

1 STATE OF OKLAHOMA

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

3 SENATE BILL 92

By: Justice of the Senate

4 and

5 Armes of the House

6
7
8 AS INTRODUCED

9 An Act relating to poultry waste applicators;
10 amending 2 O.S. 2001, Section 10-9.5, as amended by
11 Section 1, Chapter 412, O.S.L. 2005 (2 O.S. Supp.
12 2010, Section 10-9.5), which relates to the Oklahoma
13 Registered Poultry Feeding Operations Act; requiring
14 poultry waste applicators to attend certain
15 educational courses and training; amending 2 O.S.
16 2001, Sections 10-9.17 and 10-9.21, which relate to
17 the Oklahoma Poultry Waste Applicators Certification
18 Act; requiring compliance with certain educational
19 courses and training requirements; specifying penalty
20 for noncompliance; and providing an effective date.

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

22 SECTION 1. AMENDATORY 2 O.S. 2001, Section 10-9.5, as
23 amended by Section 1, Chapter 412, O.S.L. 2005 (2 O.S. Supp. 2010,
24 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
for any person desiring or required to register a poultry feeding
operation or expanding operation.

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

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

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

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

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

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

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

21 7. A statement of ownership.

22 a. If the applicant is a corporation, the name and
23 address of the corporation and the name and address of
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1 each officer and registered agent of the corporation
2 shall be included in the application.

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

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

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

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

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

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

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

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

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

21 D. The owner of a poultry feeding operation shall be
22 responsible for sending written notification to the Department upon
23 changing integrators.

1 E. For a transfer of registration to a new owner, the new owner
2 shall register the operation pursuant to the rules of the
3 Department.

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

- 19 a. environmental process relevant to protecting water
20 quality in poultry production,
- 21 b. basic handling systems to manage poultry waste from
22 all types of poultry operations,

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- 1 c. nutrient management, including sampling procedures,
2 application rate determination, equipment calibration,
3 and record-keeping systems,
4 d. relevant laws and rules applicable to poultry waste
5 management in the State of Oklahoma, and
6 e. any other related subject as determined by Oklahoma
7 State University in consultation with the Department.

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

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

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

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

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

23 Section 10-9.17 A. It shall be unlawful and a misdemeanor
24 punishable by a fine of not more than Five Thousand Dollars

1 (\$5,000.00) for any person to act, operate, or do business or
2 advertise as a commercial poultry waste applicator or to land apply
3 poultry waste as a private poultry waste applicator unless such
4 person has obtained a valid applicator's certificate issued by the
5 State Board of Agriculture.

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

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

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

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

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

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

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

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

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

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

- 1 1. Has used methods of poultry waste not suitable or safe for
2 the land application site for which they shall have been employed;
- 3 2. Has failed or refused to furnish the Oklahoma Department of
4 Agriculture, Food, and Forestry, upon request, true information
5 regarding methods and safety measures used, work performed, or other
6 information deemed essential by the Department, or has made any
7 false statement or representation in such person's application for
8 issuance or renewal of a certificate;
- 9 3. Has violated any state law, rule, or standard prescribed or
10 order issued by the State Board of Agriculture;
- 11 4. Has failed or refused to file annual reports as specified in
12 the Oklahoma Poultry Waste Applicators Certification Act;
- 13 5. Has failed to perform work according to minimum standards
14 authorized by the Oklahoma Poultry Waste Applicators Certification
15 Act;
- 16 6. Has acted, operated, done business, or advertised as a
17 commercial applicator without having obtained a valid certificate
18 issued by the Department;
- 19 7. Has acted or operated as a private applicator without having
20 obtained a valid private poultry waste applicator certificate issued
21 by the Department; ~~or~~
- 22 8. Has not complied with the provisions of subsection F of
23 Section 10-9.5 of this title; or

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

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