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1 c. Noncompliance with a final agency order or final order
2 or judgment of a court of record which has been set
3 aside by a court on appeal of such final order or
4 judgment shall not be considered a final order or
5 judgment for the purposes of this subsection;

6 10. Environmental awards or citations received or pollution
7 prevention or voluntary remediation efforts undertaken by the
8 applicant; and

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

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

18 D. The owner of a poultry feeding operation shall be
19 responsible for sending written notification to the Department upon
20 changing integrators.

21 E. For a transfer of registration to a new owner, the new owner
22 shall register the operation pursuant to the rules of the
23 Department.

1 F. All commercial poultry waste applicators are exempt from the
2 poultry waste applicators' required educational courses and
3 training.

4 G. 1. All operators of poultry feeding operations and poultry
5 waste applicators, except as provided in subsection F, shall attend
6 educational courses on poultry waste handling. All such operators
7 and applicators shall attend educational training on poultry waste
8 management as provided by Oklahoma State University through the
9 Oklahoma Cooperative Extension Service. All current and new
10 operators and applicators, except as provided in subsection F, shall
11 receive the initial nine (9) hours of training in the first year and
12 two hours of continuing education every year until the operator or
13 applicator has received a total of nineteen (19) hours of training.
14 Any operator or applicator may attend more hours than is required,
15 however, those hours shall not be carried forward. Upon receiving
16 the nineteen (19) required hours, the operator or applicator will
17 graduate from the program but shall be required to receive two (2)
18 hours of continuing education every three (3) years. The Oklahoma
19 Cooperative Extension Service shall develop the educational training
20 course to aid in certification. Curricula for the training course
21 will include the Oklahoma Cooperative Extension Service Waste
22 Management Facts series and record books or their current
23 equivalent. Courses for poultry waste management shall include the
24 following topics:

- a. environmental process relevant to protecting water quality in poultry production,
- 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 initial nine-hour training and any continuing 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 or applicators, except as provided in subsection F, shall meet the educational requirements of this section no later than December 31 of each year.

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

4 SECTION 2. AMENDATORY 2 O.S. 2011, Section 10-9.17, is
5 amended to read as follows:

6 Section 10-9.17. A. It shall be unlawful and a misdemeanor
7 punishable by a fine of not more than Five Thousand Dollars
8 (\$5,000.00) for any person ~~to act, operate, or do business or~~
9 ~~advertise as a commercial poultry waste applicator or~~ to land apply
10 poultry waste as a private poultry waste applicator unless such
11 person has obtained a valid applicator's certificate issued by the
12 State Board of Agriculture.

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

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

21 D. A certificate shall be issued only after satisfactory
22 completion of such certification standards as determined by the
23 Board.

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1 E. 1. ~~All commercial applicator certificates shall expire on~~
2 ~~the thirty-first day of December following their issuance or~~
3 ~~renewal, and may be renewed for the ensuing calendar year, without~~
4 ~~penalty, if a properly completed application is filed with the Board~~
5 ~~not later than the first day of January of each year. A~~
6 ~~registration fee of Fifteen Dollars (\$15.00) shall accompany every~~
7 ~~initial application for certification. A renewal fee of Fifteen~~
8 ~~Dollars (\$15.00) shall accompany every renewal application.~~

9 ~~2.~~ All private applicator certificates shall be in effect for
10 five (5) years and may be renewed by application. A registration
11 fee of Fifteen Dollars (\$15.00) shall accompany every initial
12 application for certification. A renewal fee of Fifteen Dollars
13 (\$15.00) shall accompany every renewal application. The Fifteen
14 Dollar (\$15.00) registration and renewal fee shall be waived if the
15 private applicator is also registered pursuant to the Oklahoma
16 Registered Poultry Feeding Operations Act.

17 ~~3.~~ 2. All such fees shall be deposited in the Agriculture
18 Regulation Revolving Fund to be used for the purpose of implementing
19 the provisions of the Oklahoma Registered Poultry Feeding Operations
20 Act and the Oklahoma Poultry Waste Applicators Certification Act.

21 F. Any person issued an applicator's certificate shall comply
22 with the provisions of subsection ~~F~~ G of Section 10-9.5 of this
23 title.
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1 SECTION 3. AMENDATORY 2 O.S. 2011, Section 10-9.21, is
2 amended to read as follows:

3 Section 10-9.21. A. Any certificate issued pursuant to the
4 Oklahoma Poultry Waste Applicators Certification Act may be
5 suspended, canceled, denied, or revoked by the State Department of
6 Agriculture after notice and an opportunity to be heard has been
7 given to the holder of the certificate.

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

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

13 2. Has failed or refused to furnish the Oklahoma Department of
14 Agriculture, Food, and Forestry, upon request, true information
15 regarding methods and safety measures used, work performed, or other
16 information deemed essential by the Department, or has made any
17 false statement or representation in such person's application for
18 issuance or renewal of a certificate;

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

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

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

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

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

10 ~~8.~~ 7. Has not complied with the provisions of subsection ~~F~~ G of
11 Section 10-9.5 of this title; or

12 ~~9.~~ 8. Has been convicted in any court of a violation of the
13 Oklahoma Poultry Waste Applicators Certification Act.

14 SECTION 4. This act shall become effective November 1, 2012.

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