ENGROSSED HOUSE
BILL NO. 2208 By: Fourkiller of the House

and

Allen of the Senate

An Act relating to poultry; amending 2 O.S. 2011, Sections 10-9.1, as amended by Section 1, Chapter 79, O.S.L. 2012, 10-9.3, 10-9.4, 10-9.5, 10-9.7, as amended by Section 2, Chapter 79, O.S.L. 2012, 10-9.8, 10-9.9, 10-9.10, 10-9.11 and 10-9.12, as amended by Section 2, Chapter 227, O.S.L. 2013 (2 O.S. Supp. 2014, Sections 10-9.1, 10-9.7 and 10-9.12), which relate to the Oklahoma Registered Poultry Feeding Operations Act; updating reference; modifying definition; deleting definition; deleting registration requirement for certain poultry feeding operations; updating citation; updating language; modifying name of plan; deleting certain environmental history information required on certain application; modifying certain operator education requirements; specifying certain requirements; adding covers to list of methods available to store poultry waste; clarifying language; providing time certain date shall be retained; requiring certain data be dated; requiring poultry feeding operations file certain annual report; providing report contents; updating citations; updating references; removing requirement that the State Board of Agriculture promulgate rules establishing certain violation point system; deleting certain violation point system requirements; amending 2 O.S. 2011, Sections 10-9.13 and 10-9.14, which relate to the Oklahoma Poultry Waste Transfer Act; updating citations; updating references; amending 2 O.S. 2011, Sections 10-9.16, 10-9.17, 10-9.18, 10-9.19, 10-9.19a, 10-9.20 and 10-9.21, which relate to the Oklahoma Poultry Waste Applicators Certification Act; updating citations; specifying provisions requiring compliance; changing date certain annual report due; updating language; deleting certain reporting requirements; updating

references; modifying certain plan name; amending 2 O.S. 2011, Section 10-9.23, which relates to reports of educational activities involving poultry operators and waste applicators; updating language; repealing 2 O.S. 2011, Section 10-9.15, which relates to the reports detailing administration of the Oklahoma Poultry Waste Transfer Act; repealing 2 O.S. 2011, Section 10-9.22, which relates to funding for educational training programs on poultry waste; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 10-9.1, as amended by Section 1, Chapter 79, O.S.L. 2012 (2 O.S. Supp. 2014, Section 10-9.1), is amended to read as follows:

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

B. As used in Sections 10-9.1 through 10-9.23 of this title:

1. "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~~ Oklahoma Department of Agriculture, Food, and Forestry pursuant to Section 10-9.7 of this title;

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

3. "Certificate" means a written document issued to an individual by the Board pursuant to Section 10-9.17 of this title

which indicates that the individual is authorized to land-apply poultry waste by the Oklahoma Poultry Waste Applicators Certification Act;

4. "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;

5. "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;

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

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

8. "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;

9. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry;

10. "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;

11. "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;

12. "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;

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

14. "Nutrient Management Plan" 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 Oklahoma Department of Agriculture, Food, and Forestry pursuant to the provisions of Section 10-9.7 of this title and shall also include a certified nutrient management plan and animal waste management plan;

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~~ Oklahoma Water Quality Standards;

18. "Nutrient-vulnerable groundwater" means groundwater which is designated "nutrient-vulnerable" in the most recent ~~Oklahoma's~~ Oklahoma 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, bedding materials, 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.~~ 23. "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.~~ 24. "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.~~ 25. "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. 2011, Section 10-9.3, is amended to read as follows:

Section 10-9.3 A. 1. It shall be unlawful for any person to construct or operate a new poultry feeding operation without having first registered with the State Board of Agriculture.

2. The owner or operator of a poultry operation not classified as a poultry feeding operation may register if such owner or operator elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the Board.

B. ~~Every poultry feeding operation in operation on the effective date of this act shall register within six (6) months of the effective date of this act.~~

~~C.~~ Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 10-9.4, is amended to read as follows:

Section 10-9.4 A. Every poultry feeding operation shall be required to register annually to operate pursuant to the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

B. 1. Two or more poultry operations under common ownership are considered, for the purposes of registration, to be a single poultry feeding operation if they adjoin each other or if they use a common waste facility.

2. Once the cumulative amount of poultry waste produced by all facilities owned or managed by a person meets or exceeds the amount specified by paragraph 20 of Section ~~1~~ 10-9.1 of this ~~act~~ title, all poultry feeding operations owned by the person shall be required to become registered.

3. After the effective date of this act, any poultry feeding operation shall be required to reregister for any increase in excess of ten percent (10%) of the facility's original registered capacity.

SECTION 4. AMENDATORY 2 O.S. 2011, 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~~ provide the necessary forms and applications for any person desiring or required to register a poultry feeding operation or expanding operation.

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

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

2. Name and address of the poultry feeding operation;

3. Number and type of poultry housed or confined;

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

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

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

7. A statement of ownership.

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

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

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

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

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

~~with any environmental law, rule, agency order, or court action relating to the operation of a poultry feeding operation.~~

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

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

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

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

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

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

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

F. 1. All operators of poultry feeding operations and poultry waste applicators shall attend educational courses on poultry waste handling. All such operators and applicators shall attend educational training on poultry waste management as provided by Oklahoma State University through the Oklahoma Cooperative Extension Service. All current and new operators and applicators shall receive the initial nine (9) hours of training in the first year and two hours of continuing education every year until the operator or applicator has received a total of nineteen (19) hours of training. Any operator or applicator may attend more hours than is required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator or applicator ~~will graduate from the program but~~ shall be required to receive two (2) hours of continuing education every three (3) years. The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification. Curricula for the training course will include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current

equivalent. Courses for poultry waste management shall include the 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 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 of a poultry feeding operation who is not in compliance with the education requirements of subsection F of this section.

SECTION 5. AMENDATORY 2 O.S. 2011, Section 10-9.7, as amended by Section 2, Chapter 79, O.S.L. 2012 (2 O.S. Supp. 2014, Section 10-9.7), is amended to read as follows:

Section 10-9.7 A. All poultry feeding operations shall utilize Best Management Practices and shall meet the conditions and requirements established by subsection B of this section and by rules promulgated by the State Board of Agriculture pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

B. The criteria for Best Management Practices shall be promulgated by rules by the Board and shall include, but not be limited to, the following:

1. There shall be no discharge of poultry waste to waters of the state;

2. Stored poultry waste shall be isolated from outside surface drainage by covers, ditches, dikes, berms, terraces or other such structures;

3. No waters of the state shall come into direct contact with the poultry confined on the poultry feeding operation;

4. Poultry waste handling, treatment, management and removal shall:

a. not create an environmental or a public health hazard,

b. not result in the contamination of waters of the state, and

c. conform to such other handling, treatment and management and removal requirements deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to implement the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

The rules promulgated by the Board pursuant to this section shall provide for exceptions to the storage requirements for poultry waste in emergency situations. Such exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. In such situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

C. Every poultry feeding operation shall have a Nutrient Management Plan which shall include at a minimum:

1. A description of poultry waste handling procedures and availability of equipment and type of equipment to be used;

2. The calculations and assumptions used for determining land-application rates;

3. All nutrient analysis data, for soil and poultry waste testing;

4. Legal description of lands to be used by an operation for land application;

5. Land-application rates of poultry waste shall be based on the available nitrogen and phosphorous content of the poultry waste and shall provide controls for runoff and erosion as appropriate for site conditions;

6. The procedures documented in the Nutrient Management Plan ~~must~~ shall ensure that the handling and utilization of poultry waste complies with the following requirements:

a. adequate poultry waste storage shall be provided consistent with rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry pursuant to subsection B of this section,

b. poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen except in conformance with the Nutrient Management Plan,

c. poultry waste shall only be applied to suitable land at appropriate times and rates. Discharge or runoff of waste from the application site is prohibited. Timing and rate of applications shall be based on assimilation capacity of the soil profile, assuming

usual nutrient losses, expected precipitation, and soil conditions, and

d. poultry waste application shall be prohibited on land subject to excessive erosion;

7. Records shall be maintained of all poultry wastes applied on land owned or controlled by the operator, and sold or given to other persons:

a. if the poultry waste is sold or given to other persons for land application or other use, the poultry feeding operation shall maintain a log of: date of removal from the poultry feeding operation; name of recipient the poultry waste is sold or given to; and amount in wet tons, dry tons or cubic yards of poultry waste removed from the poultry feeding operation, and

b. the poultry feeding operation shall make available to the recipient any nutrient sample analysis from that year;

8. Any analysis required by the provisions of the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated thereto shall be performed by a qualified environmental testing laboratory certified by the Department of Environmental Quality and approved by the Oklahoma Department of Agriculture, Food, and Forestry; and

9. Such other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

D. The Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules providing voluntary fees charged to registered poultry feeding operations for the development and writing of Nutrient Management Plans;

E. Every poultry feeding operation located in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall perform soil testing on each land-application area and poultry waste testing at least once every three (3) years to determine:

1. Soil pH and plant-available nutrients including, at a minimum, nitrogen, phosphorous and potassium;

2. Poultry waste nutrient concentrations and moisture; and

3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

F. ~~1.~~ Every poultry feeding operation located in a nutrient-limited watershed and nutrient-vulnerable groundwater shall perform an annual soil test on each land application area prior to the first application of the calendar year. Poultry waste testing shall be performed annually prior to the first application of the calendar

year. Soil and poultry waste testing shall be performed to determine:

~~a. soil~~

1. Soil pH and plant-available nutrients including at least nitrogen, phosphorous and potassium~~,~~;

~~b. poultry~~

2. Poultry waste nutrient concentrations and moisture~~,~~; and

~~c. application~~

3. Application rate based upon current United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards, unless the Oklahoma Department of Agriculture, Food, and Forestry approves other standards.

~~2.~~ G. 1. Soil and poultry waste analysis data shall be retained by the poultry feeding operation for ~~as long as the site is in operation~~ a minimum of six (6) years.

2. All soil and poultry waste analysis data shall be dated prior to land application.

~~G.~~ H. 1. Poultry feeding operations shall develop a plan for the disposal of carcasses associated with normal mortality.

2. In the event there is an outbreak of a major disease or other emergency resulting in deaths significantly higher than normal mortality rates, the Oklahoma Department of Agriculture, Food, and Forestry may approve, in writing, an alternate method of disposal of

carcasses or the storage of poultry waste during the emergency period.

I. Every poultry feeding operation shall file by September 1 of each year an annual report with the Department regarding all poultry waste removed from or land-applied by the facility for the period from July 1 of the previous year through June 30 of that year. The report shall contain the following information:

1. The date and amount of poultry waste removed from or land-applied at the facility;

2. The type of poultry waste removed or land-applied, whether a cake out, full clean out, in house windrow or compost, poultry waste stack shed, or other type;

3. The county and, if applicable, the name of the Nutrient Limited Watershed where the poultry waste was produced; and

4. The location where the poultry waste is removed to:

a. if land-applied on site, provide the following:

(1) the date of the land application,

(2) the total amount of poultry waste land-applied in wet tons, dry tons, or cubic yards,

(3) the name, mailing address, and telephone number of the poultry waste applicator, and

(4) the number of acres under the control of the poultry feeding operation for land application of poultry waste, or

b. if removed off site, provide the following:

(1) the date of the removal off site,

(2) the amount of poultry waste removed in wet tons, dry tons, or cubic yards,

(3) the name, mailing address, and telephone number of the person the poultry waste is sold or transferred to,

(4) the name, mailing address, telephone number, and poultry waste applicator license number of the poultry waste applicator, if known, and

(5) the name, mailing address, and telephone number of the hauler of the poultry waste.

SECTION 6. AMENDATORY 2 O.S. 2011, Section 10-9.8, is amended to read as follows:

Section 10-9.8 Every application shall be accompanied by an annual registration fee of Ten Dollars ($10.00), which is nonrefundable. All such fees shall be deposited in the Agriculture Regulation Revolving Fund created in Section ~~24~~ 10-9.24 of this ~~act~~ title to be used for the purpose of implementing the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the Oklahoma Poultry Waste Applicators Certification Act.

SECTION 7. AMENDATORY 2 O.S. 2011, Section 10-9.9, is amended to read as follows:

Section 10-9.9 A. In addition to the authority of the State Board of Agriculture to make designations of a concentrated animal feeding operation pursuant to Section ~~9-204.1~~ 20-44 of ~~Title 2 of the Oklahoma Statutes~~ this title, the Board shall have the power to designate a poultry feeding operation as a concentrated animal feeding operation as defined by Section ~~9-202~~ 20-41 of ~~Title 2 of the Oklahoma Statutes~~ this title subject to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act after an administrative determination that an operation has violated or is unwilling to comply with any of the provisions of the Oklahoma Registered Poultry Feeding Operations Act, or any rule promulgated pursuant thereto whether or not the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry determines the registered poultry feeding operation to be a significant contributor of pollution to waters of this state.

B. In order to protect the public health and safety and the environment of this state, the Board, pursuant to the Oklahoma Registered Poultry Feeding Operations Act, may require application for a concentrated animal feeding operation license to establish and operate a poultry feeding operation on and after the effective date of this act to any person or other legal entity which:

1. Is not in substantial compliance with a final agency order or any final order or judgment of a court of record secured by any state or federal agency relating to poultry feeding operations; or

2. Has evidenced a reckless disregard for the protection of the public and the environment as demonstrated by a history of noncompliance with environmental laws and rules resulting in endangerment of human health or the environment.

C. Any action taken in regard to the denial, suspension or revocation of a license shall be in conformity with the rules of the Board governing administrative procedures and with the Administrative Procedures Act.

D. The Board shall promulgate rules which will provide a procedure whereby any poultry feeding operation which has been designated a concentrated animal feeding operation pursuant to this section may have such designation removed. The rules shall require satisfactory evidence that such designation is no longer necessary in order to ensure that the operation will comply with all provisions of the Oklahoma Registered Poultry Feeding Operations Act and will not contribute to pollution of the waters of this state.

SECTION 8. AMENDATORY 2 O.S. 2011, Section 10-9.10, is amended to read as follows:

Section 10-9.10

A. 1. a. The State Board of Agriculture or its authorized agents are empowered to enter upon the premises of any poultry feeding operation for the purpose of investigating complaints as to the operation or to

determine whether there are any violations of the Oklahoma Registered Poultry Feeding Operations Act.

b. This section shall not be construed to authorize the Board or its agents to violate any provision of the United States Constitution or the Oklahoma Constitution relating to unlawful search or seizure.

2. a. Registration of a poultry feeding operation pursuant to the Oklahoma Registered Poultry Feeding Operations Act shall be deemed to constitute consent for entry upon the premises of such operation by the Board or its agents for the purpose of implementing the provisions of this subsection.

b. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry shall make at least one inspection per calendar year of every poultry feeding operation registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

B. 1. The Board shall promulgate standard precautions for the prevention of the transmission of communicable diseases to humans and animals to be used by employees of the Department when inspecting poultry feeding operations pursuant to their official duties specified by the Oklahoma Registered Poultry Feeding Operations Act and rules promulgated pursuant thereto.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Registered Poultry Feeding Operations Act requires the use of the standard precautions as promulgated by the Board pursuant to paragraph 1 of this subsection, Department employees shall observe the health standards and sanitary requirements of the facility.

C. The Board shall maintain necessary records and undertake such studies, investigations and surveys for the proper administration of the Oklahoma Registered Poultry Feeding Operations Act.

SECTION 9. AMENDATORY 2 O.S. 2011, Section 10-9.11, is amended to read as follows:

Section 10-9.11 A. 1. Any person violating the provisions of the Oklahoma Registered Poultry Feeding Operations Act shall, upon conviction, be guilty of a misdemeanor and may be punished by a fine not to exceed Two Hundred Dollars ($200.00).

2. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder.

B. 1. In addition to the criminal penalties specified by this section, the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry may:

a. assess an administrative penalty of not more than Two Hundred Dollars ($200.00) per day of noncompliance, or

b. bring an action for injunctive relief granted by a district court.

2. A district court may grant injunctive relief to prevent a violation of, or to compel compliance with, any of the provisions of the Oklahoma Registered Poultry Feeding Operations Act or any rule promulgated thereunder or order, registrations and certificates issued pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

3. Nothing in this section shall preclude the Department from seeking penalties in district court in the maximum amount allowed by law. The assessment of penalties in an administrative enforcement proceeding shall not prevent the subsequent assessment by a court of the maximum criminal penalties for violations of the Oklahoma Registered Poultry Feeding Operations Act.

4. Any person assessed an administrative penalty may be required to pay, in addition to such penalty amount and interest thereon, ~~attorneys~~ attorney fees and costs associated with the collection of such penalties.

C. 1. Any action for injunctive relief to redress or restrain a violation by any person of the Oklahoma Registered Poultry Feeding Operations Act, or for any rule promulgated thereunder, or order issued pursuant thereto, or recovery of any administrative penalty

assessed pursuant to the Oklahoma Registered Poultry Feeding Operations Act may be brought by:

a. the district attorney of the appropriate district court of the State of Oklahoma,

b. the Attorney General on behalf of the State of Oklahoma, or

c. the Department on behalf of the State of Oklahoma.

2. The court shall have jurisdiction to determine the action, and to grant the necessary or appropriate relief, including but not limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

3. It shall be the duty of the Attorney General and district attorney if requested by the Commissioner of Agriculture to bring such actions.

D. Except as otherwise provided by law, administrative and civil penalties shall be paid into the State Department of Agriculture Regulation Revolving Fund.

E. For the purposes of the Oklahoma Registered Poultry Feeding Operations Act, each day upon which a violation is committed or is permitted to continue shall be deemed a separate offense.

F. Any contract poultry grower determined after notice and opportunity for a hearing by the Department as flagrantly disregarding Best Management Practices shall result in the Department notifying the integrator in writing.

G. The Department shall notify all integrators of any violations assessed against an operator who is under a contract growing arrangement with that integrator and, upon the written request of the integrator, notify that integrator of all violations assessed an operator with whom the integrator contemplates entering into a contract.

H. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation or certification form, notice or report, or who knowingly renders inaccurate any monitoring device or method required to be maintained by any rule promulgated by the Board, shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Five Thousand Dollars ($5,000.00) for each such violation.

SECTION 10. AMENDATORY 2 O.S. 2011, Section 10-9.12, as amended by Section 2, Chapter 227, O.S.L. 2013 (2 O.S. Supp. 2014, Section 10-9.12), is amended to read as follows:

Section 10-9.12 A. The State Board of Agriculture shall promulgate rules for the administration, implementation and enforcement of the Oklahoma Registered Poultry Feeding Operations Act.

B. ~~1. The State Board of Agriculture shall promulgate a violation points system for persons violating the Oklahoma Registered Poultry Feeding Operations Act which provides that:~~

~~a. violations involving the greatest harm to the natural resources of the state, ground or surface water quantity or quality, public health or the environment shall receive the most points and shall be considered significant violations,~~

~~b. violations that are committed willfully or intentionally shall be considered significant violations,~~

~~c. the number of points received shall be directly related to the degree of negligence or willfulness,~~

~~d. the commission of three significant violations, or the commission of lesser violations that result in a predetermined cumulative number of points, within a limited period of time of not less than two (2) years shall result in the mandatory designation of the registered poultry feeding operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act, and~~

~~e. the commission of one significant violation that results in serious harm may result in the designation of the poultry operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act.~~

~~2. In developing the violation points system pursuant to this subsection, the Board shall determine the:~~

~~a. number of points that lesser violations must cumulatively total to result in the designation of the poultry operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act,~~

~~b. limited period of time during which the commission of three significant violations, or the commission of a greater number of lesser violations, will result in the administrative action. The limited period of time shall not be less than two (2) years,~~

~~c. duration of the registration revocation, and~~

~~d. conditions under which the person whose registration is revoked may reapply for another registration pursuant to the Oklahoma Registered Poultry Feeding Operations Act.~~

~~C.~~ For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

SECTION 11. AMENDATORY 2 O.S. 2011, Section 10-9.13, is amended to read as follows:

Section 10-9.13 A. Sections ~~13~~ 10-9.13 through ~~15~~ 10-9.15 of this ~~act~~ title shall be known and may be cited as the "Oklahoma

Poultry Waste Transfer Act". The purpose of this act shall be to encourage the transfer of poultry waste out of designated nutrient-limited watersheds and nutrient-vulnerable groundwater as designated in the most recent ~~Oklahoma's~~ Oklahoma Water Quality Standards.

B. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry shall develop a plan to encourage the transfer of poultry waste out of designated nutrient-limited watersheds and nutrient-vulnerable groundwater as designated by the most recent ~~Oklahoma's~~ Oklahoma Water Quality Standards.

SECTION 12. AMENDATORY 2 O.S. 2011, Section 10-9.14, is amended to read as follows:

Section 10-9.14 A. There is hereby created in the State Treasury a fund for the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry to be designated as the Poultry Waste Transfer Fund. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of:

1. All monies received by the Department for implementing the purpose of the provisions of the Oklahoma Poultry Waste Transfer Act;

2. Interest attributable to investment of money in the Poultry Waste Transfer Fund; and

3. Money received by the Department in the form of gifts, grants, reimbursements, or from any other source intended to be used

for the purposes specified by or collected pursuant to the provisions of the Poultry Waste Transfer Fund.

B. The monies deposited in the Poultry Waste Transfer Fund shall at no time become monies of the state and shall not become part of the general budget of the Department or any other state agency. Except as provided for in this section, no monies from the Poultry Waste Transfer Fund shall be transferred for any purpose to any other state agency or any account of the Department or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

SECTION 13. AMENDATORY 2 O.S. 2011, Section 10-9.16, is amended to read as follows:

Section 10-9.16 Sections ~~16~~ 10-9.16 through ~~21~~ 10-9.21 of this ~~act~~ title shall be known and may cited as the "Oklahoma Poultry Waste Applicators Certification Act".

SECTION 14. AMENDATORY 2 O.S. 2011, Section 10-9.17, is amended to read as follows:

Section 10-9.17 A. It shall be unlawful and a misdemeanor punishable by a fine of not more than Five Thousand Dollars ($5,000.00) 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. Applicator's certificates shall be issued by the Board, to applicants who qualify under the provisions of the Oklahoma Poultry Waste Applicators Certification Act.

C. Certificates 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. A certificate shall be issued only after satisfactory completion of such certification standards as determined by the Board.

E. 1. All commercial applicator certificates 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. A registration fee of Fifteen Dollars ($15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars ($15.00) shall accompany every renewal application.

2. All private applicator certificates shall be in effect for five (5) years and may be renewed by application. A registration fee of Fifteen Dollars ($15.00) shall accompany every initial application for certification. A renewal fee of Fifteen Dollars ($15.00) shall accompany every renewal application. The Fifteen

Dollar ($15.00) registration and renewal fee shall be waived if the private applicator is also registered pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

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

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

SECTION 15. AMENDATORY 2 O.S. 2011, Section 10-9.18, is amended to read as follows:

Section 10-9.18 A. Every certified poultry waste applicator shall file by ~~December 31~~ September 1 of each year an annual report with the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry regarding all poultry waste land-applied by such applicator for the period from July 1 of the previous year through June 30 of that year. ~~Such~~ The report shall contain the following information:

1. The legal description and ~~conservation district~~ county where the poultry waste was produced;

2. The legal description and ~~conservation district~~ county where the poultry waste was land-applied;

3. Date of each application;

4. Total and per-acre amount of each application;

5. Name ~~and~~, address, and telephone number of the person for whom poultry waste was applied;

6. The most recent soil test results obtained; and

7. Such other information as may be required by the State Board of Agriculture.

B. The Department shall ~~promulgate and~~ make available forms to be used in making such report.

C. Applicators who seek to obtain a renewal certificate shall submit the report with their application for renewal. No renewal certificate may be issued without submission of this report.

~~D. The State Department of Agriculture shall provide such reports to the Oklahoma Conservation Commission. The Commission shall publish an annual report containing the following information:~~

~~1. The total amount of poultry waste produced in each conservation district; and~~

~~2. The total amount of poultry waste land applied by a certified applicator when land applied in each conservation district.~~

~~E. The Commission shall submit copies of the report to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives by March 1 of each year. Copies of such reports shall be made available to all federal, state and local cooperating agencies and to the general public.~~

SECTION 16. AMENDATORY 2 O.S. 2011, Section 10-9.19, is amended to read as follows:

Section 10-9.19 1. Prior to any land application of poultry waste by a certified poultry waste applicator, the applicator shall obtain the most recent soil and poultry waste tests as required by the Oklahoma Poultry Waste Applicators Certification Act.

2. Land application of poultry waste in a non-nutrient-limited watershed and non-nutrient-vulnerable groundwaters shall not be made at any rate which exceeds the most recently published United States Department of Agriculture Natural Resources Conservation Service Waste Utilization Standards.

3. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry may promulgate rules pursuant to the Administrative Procedures Act which will prohibit the land application of poultry waste in nutrient-limited watersheds and nutrient-vulnerable groundwaters based upon lower soil phosphorous levels than are allowed in this section for non-nutrient-limited watersheds and non-nutrient-vulnerable groundwaters.

SECTION 17. AMENDATORY 2 O.S. 2011, Section 10-9.19a, is amended to read as follows:

Section 10-9.19a Land application of poultry waste, whether performed by a private or commercial poultry waste applicator, shall comply at all times with the provisions set forth in:

1. The ~~Animal Waste~~ Nutrient Management Plan, if application is conducted on land operated by a registered poultry feeding operation; and

2. The Conservation Plan, if application is conducted on land operated by entities not regulated pursuant to the Oklahoma Registered Poultry Feeding Operations Act and is located in a nutrient-limited watershed.

SECTION 18. AMENDATORY 2 O.S. 2011, Section 10-9.20, is amended to read as follows:

Section 10-9.20 A. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry 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 applicators of poultry waste, recertification of applicators, 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.

C. The Department may take samples of poultry waste and soil at application sites in order to determine their concentration. The work of each applicator may be inspected at the application site 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 19. AMENDATORY 2 O.S. 2011, Section 10-9.21, is amended to read as follows:

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

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

1. Has used methods of 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 Oklahoma Department of Agriculture, Food, and Forestry, 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 State Board of Agriculture;

4. Has failed or refused to file annual reports 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 a commercial 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 not complied with the education provisions of subsection F of Section 10-9.5 of this title; or

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

SECTION 20. AMENDATORY 2 O.S. 2011, Section 10-9.23, is amended to read as follows:

Section 10-9.23 The Oklahoma Cooperative Extension Service shall provide to the Secretary of the Environment no later than ~~January 31, 1999, and~~ January 31 of each ~~following~~ year, a written report of their educational activities involving poultry operators and waste applicators pursuant to this act. This report shall include, but not be limited to:

1. The number of operators and applicators enrolled in courses required in the first year listed by ~~conservation district~~ county;

2. The number of operators successfully completing such courses listed by ~~conservation district~~ county;

3. The number of operators and applicators enrolled in courses required in subsequent years listed by ~~conservation district~~ county; and

4. The number of operators successfully completing such courses listed by ~~conservation district~~ county.

The Secretary of the Environment shall use the data provided in this report along with water quality monitoring and other environmental data to evaluate the effectiveness of the curriculum offered. The Secretary shall work in conjunction with the Oklahoma Cooperative Extension Service to correct any course deficiencies identified in the evaluation.

SECTION 21. REPEALER 2 O.S. 2011, Section 10-9.15, is hereby repealed.

SECTION 22. REPEALER 2 O.S. 2011, Section 10-9.22, is hereby repealed.

SECTION 23. This act shall become effective November 1, 2015.

Passed the House of Representatives the 10th day of March, 2015.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2015.

_____
Presiding Officer of the Senate