An Act

ENROLLED SENATE
BILL NO. 92

By: Justice of the Senate

and

Kouplen of the House

An Act relating to poultry waste applicators; amending 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), which relates to the Oklahoma Registered Poultry Feeding Operations Act; requiring poultry waste applicators to attend certain educational courses and training; modifying certain training requirements for operators of poultry feeding operations; amending 2 O.S. 2001, Sections 10-9.17 and 10-9.21, which relate to the Oklahoma Poultry Waste Applicators Certification Act; requiring compliance with certain educational courses and training requirements; specifying penalty for noncompliance; and providing an effective date.

SUBJECT: Poultry waste applicators required training.

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 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 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 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 ~~no less than~~ the initial nine (9) hours of training in the first year and ~~no less than three (3) hours each year thereafter~~ 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 ~~prerequisite and annual~~ 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 requirements of subsection F of this section.

SECTION 2. AMENDATORY 2 O.S. 2001, 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 provisions of subsection F of Section 10-9.5 of this title.

SECTION 3. AMENDATORY 2 O.S. 2001, 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 Department of Agriculture 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; ~~or~~

8. Has not complied with the 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 4. This act shall become effective January 1, 2012.

Passed the Senate the 8th day of March, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 6th day of April, 2011.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 7th
day of April, **20** 11,
at 1:22 **o'clock** P.M.

By: James R. Rogers

Approved by the Governor of the State of Oklahoma the 13th **day of**
April, **20** 11, **at** 11:22 **o'clock** A.M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
13th **day of** April, **20** 11,
at 3:54 **o'clock** P **M.**

By: Michelle R. Day