

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY

Editor's Note: *Effective 5-6-02, the name of the State Department of Agriculture was changed to the Oklahoma Department of Agriculture, Food, and Forestry. [Laws 2002, c.173]*

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[**Authority:** 2 O. S. §§ 2-4, 2-7, 2-8, and 2-18; 19 O.S., § 901.57; 75 O.S., §§ 250 et seq., 302, 305, and 307]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:1-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of providing the public with information concerning the structure and operation of the Oklahoma Department of Agriculture, Food, and Forestry as well as setting procedures regarding declaratory rulings, rules governing rulemaking and individual proceedings for both formal and informal hearings, and licensing procedures.

[**Source:** Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-1-2. Statutory citations [RESERVED]

35:1-1-3. Conflicting rules

- (a) All rules heretofore adopted by the State Board of Agriculture which are in conflict with the rules in Chapter 1 of this Title are hereby repealed or suspended, but otherwise remain valid and in full effect.
- (b) All rules heretofore adopted by the Board which are in conflict with Title 75 of the Oklahoma Statutes, Sections 301 et seq., as amended, are hereby repealed or suspended, but otherwise remain valid and in full effect.

[**Source:** Amended at 23 Ok Reg 2135, eff 6-25-06]

SUBCHAPTER 3. ORGANIZATION AND OPERATION

35:1-3-1. Composition

The Oklahoma Department of Agriculture, Food, and Forestry consists of the State Board of Agriculture, the divisions, and other positions and offices and as may be established by law or by the Board.

[**Source:** Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-3-2. Personnel of the Board

(a) The State Board of Agriculture consists of five (5) members appointed by the Governor with the advice and consent of the Senate. Four (4) members are appointed from within and represent an agricultural district and one member is appointed from the state at large. The at large member is the President of the Board and Commissioner of Agriculture and serves as the executive officer.

(b) The Secretary of the Board is an employee of the Department, who is not a member of the Board, who performs those duties fixed by the Board. The Secretary shall be designated as the Executive Secretary of the Board.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-3-3. Board meetings; quorum

The State Board of Agriculture shall meet a minimum of eight (8) times per year in regular session but not more than six (6) days in any calendar month. Special meetings may be called by the President of the Board or upon petition by three (3) members. Three (3) members of the Board shall constitute a quorum.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06 ; Amended at 35 Ok Reg 746, eff 9-14-18]

35:1-3-4. Functions, duties, and operations of the divisions

(a) For the effective operation of its integrated activities and duties, the Oklahoma Department of Agriculture, Food, and Forestry shall have the power to consolidate any of the divisions, transfer any of the functions or duties to another division, place additional functions or activities in a division, establish new divisions, and create new or additional positions in the Department, when conducive to a more efficient administration and enforcement of laws pertaining to agriculture.

(b) The divisions of the Department presently established include the following:

(1) Administrative Services: Executive office and agency services, including finance, personnel, audits and investigations, and general services.

(2) Agricultural Environmental Management Services: Protection of waters of the state and the environment from animal and poultry waste pollution.

(3) Agricultural Statistics Services: Current crop conditions and livestock inventory numbers.

(4) Animal Industry Services: Animal health and disease control programs.

(5) Food Safety and Consumer Protection Services: Seed, feed, fertilizer, pesticides, nursery, apiaries, weights and measures, meat, milk, egg, poultry, produce and organic programs.

(6) Forestry Services: Landowner assistance, tree planting, fire protection, urban forestry, and education programs.

(7) Laboratory Services: Official state testing lab.

- (8) Market Development Services: Market promotion, loan programs, market news, and educational programs.
- (9) Office of General Counsel: Legal assistance to the divisions and enforcement of the Oklahoma Agricultural Code.
- (10) Wildlife Services: Prevention of damage caused by wildlife.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06 ; Amended at 35 Ok Reg 746, eff 9-14-18]

SUBCHAPTER 5. DECLARATORY RULING PROCEDURES

35:1-5-1. Request for declaratory ruling

Any person who alleges that any rule or order of the State Board of Agriculture interferes or impairs, or threatens to interfere with or impair a legal right of that person may petition the Board and request a declaratory ruling on the applicability of the rule or order.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-5-2. Filing and contents of petition

- (a) The petition for a declaratory ruling shall be in writing and styled similarly to an ex parte petition filed in a court of law.
- (b) The petition shall include the following:
 - (1) A clear and concise statement of the rule or order;
 - (2) A brief statement of the issues raised by the rule or order that causes the request to be made;
 - (3) A statement of the petitioner's personal interest in the ruling;
 - (4) If the rule interpretation was discussed with the agency, the name of the employee and the division;
 - (5) Any applicable exhibits or further explanation; and
 - (6) The name and signature, name of business, address, and telephone number of the petitioner.
- (c) The petition shall be filed with the Executive Secretary.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-5-3. Consideration of petition; Board action; notice to applicant

- (a) The petition for a declaratory ruling shall be considered by the Department.
- (b) If the Department refuses to make a ruling or begin an individual proceeding within thirty (30) days, the petition shall be deemed denied.
- (c) Any recommendation made by the Department shall contain proposed findings of fact and conclusions of law.
- (d) If the Department begins an individual proceeding, the petitioner shall have an opportunity to be heard.
- (e) Any recommendation shall be considered by the Board prior to issuance of a final order on the declaratory ruling.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-5-4. Request for formal hearing [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

35:1-5-5. Joining of other parties affected by rule

- (a) If it appears that the interests of persons other than the petitioner are so affected by the requested ruling that it is improper to entertain the proceedings without hearing them, the Board may refuse to issue a declaratory ruling or it may require them to be made parties.
- (b) Notice shall be served upon the joined persons as in individual proceedings, and the matter shall be governed thereafter by the procedure applicable to individual proceedings.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-5-6. Ruling [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

SUBCHAPTER 7. RULEMAKING PROCEDURES

35:1-7-1. Opportunity for rulemaking hearing

- (a) The Board shall comply with all applicable provisions of the Administrative Procedures Act of Title 75, Section 250 et seq. of the Oklahoma Statutes.
- (b) Any interested person may petition the Board requesting the promulgation, amendment, or repeal of a rule. The petition shall be filed with the Board and shall set forth in writing, clearly and concisely, all matters pertaining to the requested action and the reasons for the request.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06]

35:1-7-2. Notice of rulemaking [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

35:1-7-3. Rulemaking hearing [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

35:1-7-4. Effective date of rule [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

35:1-7-5. Emergency rules [REVOKED]

[Source: Revoked at 23 Ok Reg 2135, eff 6-25-06]

SUBCHAPTER 9. INDIVIDUAL PROCEDURES

35:1-9-1. Filing of papers, Administrative Law Judge, and Administrative Law Clerk

(a) All papers required to be filed by this Subchapter shall be filed with the Administrative Law Clerk.

(b) The Commissioner or designee may appoint an Administrative Law Clerk to maintain the administrative hearing dockets and records and perform any other duties assigned.

(c) The Commissioner or designee may appoint an Administrative Law Judge for any administrative hearing.

(1) The Administrative Law Judge shall not have had any prior involvement in the matter at issue other than as an Administrative Law Judge, unless the parties file a written waiver.

(2) The Administrative Law Judge shall have authority to conduct individual proceedings and may take any action consistent with the Administrative Procedures Act and the rules of this subchapter, including but not limited to the following:

(A) Arrange and issue notice of the date, time, and place of hearings and conferences;

(B) Establish the methods and procedures to be used in the presentation of the evidence;

(C) Hold conferences to settle, simplify, determine, or strike any of the issues in a hearing, or to consider other matters that may facilitate the expeditious disposition of the hearing;

(D) Administer oaths and affirmations;

(E) Regulate the course of the hearing and govern the conduct of participants;

(F) Examine witnesses;

(G) Rule on, admit, exclude, and limit evidence, at or before hearings;

- (H) Establish the time for filing motions, testimony, and other written evidence, briefs, findings, and other submissions, and hold the record open for those purposes;
- (I) Rule on motions and pending matters;
- (J) Divide the hearing into stages or join claims of parties whenever the number of parties is large or the issues are numerous and complex;
- (K) Restrict attendance by persons not parties to the hearing in appropriate cases;
- (L) Admit attorneys from other jurisdictions to practice law before the Department in accordance with Rules of the Oklahoma Bar Association, 5 O.S. Chapter 1, Appendix 1, Article II, § 5, and administer the oath required by 5 O.S. § 2;
- (M) Require briefs on any relevant issues; and
- (N) Request proposed findings of fact, conclusions of law, and proposed orders from all parties.

(3) At the request of the Administrative Law Judge, the Commissioner may designate a Department representative who has had no assigned responsibilities related to the matter at issue to serve as technical adviser to the Administrative Law Judge.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06 ; Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-2. Contents of Notice of Violation and initiation of actions

(a) The Office of General Counsel of the Oklahoma Department of Agriculture, Food, and Forestry by and through any attorney employed by the Department is hereby an authorized agent of the State Board of Agriculture for the following purposes:

(1) To initiate and prosecute in the name of the Office of General Counsel on behalf of the State Board of Agriculture any administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code or rules promulgated thereunder; and

(2) To apply to and obtain from a district court an administrative warrant as necessary to enforce the right of access and inspection as authorized and described in Section 2-14 of Title 2 of the Oklahoma Statutes.

(b) An individual proceeding pursuant to the Administrative Procedures Act shall be initiated by the filing of a Notice of Violation containing the following:

(1) A statement of the time, place, and nature of the hearing;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved; and

(4) A short and plain statement of the matters asserted; however, if the agency is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and thereafter upon application a

more definite and detailed statement shall be furnished.
(c) Individual proceedings may be initiated by the Office of General Counsel by filing a Notice of Violation with the Administrative Law Clerk.
(d) The Department shall comply with the Oklahoma Small Business Regulatory Flexibility Act, 75 O.S. § 506, where applicable.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-3. Notice to parties

(a) As soon as possible after the filing of the Notice of Violation, the Department shall notify the respondents of the filing and of the date set for hearing.
(b) The notice shall include a copy of the petition and the date, time, and place of the hearing, which shall be at least twenty (20) days after notice of the hearing is sent, unless otherwise provided by law or agreed by the parties.
(c) Service of notice shall be made in accordance with the Oklahoma Pleading Code, 12 O.S. § 2001 et seq.
(d) Where the Department is serving notice, personal service may be made by any agriculture law enforcement agent pursuant to 2 O.S. 6-310.
(e) Notice shall be sent to the address for the respondent as maintained in the records of the Department.
(f) Notice sent to the address on file by certified mail shall be considered good service to the respondent and the respondent shall have the burden of showing that an appropriate address change was filed with the Department prior to the notice being sent.

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06 ; Amended at 25 Ok Reg 1779, eff 7-1-08 ; Amended at 27 Ok Reg 2407, eff 7-25-10]

35:1-9-4. Methods of serving notice [REVOKED]

[Source: Amended at 23 Ok Reg 2135, eff 6-25-06 ; Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-5. Time notice is completed [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-6. Time of hearing; request for extension [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-7. Hearing procedures

(a) The Administrative Law Judge may schedule and conduct prehearing conferences as necessary.
(1) The prehearing conference may be held by telephone.
(2) Upon request of either party, prehearing conferences shall be on the record.
(3) Prehearing conferences may address any of the following:

- (A) Identification and simplification of issues, including the elimination of frivolous claims or defenses;
- (B) Amendments to the pleadings;
- (C) The plan, schedule, and limitations of discovery;
- (D) Identification of admissions of fact to avoid unnecessary proof and cumulative evidence;
- (E) The identification of witnesses and substance of testimony, exhibits, and documents;
- (F) The use of prehearing briefs and prefiled testimony in the form of sworn affidavits;
- (G) Settlement of all or some of the issues prior to the hearing;
- (H) Adoption of special procedures for managing difficult or protracted actions that may involve complex issues, multiple parties, novel or difficult legal questions, or evidence problems;
- (I) Scheduling; and
- (J) Any other matters as may aid in disposition of the case.

(4) A prehearing conference may result in a scheduling or other prehearing order and subsequent changes to any prehearing or scheduling order may be made by the Administrative Law Judge by modifying the order for good cause.

(b) The order of procedure in all individual proceedings shall be governed by the Administrative Procedures Act and this subchapter.

(1) At the hearing, each party may make a brief opening statement, present witnesses, documents and exhibits on its behalf, and cross-examine adverse witnesses.

(2) The right to make a closing statement or argument shall be at the discretion of the assigned administrative law judge.

(3) The rules of evidence shall be those specified by the Administrative Procedures Act.

(4) At the discretion of the Administrative Law Judge, any party may reopen the case in chief, even after the adverse party has rested.

(5) Parties may stipulate to any lawful matter.

(c) The Administrative Law Judge shall rule on the admissibility of evidence and objections to evidence, and on motions or objections raised during hearings. All objections shall be made promptly or be deemed waived.

(d) The standard of proof in all individual proceedings affecting or prejudicing an individual's license, registration, permit, certification or other authorization to engage in a given livelihood or occupation shall be clear and convincing. In all other matters the standard of proof shall be a substantial evidence.

(e) The Administrative Law Judge shall hear all evidence and arguments applicable in a case and shall prepare the final order in the proceeding that shall include findings of fact and conclusions of law, separately stated.

(1) The Administrative Law Judge may allow the parties to submit briefs or proposed findings of fact and conclusions of law prior to ruling on the matter at issue.

(2) The Administrative Law Judge may take the cause of action under advisement for a period not to exceed thirty (30) days and shall then issue a final order in writing to the parties.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08 ; Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-8. Assistance of counsel to Board

The Board may seek the assistance of a representative of the Office of General Counsel to sit with the Board as a law member. Nothing contained herein shall, however, prevent the Board from employing outside counsel when in the opinion of the Board, it is necessary to do so in order to administer and enforce the provisions of the Oklahoma Agricultural Code and the rules promulgated thereunder.

35:1-9-9. Record of hearing

(a) A record of the hearing shall be made, which shall be a oral recording unless otherwise agreed by the parties and the Administrative Law Judge. The recording will not be transcribed as a matter of course, however, any party may request a copy of the oral recording and pay all costs for transcribing the oral record

(b) Any party may request a court reporter. The requesting party shall pay the costs, and the original transcript shall be filed in the case file as part of the record in the case.

(c) The record of a proceeding and the file containing the notices and the pleadings shall be maintained by the Administrative Law Clerk. All pleadings, motions, orders and other papers submitted for filing in a proceeding shall be file stamped by the Administrative Law Clerk upon receipt. The burden of showing substantial prejudice by any failure to correctly file-stamp any submittal shall be upon the asserting party.

(d) The administrative record of all individual proceedings shall contain documents required by the APA, 75 O.S. § 309, and shall include but not be limited to all pleadings, motions, and intermediate rulings; evidence received or considered; a statement of matters officially noticed; questions and offers of proof, objections, and rulings thereon; and any decision opinion.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-10. Reporter and transcripts [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-11. Findings of fact

All findings of fact shall be based exclusively on the evidence, on matters officially noticed during the hearing; and, upon the information received through investigation and examination made by the Department prior to or during the hearing.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-12. Testimony of witnesses

The testimony of witnesses and documentary evidence may be admitted on behalf of any party at the hearing pursuant to the Oklahoma Evidence Code. The Administrative Law Judge may allow a party to conduct cross-examinations required for a full and true disclosure of the facts.

35:1-9-13. Notice of facts

The Board shall give notice to all parties, prior to or at the hearing, of any facts of which it proposes to take official notice. Any party may request that official notice be taken of any fact qualified for notice by the statutes of this State. If official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-14. Right to counsel [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-15. Final orders, proposed findings of fact and conclusions of law [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-16. Communication with parties [REVOKED]

[Source: Revoked at 21 Ok Reg 697, eff 4-26-04]

35:1-9-17. Subpoenas

- (a) Subpoenas for the attendance of witnesses, or for the furnishing of information required by the Administrative Law Judge, or for the production of evidence or records of any kind, shall be issued in accordance with the Administrative Procedures Act and the Oklahoma Pleading Code.
- (b) Subpoenas shall be issued by the Executive Secretary of the Board or designee and the signature shall be sufficient authentication for any subpoena.
- (c) Subpoenas shall be served in any manner prescribed by these rules for the service of notices.
- (d) The Department may seek an appropriate judicial order to compel compliance by persons who fail to obey a subpoena, who refuse to be sworn or make an affirmation at a hearing, or who refuse to answer a proper question during a hearing. The hearing may proceed despite the refusal but the Administrative Law Judge may continue the proceedings as necessary to secure a court ruling.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-18. Refusal to obey subpoenas or to testify [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-19. Costs

The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred, but the Board in its final order may tax such costs to some other party if justice so requires.

35:1-9-20. Requests for disqualifications

(a) Requests for the disqualification of a member or members of the Board shall be embodied in an affidavit stating with particularity the grounds alleged therefore. Any request shall be filed prior to the commencement of the hearing unless it is made to appear in the affidavit that the ground of disqualification was not previously known and that the application has been made promptly upon discovery.

(b) Upon the filing of the affidavit, the President of the Board or the Executive Secretary, if the affidavit is filed against the President, shall set the matters for hearing at the earliest date at which the Board can be convened, giving notice thereof personally or by telephone to the party or his counsel.

(c) The Board, or those members thereof qualified to sit at the hearing, shall take evidence and make prompt decisions. In the event the disqualification is sustained or in the event of a mandamus requiring disqualification, the hearing shall be continued to such time as is necessary for the appointment of members pro tem to proceed with the matters, and due notice of the continuance shall be given to all parties.

(d) Requests for disqualification of an Administrative Law Judge shall follow the same procedure as that for disqualification of a member of the Board, however, the Commissioner shall take evidence and make prompt decisions, rather than the Board.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-21. Proof of service [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-22. Administration of oaths; ruling upon offers of evidence [REVOKED]

[Source: Revoked at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-23. Rehearing; reopening or reconsideration

A petition for rehearing, reopening or reconsideration of a final order shall be filed with the Executive Secretary within ten (10) days from the entry of the order. The petition shall be signed by the party or

attorney and shall set forth with particularity the statutory grounds upon which it is based; however, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-24. Informal disposition of an individual proceeding

(a) Informal disposition may be made of any individual proceeding by stipulation, agreed settlement, consent order, or default.

(1) Resolution by stipulation, agreed settlement, or consent order shall be approved by the State Board of Agriculture.

(2) Any Respondent who fails to appear after receipt of notice may be determined to have waived the right to appear and present a defense and a default may be presented by the Department to the Board at a regularly schedule meeting proposing the relief requested by the Notice of Violation.

(b) Proposed final administrative orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture.

(c) Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 et seq.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

35:1-9-25. Orders

(a) Proposed final administrative orders shall be prepared and issued in accordance with the Administrative Procedures Act and presented to the Board of Agriculture for approval.

(b) Administrative penalties, civil penalties, and other fines imposed by the Board shall be enforced pursuant to the procedure outlined in 2 O.S. § 2-7(B) and the Uniform Enforcement of Foreign Judgments Act, 12 O.S. § 719 et seq.

[Source: Amended at 25 Ok Reg 1779, eff 7-1-08]

**SUBCHAPTER 10. REQUIREMENTS FOR
DEPARTMENT PROGRAMS**

35:1-10-1. Addresses for regulated persons

(a) Any person regulated by the Department shall notify the Department of a change of address within thirty (30) days of the change.

(b) Failure to notify the Department of an address change within thirty (30) days may result in an administrative fine.

[Source: Added at 27 Ok Reg 2407, eff 7-25-10]

35:1-10-2. Auditing of entities located in another state

- (a) Any person located in another state and conducting business in Oklahoma that requires a license, permit, or other form of registration shall by virtue of obtaining that license, permit, or other form of registration consent to any inspection or audit by the Department.
- (b) Any person located in another state and denying entry for inspection or audit by an agent of the Board shall result in automatic suspension of all licenses, permits, or other forms of registration issued by the Board, an immediate stop-sale being issued, and the person shall no longer do business in Oklahoma for the licensed, permitted, or other form of registration.
- (c) Any automatic suspension pursuant to this section shall be in effect until the person or entity suspended receives written notice that the suspension has been lifted or set aside by the Board.
- (d) Any person subject to an automatic suspension of any licenses, permits, or other forms of registration may request an administrative enforcement hearing within fifteen (15) working days after the suspension occurs. The hearing shall be held by the Department within ten (10) working days after receipt of the request.

[Source: Added at 27 Ok Reg 2407, eff 7-25-10]

35:1-10-3. Administrative compliance orders

- (a) The Commissioner, upon the request of a Division, may issue an administrative order requiring compliance, assessing penalties for past violations and specifying penalties for continuing noncompliance.
- (b) An administrative compliance order shall specify the findings of fact and conclusions of law upon which it is based and shall set a time for the Respondent to comply. The Order shall specify the penalty, not to exceed the statutory maximum per day of noncompliance, to be assessed in the event that the Respondent fails to comply with the Order within the prescribed time, and, if applicable, the penalty assessed for past violations of the Code, rules, or licenses or permits. The Order shall advise the Respondent that it shall become final unless an administrative hearing is requested in writing within fifteen (15) working days of service of the Order.
- (c) Based on the hearing and record, a proposed order will be sustained, modified, or dismissed by the State Board of Agriculture. If the hearing process extends beyond any compliance deadline specified in the Order, fines specified in the Order for violations of the Order will continue to accrue during the hearing process unless the Administrative Law Judge stays the penalty upon request for good cause shown.

[Source: Added at 27 Ok Reg 2407, eff 7-25-10]

35:1-10-4. Political activity of agriculture investigators

No Oklahoma Department of Agriculture, Food, and Forestry agriculture investigators who has the power of a peace officer shall:

- (1) Serve as an officer of a party committee at the national, state or local level;
- (2) Organize or reorganize a party committee;
- (3) Solicit votes in support of or in opposition to a candidate for state office in a partisan election or a candidate for party committee office;
- (4) Act as a watcher at the polls in behalf of a party committee or a candidate in a partisan election;
- (5) Drive voters to the polls on behalf of a party committee or a candidate in a partisan election;
- (6) Endorse or oppose a candidate for state office in a partisan election or a candidate for party committee office in a political advertisement, broadcast, campaign, literature or similar material;
- (7) Serve as a delegate, alternate or proxy to a party committee convention;
- (8) Address a convention, caucus, rally or similar gathering of a party committee in support of or in opposition to a partisan candidate for state office or party committee office;
- (9) Initiate or circulate a partisan nominating petition; or
- (10) Take any active part in political organization management.

[Source: Added at 27 Ok Reg 2407, eff 7-25-10]

35:1-10-5. Appeals of stop sale, stop work orders

- (a) Any person issued a stop sale or stop work order may file a written request for an appeal of the order within fifteen (15) working days of receipt of the order.
- (b) The Department shall hold a hearing on the appeal within ten (10) working days of receipt of the request.
- (c) This procedure shall not replace any other statute or rule with an appellate procedure spelled out for a specific topic or program.

[Source: Added at 27 Ok Reg 2407, eff 7-25-10]

35:1-10-6. Date of federal regulations incorporated

When reference is made to Titles 7, 9, 21, or 40 CFR it means, unless otherwise specified, the Code of Federal Regulations (2022 Revision).

[Source: Added at 39 Ok Reg 786, eff 9-12-22 ; Amended at 40 Ok Reg 1499, eff 9-11-23]

SUBCHAPTER 11. LICENSING PROCEDURES

35:1-11-1. Application for license

(a) Where any license is required by law, the application for such license shall be on a form prescribed by the Board. The forms may be obtained upon request to the Board.

(b) To the extent that any license or certification issued by the Board requires the presentation of satisfactory evidence of equivalent education training, and experience by an applicant; the Board shall accept the education, training, and experience completed by the applicant as a member of the Armed Forces or Reserves of any state, or the Naval Militias of any state and apply such military education, training, and experience in the most favorable manner to satisfy educational requirements or other qualifications for issuance of the requested license or certification.

(c) To the extent possible, the Board shall expedite endorsement of licenses or certifications for military spouse applicants who possess a valid professional license or certification in another state and must leave work in another state to accompany their service member on transfer and assignment for military duty in this state if the military service member is on active duty within this state or claims permanent residency in this state for the six (6) months prior to assignment to active duty or during the period of active duty. The procedures to expedite licensure or certification shall include:

(1) Issuing the person a license, certificate, or permit, if, in the opinion of the Board or designee, the requirements for certification or licensure of the other state are substantially equivalent to those required by the this state; or

(2) Issuing a temporary permit for a limited period of time to allow the person to perform professional services while completing any specific requirements in this state that were not required in the other state in which the person was licensed or certified.

[Source: Amended at 35 Ok Reg 747, eff 9-14-18]

35:1-11-2. Expiration date of license

(a) The specific requirements and expiration dates for each license are set forth in the Oklahoma Agricultural Code, 2 O.S. 2001, Sections 1-1, et seq., or as subsequently amended, or by rule.

(b) Upon notice to the Board or its designee, active-duty military service members shall be eligible for automatic extensions of professional licenses or certifications during and after military service or deployment, as follows:

(1) The professional license or certification in good standing shall remain in good standing and shall not expire during active military service, deployment, or a reasonable time following military service or deployment;

(2) The payment of fees to renew a professional license or certification shall be waived if such fees accrue during active military service or deployment; and

(3) Requirements to obtain continuing education shall be waived when

- (A) Circumstances associated with military duty prevent continuing training and a waiver request has been submitted to the Board or its designee;
 - (B) The active-duty military member performs the licensed or certification occupation as part of his or her military duties as annotated in Defense Department Form 214 (DD 214); or
 - (C) performing any other act typically required for the renewal of the license or certificate; and
- (4) The automatic extension of a professional license or certificate may be continued as long as the licensee or certificate holder is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty.

[Source: Amended at 27 Ok Reg 2407, eff 7-25-10 ; Amended at 35 Ok Reg 747, eff 9-14-18]

35:1-11-3. Granting of license

Where the information furnished on the application for the license, or for the renewal thereof, appears to establish all the requirements for the grant thereof, and there appears no reason to question its authenticity, the Board or its division or employee authorized to issue the license or renewal may do so without hearing; and, in such event, the matter shall be treated as an individual proceeding, wherein the applicant is the petitioner, and the procedure applicable to individual proceedings thereafter shall be followed except as modified as statute or by the rules of this Title.

35:1-11-4. Continuation of license until final determination

When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the duly filed application for renewal has been finally determined, or in case of a determination adverse to the licensee until the last day for seeking review of the Board's order or a later date fixed by order of the reviewing court.

35:1-11-5. Notification of action on license; time granted for compliance

In accordance with statute, no license shall be revoked, suspended, annulled, withdrawn, or its renewal refused, until the licensee is notified by certified mail or by other means of notification as specified in individual proceedings of the facts which warrant the intended action by the Board, and is given an opportunity to achieve compliance with the requirements for petition of the license, and time for achieving compliance shall be that time prescribed by law or if no time is specified, a reasonable time to be determined by the circumstances of the case at the discretion of the Board and specified in the notice. After that lapse of time, if the Board deems the proceedings should continue, the rules governing individual proceedings shall be followed.

[Source: Amended at 27 Ok Reg 2407, eff 7-25-10]

35:1-11-6. Emergency suspension of license

If the Board finds that public health, safety or welfare imperatively requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other appropriate action. These proceedings shall be promptly instituted and determined.

35:1-11-7. List of licenses required

All licenses, permits or certificates required by law are listed in the statutes or rules of the respective divisions that issue them.

[Source: Amended at 27 Ok Reg 2407, eff 7-25-10]

SUBCHAPTER 12. AGRICULTURAL DEVELOPMENT AND FORESTRY GRANTS

35:1-12-1. Purpose

The rules of this Subchapter have been adopted for the purpose of administering various grant programs for agricultural development and improvement projects in Oklahoma. The rules describe the procedures which will be used to administer various agricultural grant programs designed to improve Oklahoma's communities and rural economy. These rules are intended to be in full compliance with the Administrative Procedures Act and subsequent guidance related to funding of local projects.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-2. Definitions

The following words or terms used in this Subchapter shall have the meaning described below unless the context clearly indicates otherwise:

"Board" means the State Board of Agriculture.

"Department" means the Oklahoma Department of Agriculture.

"Director" means the head of a Division of the Oklahoma Department of Agriculture.

"Project" means the purpose for which an applicant requests funds under this grant program.

"Review Committee" means a committee established for the purpose of assisting with the grant application review process.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-3. Contingency

Implementation of a grant program is contingent upon funding being made available to the Department for this purpose.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-4. Eligibility for grant program

Applicants eligible for grants will be defined in the program guidelines and may include rural fire departments, substate planning districts, non-profit groups, educational institutions, local governments or other recognized political subdivisions, or others as appropriate and which exhibit a specific need related to the defined grant purpose. If federal grant funds are involved, applicants and grantees must agree to abide by all applicable federal requirements.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-5. Grant description

Grant funding may or may not require a local match. Matching requirements will be determined by the Department and will be prescribed in the program guidelines. In-kind matching may be accepted as a portion of the local match as described in the program guidelines. Grants which require a local match may be a reimbursement type grant where grantees make project expenditures, submit claims and receive reimbursement of the specified percentage of documented expenses up to the approved grant amount.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-6. Grant program announcements

(a) **Applicant notification.** The Department will notify potential applicants through direct mailings, news releases, personal contact and other appropriate means.

(b) **Announcement in Oklahoma Register.** A program announcement will be published in the *Oklahoma Register* in accordance with the Administrative Procedures Act.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-7. Grant program guidelines

- (a) **Program guidelines and application forms.** The Department will develop specific guidelines and application forms pertinent to the grant funding available and provide this information to potential applicants.
- (b) **Application procedure.** Applicants will complete the application for funding according to the program guidelines and send completed applications to the Department's contact person as specified in the program guidelines.
- (c) **Application deadline.** The application deadline will be established by the Department and published in the *Oklahoma Register* and program guidelines.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-8. Grant limitations

- (a) **Funding range.** The funding range or limit for each application will be established by the Department and announced in the program guidelines. Partial funding of large projects may be considered.
- (b) **Allowable expenses.** Allowable project expenses will generally include materials costs, worker salaries and other specific expenses as defined in the program guidelines or not prohibited by appropriate federal or state circulars. In-kind service expenses may be allowable. Proper documentation of each expense is required, including paid invoices, cancelled checks, payroll receipts, time records and other pertinent proof of expenditures.
- (c) **Restrictions.** Grant funds must not replace currently funded projects and projects must occur in Oklahoma.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-9. Application evaluation process

- (a) **Review and evaluation of applications.** Applications will be evaluated and ranked by a Review Committee established by the Department or Director as appropriate to the funding source. The standard of review and selection of projects will be based upon the overall merit of the project as compared to other applications received. Applications with the highest evaluations will be recommended for funding to the extent of funds available.
- (b) **Application evaluation criteria.** In anticipation of receiving applications for funding greater than the funds available, evaluation criteria will be used to rank the applications. These criteria will be developed by the Department, Director and Review Committee and will be pertinent to the defined purpose of the grant funding.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-10. Approval of grants

- (a) **Review Committee recommendation.** The Review Committee will recommend the final list of applicants to the Director for funding consideration.

(b) **Board approval.** The Director will submit the final list of grantees and recommended amounts to the Board for consideration. The Board will review the recommendations of the Review Committee and make the final decision on grant approvals and amounts within the limits of funding available.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-11. Grant program administration

(a) **Grant certification forms.** Upon approval, the Director will distribute to all approved grantees the forms requiring grantee signature to certify the grant.

(b) **Grant award date.** The grant award date is the date the final purchase order is dated and filed. The Director shall send each approved grantee a copy of the purchase order which shall constitute official notification of grant approval. For reimbursement grants, expenditures made prior to the grant award date will not be considered for reimbursement.

(c) **Claims.** On reimbursement grants, grantees shall abide by standard state practices and program guidelines when submitting claims. Only documented expenses will be eligible for reimbursement and no advance payments will be made. On other types of grants, claim procedures will be specified in the program guidelines.

(d) **Grant cutoff date.** Where appropriate, the Director will establish the grant cutoff date when project expenditures must be completed.

(e) **Reaward of unclaimed funds.** The Department may reaward unclaimed grant funds to applicants on file.

(f) **Cancellation of grants.** Grants may be cancelled by the Department in the event of noncompliance or lack of progress by the grantee. Before cancelling a grant, the Department will give the grantee thirty (30) days written notice and request information as to why the grant should not be cancelled.

(g) **Recordkeeping.** Grantees shall keep records related to the project for a period of at least three years. On request, grantees shall make these records available to the Director or the Department during this period, or until all audits are complete. Each grantee shall send the Director a copy of any audit report which makes specific reference to the funded project.

(h) **Compliance audits.** The Department may audit completed grants funded under this program as appropriate.

[Source: Added at 14 Ok Reg 2417, eff 6-26-97]

35:1-12-12. Urban forestry and beautification grants

(a) All monies from sales of urban forestry and beautification license plates accruing to the Urban Forestry and Beautification Revolving Fund may be budgeted and expended for the purpose of contracting with or providing grants to nonprofit organizations that develop and operate programs to encourage urban forestry and beautification pursuant to guidelines developed by the Department.

(b) The Department may initiate the grants process at any time so long as the revolving fund balance exceeds Two Thousand Five Hundred Dollars (\$2,500).

(c) In no case shall the total amount of grants awarded from the revolving fund exceed ninety percent (90%) of the revolving fund balance at the time grants are awarded.

[Source: Added at 22 Ok Reg 1033, eff 5-26-05]

SUBCHAPTER 13. AGRICULTURAL PROMOTION GRANT PROGRAM [EXPIRED]

PART 1. GENERAL PROVISIONS [EXPIRED]

35:1-13-1. Purpose [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-1 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-2. Definitions [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-2 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-3. Contingency [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency*

action), the text of Section 35:1-13-3 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.

PART 3. PROMOTION GRANT PROGRAM GUIDELINES [EXPIRED]

35:1-13-7. Eligibility for promotion grant program [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-7 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-8. Use of matching funds [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-8 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-9. Promotion grant programs announcements [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-9 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-10. Application form [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-10 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-11. Application deadline [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-11 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-12. Application procedure [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-12 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

35:1-13-13. Application evaluation process [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-13 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through*

7-14-93, see 9 Ok Reg 3759.

35:1-13-14. Matching grant limitations [EXPIRED]

[Source: Added at 9 Ok Reg 3759, eff 8-7-92 through 7-14-93 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-93 (after the 7-14-93 expiration of this emergency action), the text of Section 35:1-13-14 was no longer effective. For the official text of the emergency rule that was in effect from 8-7-92 through 7-14-93, see 9 Ok Reg 3759.*

APPENDIX A. FINE MATRIX [REVOKED]

[Source: Added at 20 Ok Reg 1493, eff 6-12-03 ; Revoked at 21 Ok Reg 697, eff 4-26-04]

CHAPTER 2. FEES

[**Authority:** 2 O.S., §§ 2-4(2)(3), (20), and (29), 20-12(F)(3), 3-32.1 et seq., 3-100 et seq., and 14-83; OKLA.CONST. art VI § 31]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:2-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the law wherein the Department of Agriculture is required to set fees and to be consistent in fees charged during specific periods, usually one year.

35:2-1-2. Statutory citations

Citations to statutes in this Chapter refer to the most recent codification of the statute.

SUBCHAPTER 3. FEE SCHEDULES

35:2-3-1. Fee payment

(a) All bills owed to the Oklahoma Department of Agriculture, Food, and Forestry for services rendered are payable no later than forty-five (45) days from the time a proper invoice is received. Proper invoice means any invoice which is complete in all requirements for processing for payment.

(b) A signed request by a farmer or individual shall accompany a sample sent for laboratory analysis by a dealer or other person acting on behalf of a farmer or individual. If no signed request is received, the charge for analysis shall be made to the dealer or person sending the sample to the laboratory.

[**Source:** Amended at 28 Ok Reg 1899, eff 7-11-11]

35:2-3-2. Schedules of laboratory fees

(a) The following schedules of laboratory testing fees shall apply to all samples submitted to the Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services Division, unless otherwise stated.

(b) All listed fees are for standard analysis time according to the methods utilized and the workload of the Laboratory Services Division. Any request to rush the analysis of a sample shall be subject to a fifty percent (50%) surcharge.

(c) Samples submitted by or services provided to nonresident persons shall be billed at twice the listed fee.

(d) Any listed fee may be waived if deemed necessary by the Laboratory Services Division Director.

(e) Fees may be discounted or waived pursuant to a contract for a high volume of samples as approved by the Board.

- (f) The following administrative fees shall apply to all types of testing:
- (1) Extra copies of official reports provided by hard copy, facsimile, or electronic means - \$1.00 per page.
 - (2) Complete analytical data packets with reports - \$50.00 per invoice.
 - (3) Unlisted tests, special - \$70.00 per hour plus reagent cost.

[Source: Amended at 10 Ok Reg 3365, eff 7-8-92 (emergency); Amended at 10 Ok Reg 1961, eff 5-27-93 ; Amended at 11 Ok Reg 2565, eff 6-13-94 ; Amended at 12 Ok Reg 3382, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1841, eff 7-1-96 ; Amended at 14 Ok Reg 2419, eff 6-26-97 ; Amended at 15 Ok Reg 2487, eff 6-25-98 ; Amended at 16 Ok Reg 2102, eff 6-25-99 ; Amended at 17 Ok Reg 297, eff 11-2-99 (emergency); Amended at 17 Ok Reg 1013, eff 5-11-00 ; Amended at 18 Ok Reg 1017, eff 5-11-01 ; Amended at 19 Ok Reg 945, eff 5-13-02 ; Amended at 20 Ok Reg 789, eff 5-12-03 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 35 Ok Reg 748, eff 9-14-18 ; Amended at 37 Ok Reg 943, eff 9-14-20]

35:2-3-2.1. Schedule of animal health testing fees

- (a) Equine Infectious Anemia:
- (1) AGID (agar gel immuno-diffusion) - \$10.00.
 - (2) ELISA (enzyme linked immuno-sorbent assay) - \$10.00.
- (b) Pseudorabies - \$6.00.
- (c) Brucellosis - \$5.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 22 Ok Reg 685, eff 5-12-05 ; Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 37 Ok Reg 943, eff 9-14-20]

35:2-3-2.2. Schedule of feed and fertilizer testing fees

- (a) Feeds and grains testing fees:
- (1) Sample preparation - \$10.00.
 - (2) Proximate analysis:
 - (A) Ash - \$7.00.
 - (B) Fat, dry pet foods, milk replacers, and other extruded feeds - \$50.00.
 - (C) Fat, all other feeds - \$16.00.
 - (D) Fiber, acid detergent (ADF) - \$16.00.
 - (E) Fiber, crude - \$10.00.
 - (F) Moisture - \$7.00.
 - (G) Non-protein nitrogen - \$21.00.
 - (H) Protein - \$10.00.
 - (3) Other feed analysis:
 - (A) Aflatoxins - \$65.00.
 - (B) Fumonisin - \$65.00.
 - (C) Salt, from chloride - \$20.00.
 - (D) Salt, from sodium - \$22.00.
 - (E) Sulfur - \$34.00.
 - (F) Sugar, total as invert - \$75.00.
 - (G) Vitamin A - \$60.00.
 - (4) Drugs in feeds:
 - (A) Amprolium - \$50.00.
 - (B) Chlortetracycline - \$50.00.
 - (C) Decoquinatate - \$65.00.
 - (D) Oxytetracycline - \$90.00.
 - (E) Sulfamethazine - \$65.00.

- (F) Sulfathiazole - \$75.00.
- (G) Tylosin - \$85.00.
- (b) Fertilizer testing fees:
 - (1) Sample preparation - \$10.00.
 - (2) Major nutrients:
 - (A) Total nitrogen - \$10.00.
 - (B) Available phosphate - \$30.00.
 - (C) Total phosphate - \$24.00.
 - (D) Soluble potash - \$20.00.
 - (3) Micro nutrients:
 - (A) Total Sulfur - \$120.00.
 - (B) Combined Sulfur - \$45.00.
 - (C) Free Sulfur - \$75.00.
- (c) Lime testing fees:
 - (1) Sample preparation - \$5.00.
 - (2) Calcium carbonate equivalent (CCE) analysis, sieves, and effective calcium carbonate equivalent (ECCE) - \$40.00.
 - (3) Calcium in lime - \$22.00.
 - (4) Magnesium in lime - \$22.00.
 - (5) Calcium carbonate equivalent (CCE) - \$20.00.
- (d) Elemental analysis testing fees by inductively coupled plasma (ICP) spectrometry, each element - \$22.00.

[Source: Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 26 Ok Reg 1805, eff 7-1-09 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15]

35:2-3-2.3. Schedule of meat chemistry testing fees

- (a) Sample preparation - \$5.00.
- (b) Starchy flour (qualitative) - \$11.00.
- (c) Cereal (qualitative) - \$45.00.
- (d) Corn syrup solids - 75.00.
- (e) Fat, total - \$30.00.
- (f) Non-fat dry milk - \$75.00.
- (g) Protein, total - \$20.00.
- (h) Salt - \$42.00.
- (i) Sodium nitrite(quantitative) - \$65.00.
- (j) Potassium nitrite (quantitative) - \$65.00.
- (k) Sodium sulfite, (qualitative) - \$9.00.
- (l) Soy protein - \$45.00.
- (m) Water, total - \$13.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 26 Ok Reg 1805, eff 7-1-09 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 37 Ok Reg 943, eff 9-14-20]

35:2-3-2.4. Schedule of microbiological testing fees

- (a) Aerobic plate count - \$22.00.
- (b) Coliform, total (PA, MPN, or MF) - \$22.00.
- (c) E. coli (PA, MPN, or MF) - \$22.00.
- (d) E. coli O157:H7 or STEC - \$66.00.

- (e) Coliform, fecal (MF or MPN) - \$22.00.
- (f) Listeria spp. or listeria monocytogenes - \$66.00.
- (g) Salmonella - \$66.00.
- (h) Staphylococcus aureus on petri film - \$25.00.
- (i) Thermometer check for OK Dairy Program - \$25.00.
- (j) Pipette check for OK Dairy Program - \$25.00.
- (k) Yeast and mold count - \$25.00.
- (l) Antibiotics in dairy products - \$25.00.
- (m) Somatic cell count in dairy products - \$22.00.
- (n) Fat, protein, added water, and lactose in dairy products - \$22.00.
- (o) Aflatoxin in dairy products - \$33.00.
- (p) Alkaline phosphatase in dairy products - \$33.00.
- (q) Water activity in jerky - \$70.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 21 Ok Reg 724, eff 4-26-04 ; Amended at 24 Ok Reg 1738, eff 6-25-07 ; Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 26 Ok Reg 1805, eff 7-1-09 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 35 Ok Reg 748, eff 9-14-18 ; Amended at 37 Ok Reg 943, eff 9-14-20]

35:2-3-2.5. Schedule of pesticide testing fees

(a) Residue analyses:

(1) Water samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$225.00.
- (B) Herbicide analysis, per test - \$325.00.
- (C) Unknown/other - \$400.00.

(2) Soil samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$225.00.
- (B) Herbicide analysis, per test - \$350.00.
- (C) Termiticide analysis - \$225.00.
- (D) Unknown/other - \$375.00.

(3) Vegetation samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$275.00.
- (B) Herbicide analysis, per test - \$375.00
- (C) Unknown/other - \$400.00.

(4) Organic food program or food samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$275.00.
- (B) Herbicide analysis, per test - \$375.00.
- (C) Unknown/other - \$400.00.

(5) Surface/Swab samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$225.00.
- (B) Herbicide analysis, per test - \$325.00.
- (C) Unknown/other - \$400.00.

(6) Air Samples:

- (A) Organochloride/organophosphate/organonitrogen analysis - \$225.00.
- (B) Herbicide analysis, per test - \$325.00.

- (C) Unknown/other - \$400.00.
- (7) Animal Tissue:
 - (A) Organochloride/organophosphate/organonitrogen analysis - \$375.00.
 - (B) Herbicide analysis, per test - \$400.00.
 - (C) Unknown/other - \$400.00.
- (8) Other matrices not listed above:
 - (A) Organochloride/organophosphate/organonitrogen analysis - \$375.00.
 - (B) Herbicide analysis, per test - \$400.00.
 - (C) Unknown/other - \$400.00.
- (b) Formulations or tank mixes:
 - (1) Concentrates or tank mixes:
 - (A) Single component - \$100.00.
 - (B) Two components - \$150.00.
 - (C) Three or more components - \$225.00.
 - (2) Aerosols - \$275.00.
 - (3) Baits - \$325.00.
 - (4) Unknowns/other - \$350.00.
- (c) Hemp (may only be submitted by Consumer Protection Services Division of the Oklahoma Department of Agriculture, Food, and Forestry) Ä9-THC (delta-9-tetrahydrocannabinol) - \$200.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 37 Ok Reg 943, eff 9-14-20]

35:2-3-2.6. Schedule of water and sediment inorganic testing fees

- (a) Chloride - \$24.00.
- (b) Electrical conductivity (EC) - \$11.00.
- (c) Hardness - \$65.00.
- (d) Ion balance, cation/anion balance - \$110.00.
- (e) Ion screen, anions (chloride, sulfate, nitrate-nitrogen, and nitrite-nitrogen) - \$60.00.
- (f) Ion screen, cations (sodium, potassium, calcium, and magnesium) - \$65.00.
- (g) Kjeldahl nitrogen, total (TKN) - \$33.00.
- (h) Nitrogen from ammonia - \$28.00.
- (i) Nitrogen from nitrates - \$24.00.
- (j) Nitrogen from nitrites - \$24.00.
- (k) pH - \$11.00.
- (l) Phosphorus from ortho-phosphorus - \$24.00.
- (m) Phosphorus, total (TP) - \$33.00.
- (n) Solids, total dissolved (TDS) - \$24.00.
- (o) Solids, total suspended (TSS) - \$24.00.
- (p) Sulfate - \$24.00.
- (q) LMFO assessment for licensed managed feeding operations pursuant to the Oklahoma Concentrated Animal Feeding Operations Act, 2 O.S. § 20-12 (electrical conductivity, pH, ammonia-nitrogen, nitrate-nitrogen and total phosphorus) - \$60.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 24 Ok Reg 1738, eff 6-25-07 ; Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 26 Ok Reg 1805, eff 7-1-09 ; Amended at 28 Ok Reg 1899, eff 7-11-11 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 35 Ok Reg 748, eff 9-14-18]

35:2-3-2.7. Schedule of seed testing fees

- (a) Germination all seeds other than native grasses, each component - \$14.00.
- (b) Germination, native grasses, each component - \$28.00.
- (c) Purity other than grasses, clovers, mixtures, and unprocessed seed - \$15.00.
- (d) Purity for grasses, clovers, mixtures, and unprocessed seed - \$22.00 per hour.
- (e) Tetrazolium (TZ) testing - \$22.00.
- (f) Stress/vigor test/accelerated aging - \$17.00.
- (g) Noxious weed check - \$17.00 per hour.
- (h) Seed count - \$9.00.
- (i) Test weight - \$3.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 22 Ok Reg 685, eff 5-12-05 ; Amended at 24 Ok Reg 1738, eff 6-25-07 ; Amended at 27 Ok Reg 899, eff 7-1-10 ; Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 35 Ok Reg 748, eff 9-14-18]

35:2-3-2.8. Schedule of Oklahoma Bureau of Standards testing fees

- (a) Mass Echelon III.
 - (1) Tolerance test weights not adjusted:
 - (A) Up to and including 10 lbs/5 kg - \$9.00.
 - (B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - \$15.00.
 - (C) Over 50 lbs/30 kg and up to 1,000 lbs/500 kg - \$22.00.
 - (D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - \$45.00.
 - (E) Over 2,500 lbs/1,250 kg and up to 6,000 lbs/3,000 kg - \$80.00.
 - (F) Weight carts up to 6,000 lbs/3,000 kg - \$250.00.
 - (2) Tolerance test weights when adjusted:
 - (A) Up to and including 10 lbs/5 kg - \$27.00.
 - (B) Over 10 lbs/5 kg and up to 50 lbs/30 kg - \$45.00.
 - (C) Over 50 lbs/30 kg and up to 1,000 lbs/500 kg - \$66.00.
 - (D) Over 1,000 lbs/500 kg and up to 2,500 lbs/1,250 kg - \$135.00.
 - (E) Over 2,500 lbs/1,250 kg and up to 6,000 lbs/3,000 kg - \$240.00.
 - (F) Weight carts up to 6,000 lbs/3,000 kg - \$750.00.
- (b) Mass Echelon II.
 - (1) Tolerance test weights not adjusted:
 - (A) Up to and including 2 lbs/1 kg - \$25.00.
 - (B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - \$45.00.
 - (C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - \$85.00.
 - (D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - \$110.00.

- (2) Tolerance test weights when adjusted:
 - (A) Up to and including 2 lbs/1 kg - \$75.00.
 - (B) Over 2 lbs/1 kg and up to 20 lbs/10 kg - \$135.00.
 - (C) Over 20 lbs/10 kg and up to 50 lbs/30 kg - 255.00.
 - (D) Over 50 lbs/30 kg and up to 2,500 lbs/1,250 kg - \$330.00.
- (c) Mass Echelon I.
 - (1) Test weights, manual:
 - (A) Up to and including 1 kg - \$60.00.
 - (B) Over 1 kg and up to 30 kg - \$100.00.
 - (2) Test weights, automated:
 - (A) Up to and including 1 kg - \$250.00.
 - (B) Over 1 kg and up to 30 kg - \$300.00.
- (d) Volume transfer tests:
 - (1) Up to and including 5 gal/20 liters - \$60.00.
 - (2) Over 5 gal/20 liters and up to 50 gal/200 liters - \$120.00.
 - (3) Over 50 gal/200 liters and up to 100 gal/400 liters - \$250.00.
 - (4) Over 100 gal/400 liters and up to 150 gal/600 liters - \$300.00.
 - (5) Over 150 gal/600 liters and up to 200 gal/800 liters - \$350.00.
 - (6) Over 200 gal/800 liters and up to 400 gal/1,600 liters - \$450.00.
- (e) Volume gravimetric tests:
 - (1) Up to and including 1 qt/1 liter - \$100.00.
 - (2) Over 1 qt/1 liter and up to 5 gal/20 liters - \$200.00.
 - (3) Over 5 gal/20 liters and up to 50 gal/200 liters - \$400.00.
 - (4) Over 50 gal/200 liters and up to 100 gal/400 liters - \$600.00.
- (f) Volume LPG Provers up to and including 100 gal/400 liters - \$500.00.
- (g) Cleaning of standards, handling, and packing - \$50.00 per hour.
- (h) Minimum fee per calibration certificate - \$50.00.

[Source: Added at 20 Ok Reg 789, eff 5-12-03 ; Amended at 22 Ok Reg 685, eff 5-12-05 ; Amended at 24 Ok Reg 1738, eff 6-25-07 ; Amended at 25 Ok Reg 1031, eff 7-1-08 ; Amended at 32 Ok Reg 1516, eff 9-11-15]

35:2-3-3. Schedule of weights and measures fees [REVOKED]

[Source: Amended at 10 Ok Reg 1949, eff 5-27-93 ; Amended at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 724, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-4. Schedule of fees for "State Brand Book" [REVOKED]

[Source: Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-5. Fees for meat inspection overtime

The fee for meat inspection overtime work in an official establishment under the Oklahoma Meat Inspection Act (2 O.S. § 6-181) is \$34.00 per hour.

[Source: Amended at 32 Ok Reg 1516, eff 9-11-15 ; Amended at 38 Ok Reg 1613, eff 9-11-21 ; Amended at 40 Ok Reg 1499, eff 9-11-23]

35:2-3-6. Inspection fees for peanuts, pecans, and other fresh fruits and vegetables [REVOKED]

[Source: Revoked at 21 Ok Reg 725, eff 4-26-04]

35:2-3-7. Schedule of fees for commercial values per unit of nutrient of commercial fertilizer in the State [REVOKED]

[Source: Revoked at 21 Ok Reg 725, eff 4-26-04]

35:2-3-8. Schedule of fees for publication, "Forest Trees of Oklahoma"

The publication, "Forest Trees of Oklahoma", is available at the following prices:

NO. OF COPIES	COST IF MAILED	COST IF PICKED UP
1-4	\$4.00 each	\$3.00 each, regardless of quantity
5-19	10% discount = \$3.60 each	
20 +	20% discount = \$3.20 each	

35:2-3-9. Schedule of fees for poultry programs

The fee schedule for poultry programs is as follows:

- (1) Permitted tester's certificates shall be \$30.00 and valid for 3 years.
- (2) Permitted tester certification school shall be a \$25.00 non-refundable registration fee for each application.
- (3) Flock fee for independent flockowners shall be \$25.00/Yr.
- (4) Charges for diagnostic testing services for reportable diseases when conducted by state inspectors shall be:
 - (A) For a flock size of:
 - (i) 1 to 49 birds: \$1.00/bird plus mileage
 - (ii) 50 to 99 birds: \$.75/bird plus mileage
 - (iii) 100 to 499 birds: \$.50/bird plus mileage
 - (iv) 500 to 999 birds: \$.40/bird plus mileage
 - (v) 1,000 and up birds: \$.25/bird plus mileage
 - (B) Mileage shall be charged at current State Motor Pool rates.

[Source: Amended at 9 Ok Reg 1757, eff 5-26-92 ; Amended at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 34 Ok Reg 797, eff 9-11-17]

35:2-3-10. Fees for meat inspection overtime service to plants requiring less than full-time inspection service [REVOKED]

[Source: Revoked at 29 Ok Reg 583, eff 7-1-12]

35:2-3-11. Schedule of fees for forest tree and shrub seedlings from the Forest Regeneration Center

(a) Pursuant to Title 2 O.S. § 16-3, in order to carry out reforestation purposes, the Oklahoma Department of Agriculture, Food, and Forestry operates a Forest Regeneration Center that grows forest tree and shrub seedlings for distribution to landowners.

(b) The following is a method to determine annual fees for categories of seedlings, including but not limited to hardwoods and miscellaneous conifers, southern pines, and containers, purchased from the Forest Regeneration Center for reforestation purposes:

- (1) The following calculations shall be made for each category prior to determining the prices for seedlings:
 - (A) Estimate the percentage of the previous three (3) years' average input costs for growing trees in each category using the best professional judgment of the Department.
 - (B) Use actual seedling distribution data to calculate the three (3) year average of number of trees sold.
 - (C) Estimate the percentage of the previous three (3) years' average revenues generated from each category using the best professional judgment of the Department.
- (2) Using the inputs from subsection (1), determine the difference between the average input cost per tree and the average revenue per tree to find the three (3) year average cost per tree.
- (3) Estimate the total production for the upcoming year through evaluation of factors that include but are not limited to:
 - (A) Actual sales by species for the past three (3) years.
 - (B) Recent purchase trends.
 - (C) Cost-share program activity.
- (4) Calculate projected seedling revenue based on averages from subsection (1) above applied to the current planting plans with projected sales of a minimum of eighty percent (80%) of stock.
 - (A) Calculate projected seedling revenue by applying calculating average three (3) year prices against future or three (3) year average sales.
 - (B) Calculate percentage estimated price adjustment necessary to reach self sufficiency of the program using total projected revenue against three (3) year rolling average of costs.
- (5) Select the minimum of eighty percent (80%) target projected sales percentage using all available information, sales data and best professional judgment. Then apply the needed percentage price adjustment against projected sales to approach self-sufficiency. In order for Oklahoma's seedling prices to remain competitive, price adjustments shall in no case exceed fifteen percent (15%) per year.

(b) The Department may negotiate prices on any advance contract orders greater than 150,000 trees, so long as the price is not lower than estimated cost for production.

(c) In the event that a fiscal year results are within ten percent (10%) of the self sufficiency target, the Department may defer a price increase, so long as estimated input costs and the planting plan are not expected to deviate significantly from the previous year.

(d) Delivery charges for large seedling orders shall be the estimated actual costs to the Department.

(e) Shipping charges for seedling orders shall be based upon projected actual shipping costs for the upcoming year.

[**Source:** Added at 10 Ok Reg 349, eff 11-10-92 (emergency); Added at 10 Ok Reg 1959, eff 5-27-93 ; Amended at 11 Ok Reg 623, eff 11-15-93 (emergency); Amended at 11 Ok Reg 2569, eff 6-13-94 ; Amended at 14 Ok Reg 1119, eff 12-2-96 (emergency); Amended at 14 Ok Reg 1235, eff 5-12-97 ; Amended at 15 Ok Reg 489, eff 9-25-97 through 7-14-98 (emergency)¹; Amended at 16 Ok Reg 2105, eff 6-25-99 ; Amended at 19 Ok Reg 1251, eff 5-28-02 ; Amended at 21 Ok Reg 723, eff 4-26-04 ; Amended at 27 Ok Reg 5, eff 8-6-09 (emergency); Amended at 27 Ok Reg 1101, eff 7-1-10]

Editor's Note: ¹ *This emergency amendatory action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-98 (after the 7-14-98 expiration of this emergency action), the text of 35:2-3-11 reverted back to the permanent text that became effective 5-12-97, as was last published in the 1997 OAC Supplement, and remained as such until amended again by permanent action on 6-25-99.*

35:2-3-12. Schedule of horticulture program fees [REVOKED]

[**Source:** Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Amended at 24 Ok Reg 1736, eff 6-25-07 ; Amended at 27 Ok Reg 1091, eff 4-14-10 (emergency); Amended at 27 Ok Reg 2409, eff 7-25-10 ; Amended at 36 Ok Reg 1355, eff 9-14-19 ; Amended at 37 Ok Reg 943, eff 9-14-20 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-13. Schedule of combined pesticide program fees [REVOKED]

[**Source:** Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Amended at 22 Ok Reg 2297, eff 7-11-05 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-14. Schedule of fertilizer program fees [REVOKED]

[**Source:** Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-15. Schedule of ag-lime program fees [REVOKED]

[**Source:** Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-16. Schedule of soil-amendment program fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-17. Schedule of feed program fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-18. Schedule of seed program fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Amended at 22 Ok Reg 2297, eff 7-11-05 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-19. Organic crop certification program fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-20. Schedule of fees for the garbage feeding program [RESERVED]

[Source: Reserved at 18 Ok Reg 1433, eff 5-25-01]

35:2-3-21. Schedule of fees for milk and milk products [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-22. Schedule of fees for the egg program [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-23. Schedule of fees for the public warehouse program [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 27 Ok Reg 2410, eff 7-25-10 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-24. Livestock auction market and livestock dealer fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-25. Brand registration fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-26. Apiary program fees [REVOKED]

[Source: Added at 18 Ok Reg 1433, eff 5-25-01 ; Amended at 21 Ok Reg 725, eff 4-26-04 ; Amended at 23 Ok Reg 765, eff 5-11-06 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-27. Aquaculture program fees [REVOKED]

35:2-3-27.¹ Aquaculture program fees [REVOKED]

[Source: Added at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

Editor's Note: ¹On 6-25-04, a permanent rule called "General animal industry supply fees" was added at this number (35:2-3-27) creating a duplication in numbering. The rule was editorially renumbered to 35:2-3-29 prior to codification.

35:2-3-28. Swine Special Sale fees [REVOKED]

[Source: Added at 21 Ok Reg 725, eff 4-26-04 ; Revoked at 38 Ok Reg 1613, eff 9-11-21]

35:2-3-29. General animal industry supply fees

35:2-3-29.¹ General animal industry supply fees

(a) Certificates of Veterinary Inspection (Health Certificates) -\$75.00 per pad of 25 with \$8.00 shipping for up to 10 pads.

(b) Poultry tester supplies:

(1) Large or small wing bands - \$12.00 per 100.

(2) Small wing band plier - \$11.00 each.

(3) Leg bands - \$8.50 per 100.

(4) Leg band pliers - \$25.00 each.

(5) Pullorum Test Plate - \$8.00 each.

(6) 1,000 tests Pullorum Typhoid Antigen - \$150.00 per 1,000 doses or \$35.00 per 200 doses.

(7) Large wing band plier - \$25.00 each.

(8) Bleeder loop - \$12.00 each.

(9) Shipping fee for poultry tester supplies - actual cost of shipping.

(c) Contagious Equine Metritis Quarantine Monitoring - \$750.00 for the first mare and \$375.00 for each additional mare in the same quarantine.

(d) Shipping fee for Radio Frequency Identification Device (RFID) tags shall be the actual cost of shipping.

(e) Ear tag applicators - standard retail price.

[Source: Added at 21 Ok Reg 2005, eff 6-25-04 ¹; Amended at 24 Ok Reg 1739, eff 6-25-07 ; Amended at 34 Ok Reg 797, eff 9-11-17 ; Amended at 36 Ok Reg 1355, eff 9-14-19 ; Amended at 38 Ok Reg 1613, eff 9-11-21 ; Amended at 40 Ok Reg 1499, eff 9-11-23]

Editor's Note: ¹Editorially renumbered from 35:2-3-27 to 35:2-3-29, to avoid duplication in numbering.

CHAPTER 3. FINE MATRICES

[**Authority:** 2 O.S., §§ 2-4(2), (3), and (29), 2-18, and 8-77.1 et seq.; Laws 2000, c.243, §116;
OKLA.CONST. art VI § 31]
[**Source:** Codified 4-26-04]

SUBCHAPTER 1. FINE SCHEDULES [REVOKED]

PART 1. GENERAL [REVOKED]

35:3-1-1. General Violations [REVOKED]

[**Source:** Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 3. ANIMAL HEALTH AND DISEASE VIOLATIONS [REVOKED]

35:3-1-3. Biological products violations [REVOKED]

[**Source:** Added at 29 Ok Reg 1688, eff 8-1-12 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 5. FOOD SAFETY VIOLATIONS [REVOKED]

35:3-1-5. Violations of certain food safety laws and rules [REVOKED]

[**Source:** Added at 29 Ok Reg 895, eff 7-1-12 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 7. FORESTRY AND TIMBER VIOLATIONS [REVOKED]

35:3-1-7. Violations of forestry and timber laws [REVOKED]

[**Source:** Added at 27 Ok Reg 1101, eff 7-1-10 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 9. GRAIN WAREHOUSE VIOLATIONS [REVOKED]

35:3-1-10. Violations of the Public Warehouse and Commodity Indemnity Act [REVOKED]

[**Source:** Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 11. LIVESTOCK MARKET VIOLATIONS [REVOKED]

35:3-1-11. Livestock dealers [REVOKED]

[Source: Added at 25 Ok Reg 1034, eff 7-1-08 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-12. Livestock auction markets [REVOKED]

[Source: Added at 25 Ok Reg 1034, eff 7-1-08 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 13. MARKET DEVELOPMENT VIOLATIONS [RESERVED]

PART 15. CONSUMER PROTECTION SERVICES VIOLATIONS [REVOKED]

35:3-1-15. Violations of the Oklahoma Agricultural Liming Materials Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-16. Violations of the Combined Pesticide Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-17. Violations of the Oklahoma Commercial Feed Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-18. Violations of the Oklahoma Fertilizer Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Amended at 24 Ok Reg 1740, eff 6-25-07 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-19. Violations of the Oklahoma Horticulture Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-20. Violations of the Oklahoma Seed Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-21. Violations of the Oklahoma Services Technician and Service Agency Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-22. Violations of the Oklahoma Soil Amendment Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-23. Violations of the Oklahoma Standard Weights and Measures Law [REVOKED]

[Source: Added at 21 Ok Reg 730, eff 4-26-04 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-24. Violations of the Boll Weevil Eradication Act [REVOKED]

[Source: Added at 22 Ok Reg 2298, eff 7-11-05 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

PART 17. AGRICULTURAL ENVIRONMENTAL MANAGEMENT VIOLATIONS [REVOKED]

35:3-1-30. Violations of the Oklahoma Concentrated Animal Feeding Operations Act [REVOKED]

[Source: Added at 23 Ok Reg 2141, eff 6-25-06 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-31. Violations of the Oklahoma Registered Poultry Feeding Operations Act [REVOKED]

[Source: Added at 23 Ok Reg 2141, eff 6-25-06 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

35:3-1-32. Violations of the Oklahoma Poultry Waste Applicators Certification Act [REVOKED]

[Source: Added at 23 Ok Reg 2141, eff 6-25-06 ; Revoked at 38 Ok Reg 1620, eff 9-11-21]

CHAPTER 10. AGRICULTURAL PRODUCTS

[Authority: 2 O.S., §§ 2-4(2) and (29), 10-71 et seq., 9-20 et seq., and 14-1 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:10-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Agricultural Code, 2 O.S. Section 1-1 et seq. This Chapter relates to statutes addressing: egg production for retail sale; licensing of service companies and technicians for servicing weighing and measuring devices; licensing grain warehouses; testing, sampling, packaging, labelling and the method of sale of packaged commodities; type evaluations of commercial weighing and measuring devices installed in Oklahoma; certificate of conformance for commercial weighing and measuring devices prior to installation; dating of perishable and nonperishable foods.

35:10-1-2. Statutory citations [RESERVED]

35:10-1-3. Handbook and publication editions

References to a Handbook or publication in these rules shall mean the following edition of the National Institute of Standards and Technology (NIST), unless a different reference is made in the text of the rule:

- (1) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (2024 Edition).
- (2) Handbook 130 "Uniform Laws and Regulations" (2024 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."
- (3) Handbook 133 "Checking the Net Contents of Packaged Goods" (2023 Edition).
- (4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (2019 Edition).
- (5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (2021 Edition).
- (6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2010 Edition).
- (7) Publication 14 (2024 Edition).
- (8) Publication 12 (1991 Edition).
- (9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

[Source: Added at 25 Ok Reg 1784, eff 7-1-08 ; Amended at 26 Ok Reg 1807, eff 7-1-09 ; Amended at 27 Ok Reg 901, eff 7-1-10 ; Amended at 28 Ok Reg 2169, eff 7-25-11 ; Amended at 29 Ok Reg 583, eff 7-1-12 ; Amended at 30 Ok Reg 787, eff 7-1-13 ; Amended at 31 Ok Reg 716, eff 9-12-14 ; Amended at 32 Ok Reg 1519, eff 9-11-15 ; Amended at 33 Ok Reg 1148, eff 9-11-16 ; Amended at 34 Ok Reg 798, eff 9-11-17 ; Amended at 35 Ok Reg 749, eff 9-14-18 ; Amended at 37 Ok Reg 945, eff 9-14-20 ; Amended at 39 Ok Reg 786, eff 9-12-22 ; Amended at 40 Ok Reg 1500, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22,

effective 8-11-24]

35:10-1-4. Fee schedule for weights and measures

(a) Owners or users requesting tests of weighing and measuring devices shall pay the following fees:

- (1) VEHICLE SCALES (per indicator): \$200.00
- (2) RANCH AND ANIMAL SCALES (per indicator): \$200.00
- (3) PORTABLE PLATFORM SCALES (up to 1,000 lbs.): \$50.00
- (4) PLATFORM SCALES (more than 1,000 lbs.): \$150.00
- (5) COUNTER AND COMPUTING:
 - (A) Up to 40 lbs.: \$30.00
 - (B) More than 40 lbs.: \$50.00
- (6) GRAIN HOPPER SCALES: \$400.00
- (7) HANGING SCALES: \$50.00
- (8) OVERHEAD TRACK: \$150.00
- (9) PACKING SCALES:
 - (A) Up to 30 lbs.: \$30.00
 - (B) Over 30 lbs.: \$50.00
- (10) OVER AND UNDER SCALES: \$30.00

(b) The following license fees shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry:

- (1) A fee of One Hundred Dollars (\$100.00) for issuance or renewal of a service agency license.
- (2) A fee of Twenty-five Dollars (\$25.00) for issuance or renewal of a service technician license for each category of weights and measures serviced.
- (3) A fee of Ten Dollars (\$10.00) for the issuance of an apprentice service technician license.
- (4) A fee of Ten Dollars (\$10.00) for the issuance of a duplicate license.
- (5) Any license renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal to and in addition to the cost of the license.

[Source: Added at 26 Ok Reg 1807, eff 7-1-09]

SUBCHAPTER 3. EGGS [REVOKED]

35:10-3-1. Oklahoma standards [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-2. Methods of grading [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-3. Display of eggs for sale [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-4. Improper marking and signs; advertising [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-5. Grade labeling [REVOKED]

[Source: Revoked at 20 Ok Reg 794, eff 5-12-03]

35:10-3-6. Transportation of empty egg cases [REVOKED]

[Source: Revoked at 20 Ok Reg 794, eff 5-12-03]

35:10-3-7. Grade label exemption on cases [REVOKED]

[Source: Revoked at 20 Ok Reg 794, eff 5-12-03]

35:10-3-8. Display of egg license [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-9. Egg inspection fee permits [REVOKED]

[Source: Amended at 15 Ok Reg 9, eff 10-6-97 (emergency); Amended at 15 Ok Reg 2489, eff 6-25-98 ; Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

35:10-3-10. Samples for inspections [REVOKED]

[Source: Amended at 20 Ok Reg 794, eff 5-12-03 ; Revoked at 21 Ok Reg 741, eff 5-27-04]

SUBCHAPTER 5. SERVICE TECHNICIANS AND SERVICE AGENCIES

35:10-5-1. General

References in this subchapter refer to the inch-pound system of weights and measures and shall likewise apply to equivalent applications of the metric system and vice versa.

[Source: Added at 10 Ok Reg 2563, eff 6-25-93]

35:10-5-2. Application

(a) A Service Technician is an individual who applies and is approved for a license as qualified by training and/or experience to service any or all categories of commercial weighing and/or measuring device. Application for a license shall be made on a form supplied by the Department. This form, duly signed, shall certify that the applicant:

- (1) Is fully qualified to service devices of all categories for which license is sought;

(2) Will use and has in possession all necessary testing equipment and standards;

(3) Has full knowledge of all appropriate weights and measures laws, orders, rules, and regulations; and

(4) Has in possession a copy of the most recently published edition of "Handbook 44", The Oklahoma Weights and Measures Law, The Oklahoma Service Technician and Service Agency Act, associated rules, and regulations.

(b) A Service Agency is a qualified company which applies and is approved for a license to service any or all categories. The application form, duly signed by an authorized officer of the service agency shall certify that the applicant:

(1) Is fully qualified to service devices of all categories for which license is sought;

(2) Will use and has in possession, all necessary testing equipment and standards;

(3) Has full knowledge of all appropriate weights and measures laws, orders, rules, and regulations.

(4) Has in possession a copy of the most recently published edition of "Handbook 44", The Oklahoma Weights and Measures Law, The Oklahoma Service Technician and Service Agency Act, associated rules, and regulations.

(5) Will attach for approval by the Department a seal which must include as a minimum the following information:

(A) The Service Agency name, city, state, zip code, area code and phone number in a prominent location in the top one-third of the seal.

(B) The statement "TESTED IN ACCORDANCE WITH THE PROVISIONS IN HANDBOOK 44 AND IS SUITABLE FOR USE AS A COMMERCIAL DEVICE" in the second one-third of the seal.

(C) A place for the Service Technician's signature, Service Technician's license number and date of service in the bottom one-third of the seal.

[Source: Added at 10 Ok Reg 2563, eff 6-25-93 ; Amended at 17 Ok Reg 1016, eff 5-11-00]

35:10-5-3. Qualifications

(a) The Oklahoma Department of Agriculture shall review and evaluate the qualifications of each applicant for service technician and shall issue to qualified applicants a license card, including an assigned license number and designations that identify the service technician, the service agency by which the applicant is employed and the categories of devices that the service technician is authorized to place in service.

(b) The license must be in the possession of the service technician at all times during servicing or testing of weighing and measuring devices.

(c) To be licensed as a service technician, you must possess the following minimum qualifications:

(1) Satisfactory completion of manufacturer's approved training or service agency training in the servicing of each category of

- device that the applicant seeks to be licensed to service;
- (2) Satisfactory completion of a one-year general apprenticeship under the supervision of a licensed service technician in each category of device that the applicant seeks to be licensed to service; and
- (3) Ownership of, or employment by, a service agency that owns test equipment that meets the standards for minimum equipment set out in the category of devices.

(d) The State Department of Agriculture shall reserve the authority to review the program of instruction for any training programs conducted by manufacturers to determine if they are acceptable as minimum qualifications for service technician licensing.

(e) Training and apprenticeship credentials accepted by the State Department of Agriculture from a licensed service technician or apprentice service technician shall be transferable to that person if the person changes employers from one service agency to another.

[Source: Added at 10 Ok Reg 2563, eff 6-25-93]

35:10-5-4. Device Categories

(a) Device Category 1 shall include scales which fall into class I and/or II, whether designated by the manufacturer or not, pursuant to "Handbook 44" Section S.5.2. The minimum equipment necessary to service Category 1 scales shall be certified standards in amounts suitable to test devices in the category as specified in the most recently published edition of "Handbook 44" and the National Conference on Weights and Measures "(NCWM) Publication 12" Examination Procedures Outline (EPO's) For Weighing and Measuring Devices.

(b) Device Category 2 shall include scales which fall into class III, III L and/or IIII, whether designated by the manufacturer or not, pursuant to "Handbook 44". The minimum equipment necessary to service Category 2 scales shall be certified standards in amounts suitable to test device in said category as specified in the most recently published edition of Handbook 44 and NCWM Pub. 12 EPO's.

(c) Device Category 3 shall include moisture meters. The minimum equipment necessary to service moisture meters shall be certified standards in amounts suitable to test devices in the category as specified in the most recently published edition of the "Handbook 44". If official grain samples are used to check meters, the grain sample moisture content must be determined by the oven test method referenced in the "Federal Grain Inspection Service (FGIS) Moisture Handbook," supplements, and revisions.)

[Source: Added at 10 Ok Reg 2563, eff 6-25-93 ; Amended at 17 Ok Reg 1016, eff 5-11-00]

35:10-5-6. Filing of records and reports

(a) A licensed service technician who conducts tests on a commercial weighing and measuring device, at the time of testing and inspection, shall promptly furnish to the owner or operator of the device a report showing the results of the tests and inspection. A copy of this report must

remain on file with the licensed service agency for a period of not less than three years. These records will be available during regular business hours to authorized agents of the Oklahoma Department of Agriculture.

(b) A placing in service report form along with a copy of the testing and inspection report on a commercial weighing and measuring device, which does not meet tolerances and specifications for commercial devices, must be sent within 5 calendar days to the Oklahoma Department of Agriculture. A copy of the service technician's report must be immediately given to the owner or user informing them that the device no longer meets "Handbook 44" requirements for a commercial device and must be removed from commercial service. A follow up inspection will be conducted by the Oklahoma Department of Agriculture to insure removal of device from commercial service.

[Source: Added at 10 Ok Reg 2563, eff 6-25-93]

SUBCHAPTER 7. PUBLIC WAREHOUSES

35:10-7-1. Receipts, records, and scale tickets

(a) If a warehouseman delivers part of a lot of a commodity covered by one receipt, the original receipt shall be cancelled, and issue a new receipt covering the undelivered portion of the commodity when requested by the holder of the warehouse receipt.

(b) Warehouse receipts are serially numbered and the warehouseman shall account for all receipts.

(c) Upon termination or suspension of the public warehouse charter, all unused receipts shall be returned to the Board.

(d) Upon the delivery of a commodity, the original or negotiable warehouse receipt shall be surrendered to the warehouseman, marked "cancelled" in ink with the date of the cancellation and disposition of the commodity upon the face of the receipt, and filed in numerical sequence.

(e) Each warehouse shall provide proper protection for all printed forms and receipts provided by the Board and keep them available for audit at any regular office hours by the Board.

(f) Daily position record; a complete and accurate daily position record, on a form approved by the Board shall be maintained by the warehouseman, and updated each day there is a commodity transaction that affects the daily position record.

(g) Warehouse receipts and scale tickets shall be issued and maintained in series and numerical order.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-2. Examination fees

(a) The fee for each warehouse examination shall be figured progressively for each 10,000 bushels or portion thereof of chartered storage capacity with a minimum examination fee of \$100.00. The fee shall be:

- (1) Minimum base or 1st 200,000 bu.: \$100.00
- (2) From 200,001 bu. - 250,000 bu.: \$5.00 per 10,000 bu.
- (3) From 250,001 bu. - 500,000 bu.: \$4.75 per 10,000 bu.
- (4) From 500,001 bu. - 750,000 bu.: \$4.50 per 10,000 bu.
- (5) From 750,001 bu. - 1,000,000 bu.: \$4.00 per 10,000 bu.
- (6) From 1,000,001 bu. - 2,000,000 bu.: \$3.50 per 10,000 bu.
- (7) From 2,000,001 bu. - 10,000,000 bu.: \$3.00 per 10,000 bu.
- (8) From 10,000,001 bu. - : \$1.00 per 10,000 bu.

(b) The audit fee shall be due and payable at the completion of each warehouse audit. If a statement covering the cost of the audit is mailed to the warehouseman, they must remit payment within thirty (30) calendar days in the form of a check, money order, or cashier's check made payable to the Oklahoma Department of Agriculture.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-3. Bonds

(a) Each warehouseman shall furnish the Board with notice of cancellation, termination, or any change of insurance or bond on commodities stored in the warehouse.

(b) A surety shall provide notice by certified mail to the Department of Agriculture and the principle at least ninety (90) days before a bond is cancelled.

(c) In no event shall the liability of the surety on any bond required accumulate for more than one year during which the bond is in force.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-4. Approval of temporary space

(a) Temporary space is space which does not meet standard requirements for conventional space and may be approved for use if the following minimum requirements are met.

(1) The temporary space shall be operated in conjunction with a conventional chartered elevator and the capacity to be approved shall be compatible with the warehouseman's operational and financial capabilities. Approval shall be on a "case by case" basis. Warehousemen shall advise the Board of their intent, with an application indicating location, construction, quantity to be stored, and estimated time of use.

(2) Application for approval shall be made only after completion of the structure.

(3) An asphalt or concrete floor shall be provided adequate to preserve the quality and quantity of commodities.

(4) Rigid sidewalls shall be used.

(5) Shall have necessary equipment such as a leg, conveyers, portable augers, or vaculators for handling, receiving, and loading out of the commodities. All storage units shall have either empty storage space to turn and condition the commodities or be equipped with proper ventilation such as air ducts and ventilation

fans to keep the commodities from going out of condition.

(6) Acceptable covering shall be provided which shall preclude exposure of the commodities to normal rainfall.

(7) The space shall be immobile.

(8) Warehouseman agrees and signs a statement that all commodities shall be removed from the temporary structure by the following May 1, subject to the extension procedure specified in paragraph (b) below. The Board may accelerate these dates.

(9) Shall meet all inspection, examination, security, net worth, surety, and insurance requirements.

(10) The warehouseman shall maintain a separate record of total commodities stored in temporary space in addition to accounting for the commodities in the daily position record.

(b) A warehouseman may continue to store commodities in temporary facilities beyond May 1, provided:

(1) Application to continue use of temporary space shall be made in writing by the warehouseman by April 1 or thirty (30) days before the expiration of any extension.

(2) The time granted on any extension shall not exceed six (6) months.

(3) Prior to any extension, a re-examination shall be conducted of the temporary space and the cost charged to the warehouseman at the following rates: Ten Dollars (\$10.00) for each 10,000 bushels of the temporary storage capacity, with a minimum charge of One Hundred Dollars (\$100.00) and a maximum charge of One Thousand Dollars (\$1,000.00)

(4) If ready access for inspection purposes is not available to the temporary structure, the warehouseman at the examiner's discretion shall remove the covering or any part of it as required by the examiner to determine quality, condition, and quantity of the commodities in storage.

(5) If the warehouseman and the examiner are not in agreement as to the quality of the commodities, the examiner with the assistance of the warehouseman shall take samples of the mass agreeable to both and submit at the warehouseman's expense to the nearest GIPSA or GIPSA-designated or delegated office for grading.

(6) Based on a visual examination of the temporary structure and observation of the commodities for quantity and quality, the examiner shall report to the Board their findings recommending continued approval or detailing problems that shall be considered before an extension is granted. Adverse conditions shall be reported by telephone to the Board within 24 hours.

(7) The examiner shall issue written notice to the warehouseman for any temporary storage facility which no longer meets requirements. Failure of the warehouseman to place the facility in a suitable condition within a reasonable length of time shall result in the facility being eliminated from coverage from the warehouse approval.

(8) A new statement shall be signed by the warehouseman agreeing to empty the temporary storage unit(s) by the time

indicated in (2) of this subsection, subject to extension procedures specified.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-5. Approval of emergency space

Emergency space is defined as space not meeting the standards requirements for "conventional" or "temporary" space, but may be approved when meeting minimum requirements listed below.

- (1) Shall be operated in conjunction with an existing charter and warehouseman shall make application for approval to charter.
- (2) Space shall be approved prior to utilization.
- (3) Shall meet inspection, security, net worth, bonding, and insurance requirements.
- (4) Space shall be under control of warehouseman.
- (5) Warehouseman shall agree in writing to empty emergency storage space by March 1 of the year following issuance with no provision for extension. The Board may accelerate this date.
- (6) Emergency space shall not exceed an amount equal to the existing chartered storage capacity or net worth requirements.
- (7) Mobile units may be approved on a case-by-case basis. If approved, the units shall remain in place where located at the time of approval.
- (8) Ground piles shall have a base with proper drainage and secured to preclude intrusion of large animals, pets, or persons.
- (9) Warehouseman shall have adequate handling, shipping, and conditioning equipment.
- (10) Warehouseman shall maintain a separate record of total commodities stored in emergency storage space in addition to accounting for the commodities in the daily position record.
- (11) Warehouseman shall sign a memorandum of understanding as to use of emergency space.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-6. Commodity sales contracts

(a) Commodities which have been received at a chartered warehouse for which the actual sale price is not fixed with proper documentation or payment made, or a sales contract made, shall be construed to be commodities held for storage.

(b) All sales contracts for the purchase of commodities by the warehouseman shall be consecutively numbered and include the warehouse charter number. The contract shall define the exact terms of the contract, including but not limited to, who is the legal owner of the commodities.

(c) All delayed pricing or deferred payment contracts shall comply with 35:10-7-6 (b) and shall:

- (1) Provide that title to the commodities passes from the seller to the buyer upon signing of the deferred pricing contract;

(2) Provide that no storage is charged by the buyer under the terms of the contract; however, maintenance and service fees may be charged under the terms of the contract mutually agreed upon by buyer and seller; and

(3) Contain language in bold, capital print that is at least in a ten (10) point type or font size, and initialed by the producer that commodities sold under the delayed pricing or deferred payment contracts are not covered by the Commodity Storage Indemnity Fund.

(4) Delayed pricing or deferred payment contracts shall be considered a voluntary extension of credit and shall not be covered by the surety bond of the chartered facility or the Commodity Storage Indemnity Fund.

[Source: Amended at 11 Ok Reg 2515, eff 5-3-94 (emergency); Amended at 11 Ok Reg 3107, eff 6-27-94 ; Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-7. Examination of warehouse

(a) If it is necessary to establish proof of law or rule violation, a special investigation of the chartered warehouse shall be conducted by the Board. The Board may contact the warehouseman, the warehouseman's employees, or any other interested party to gain information for the investigation.

(b) If a subsequent examination determines that a warehouseman is in a short position, or has operated in a short position for longer than 72 hours since their last examination, a follow up examination shall be ordered and the warehouseman shall be charged for the cost of this examination. If during this follow up examination it is determined that the warehouseman remains in a short position or has operated in a short position after a designated date, a three (3) month examination schedule shall be initiated and shall continue until the warehouseman has two (2) correct consecutive examinations.

(c) Any shortage position of either quantity or quality is a violation of the Public Warehouse and Commodity Indemnity Act and shall be subject to the penalties.

(d) If a warehouseman fails to keep adequate commodity records, such as a daily position record, open storage list, or warehouse receipt register, etc., or in the event the commodity records are significantly incorrect, a second examination shall be ordered and the warehouseman shall be assessed a fee for the examination as per the schedule in 35:10-7-2.

(e) If a warehouseman has a shortage of stored on hand commodities, the warehouseman shall correct the position of the facility within 72 hours by a valid warehouse receipt or a written receipt verifying the cash purchase of grain. Failure to correct unreasonable shortages by the end of the 72 hour period shall allow the Board to initiate the suspension or revocation of the warehouseman's charter in accordance with the Administrative Procedures Act.

(f) If a warehouseman allows the quality of stored on hand commodities to be diminished, the warehouseman shall correct the position of the facility within 72 hours by replacing any damaged or out of condition

grain with grain equal in quality to that which was originally delivered by the producer or securing a bond, certificate of deposit, or irrevocable letter of credit in an amount equal to or greater than the difference between the dollar value of the grain delivered and the dollar value of the reduced quality grain. Failure to correct an unreasonable quality change of commodities by a warehouseman shall allow the Board to initiate a suspension or revocation of the charter in accordance with the Administrative Procedures Act.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-8. Warehouse safety

Each warehouseman shall provide that which is in their control, buildings, equipment, surroundings and working conditions that are not unsanitary, hazardous, or dangerous to the health and safety of the examiner. If adverse conditions exist, the examiner may refuse to complete the examination.

[Source: Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-9. Certificate of deposit requirements

(a) A certificate of deposit issued by a bank or savings and loan association that is a member of good standing with the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC) respectively, may be submitted to the Board in lieu of the Oklahoma public warehouse surety or deficiency bond required by the Public Warehouse and Commodity Indemnity Act. The certificate of deposit shall be in an amount equal to the required surety. Certificates of deposit shall not be accepted from any institution in excess of FDIC or FSLIC insurance coverage.

(b) A certificate of deposit shall have a term of no longer than one (1) year and shall be automatically renewable.

(c) A certificate of deposit submitted in lieu of a Oklahoma public warehouse surety shall be held in trust by the Board who shall act as trustee for the benefit of all persons storing commodities with the warehouseman as set forth in the Oklahoma Public Warehouse and Commodity Indemnity Act.

(d) All certificates of deposit shall be made payable to the Board as follows: "Pay to the order of the Oklahoma Board of Agriculture". The Board may make the necessary inquiries to determine that the certificate is negotiable.

(e) A certificate of deposit purchased by a principle, shareholder, officer, employee, or any other individual for or on behalf of a charter shall disclose on its face the name of the charter in whose favor the certificate of deposit is deposited. The balance of any proceeds remaining after liquidation and disbursement shall be paid to the purchaser.

(f) In the event that a plurality of certificates of deposit from any number of sources are deposited in satisfaction of a charter's surety obligation, the Board may satisfy claims arising under the Oklahoma Public Warehouse and Commodity Indemnity Act by liquidating any one (1) or

more of the certificates of deposit without regard to proration.

(g) In the event that a charter desires to substitute a surety of bond for a certificate of deposit then on deposit with the Board, the certificate of deposit shall be retained by the Board for a period of not less than ninety (90) days following receipt of the surety or bond, or for any time required to fully ascertain the existence of any claims. If the maturity date is interposed during this transition period, the Board, at the option of the charter and upon its timely request shall cause the certificate of deposit to be liquidated and the proceeds deposited in a passbook savings account for the duration of the transition period, when the funds shall be forwarded to the purchaser or assignor of the certificate of deposit.

(h) A charter shall be required to augment certificates of deposit in any situation where it would be required to increase its coverage under a surety. This augmentation shall be commensurate to the increased surety value required.

(i) All certificates of deposit liquidated by the Board shall be redeemed by collection proceedings through a local bank or savings and loan association selected by the Board.

(j) A certificate of deposit may only be liquidated for disbursement upon the same reasons that surety proceeds may be demanded for disbursement and shall apply to all claims whenever arising.

(k) All interest earned on the certificate of deposit shall be assigned by the Board to be accredited or paid directly to the purchaser of the certificate of deposit, except in the event of liquidation for the purpose of paying claims, in which event interest shall be attributed to the claims.

(l) If a charter holder desires to surrender its charter and request the return of a certificate of deposit to the purchaser, the charter holder shall return the charter and make written request by registered or certified mail, with return receipt, for return of the certificate of deposit. Upon receipt of the written request and submission of the public warehouse charter, the Board shall hold the certificate of deposit for a period of ninety (90) days or for a longer period if the Board is of the opinion that claims against the charter may exist and then forward the certificate of deposit to the purchaser.

(m) If a public warehouse charter is revoked, the certificate of deposit shall be held by the Board for a period of not less than one hundred twenty (120) days or until the Board is satisfied that no claims against that charter exist.

(n) If an unsecured or unbonded public warehouseman desires to remain chartered and requests the return of a certificate of deposit that is on file with the Board, the warehouseman shall file with the Board a replacement certificate of deposit, bond, or state surety in the amount required by the Board in accordance with the Oklahoma Public Warehouse and Commodity Indemnity Act. The replacement surety shall be received, become effective, and be in full force and effect before the date that the warehouseman's existing certificate of deposit is to be returned.

(o) Substitution shall be made only at the maturity of the certificate of deposit in possession of the Board.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-10. Charter effective date

Effective July 1, 1997 all state commodity warehouses will only be chartered and all licenses will become null and void. All state licensed warehouses will automatically be issued a charter. A one-time charge of one hundred dollars (\$100.00) for each charter will be due on that date or shall accompany the application for a new charter.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-11. Surety application; minimum submission date

Any warehouseman electing to purchase coverage under the state surety required in Section 9-22(B) of the Oklahoma Public Warehouse and Commodity Indemnity Act, shall submit the surety application a minimum of 30 days prior to receiving an Oklahoma Public Warehouse Charter.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-12. Financial statement

(a) The applicant for an original public warehouse charter and all holders of Oklahoma public warehouse charters shall submit the following documents prepared by an independent Certified Public Accountant: a current financial statement annually within ninety (90) days following year end close of business and a report of audit or review. The financial statement shall be submitted on a form supplied by the Board and include a balance sheet showing the current and deferred assets and liabilities of the applicant or the charter holder, a statement of income, a statement of retained earnings, a statement of changes in financial position, and notes sufficient to explain the details contained in the financial statement. If the warehouseman is using depreciated property at fair market value, the warehouseman shall submit a certified appraisal and proof of insurance.

(b) The financial statement accompanying an applicant's original application shall show a statement closing date that is within six (6) months of the date of application.

(c) If a warehouseman's financial statement indicates a current assets to current liability ratio of less than one point one (1.1) to one (1), the Board shall require two (2) examinations to be conducted annually.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-13. Prepositioning of commodities and storage considerations

- (a) Any warehouseman prior to repositioning of any commodity, shall make written request, giving reason for repositioning, estimated time to be out of position, and warehouse receiving the commodity to be moved. Repositioned commodities shall be handled by the examiners in the same manner as forwarded commodities. Warehousemen shall not issue warehouse receipts in excess of their chartered capacity.
- (b) Grain deposited in a chartered warehouse for processing and which is commonly referred to as "grain bank" grain, shall be considered to be the same as storage grain and subject to the same rules as storage grain.
- (c) Commodities stored in unchartered storage for any reason other than as specified in the Public Warehouse and Commodity Indemnity Act, shall not be considered as commodities in store.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-14. Warehouse suitability; physical conditions

- (a) In determining the suitability of warehouses for the storing, shipping, and conditioning of agricultural commodities, the Board shall consider:
- (1) The physical condition of the warehouse and its ability to withstand weather conditions which may cause deterioration of the agricultural commodities stored.
 - (2) That warehouse has sufficient aeration to control temperature and moisture of the commodity stored.
 - (3) That warehouse has permanent flooring capable of supporting the commodity.
 - (4) Whether the warehouse has handling equipment sufficient to transfer commodities in and out of the warehouse and to maintain quality of the commodities while in storage.
 - (5) Whether warehouse has scales of sufficient capacity to efficiently and accurately weigh commodities.
- (b) If the Board finds that a warehouse is unsuitable or becomes unsuitable for the storing of commodities, it shall notify the warehouseman of the requirements necessary to make the warehouse suitable.

[Source: Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-15. Weighers and graders permit

- (a) An applicant, in order to qualify for a weighers and graders permit issued by the Board, as evidence of their competence, shall pass a test composed of a written and practical application. The test shall be administered following each approved grain grading school by a representative of the Board. First-time permit applicants shall complete all practical applications at the school.
- (b) A weighers and graders permit shall remain in force as long as the permit holder is employed by a state chartered warehouse and completes a grain grading class approved by the Board at least one (1) time each five (5) years. If the permit holder fails to complete an approved class, the permit shall automatically terminate.

(c) A temporary permit may be granted for a period of one year upon written request to the Department by the applicant and upon completion of training by the Department.

[Source: Amended at 14 Ok Reg 3699, eff 8-7-97 (emergency); Amended at 15 Ok Reg 2490, eff 6-25-98 ; Amended at 18 Ok Reg 1439, eff 5-25-01 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1742, eff 6-25-07]

35:10-7-16. Grade standards

The term grade as used in the Public Warehouse and Commodity Indemnity Act is interpreted to refer to the standards adopted for commodities defined in the United States Grain Standards Act and applicable rules.

[Source: Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-17. Collection of indemnity assessment

Terminal warehousemen (State or Federal) who store commodities for out of state producers, shall collect and remit to the Board the indemnity assessment on these commodities.

[Source: Amended at 18 Ok Reg 1439, eff 5-25-01]

35:10-7-18. Responsibility of the depositor

Any depositor who knowingly or negligently offers for deposit or for sale commodities which have been contaminated by chemicals which affect the marketability of the commodity or have been determined to be a threat to the health or safety of the public or who shall knowingly or negligently conceal any condition or substance that affects the marketability of a commodity, shall be in violation of the Oklahoma Public Warehouse and Commodity Indemnity Act and may be punished and/or fined as provided by applicable law and rules.

[Source: Added at 14 Ok Reg 3699, eff 8-7-97 (emergency); Added at 15 Ok Reg 2490, eff 6-25-98]

35:10-7-19. Responsibility of the warehouseman

(a) Any warehouseman who knowingly or negligently stores grain in a manner which causes commodities to be spoiled or degraded or disposes of spoiled or degraded commodities improperly shall be in violation of the Oklahoma Public Warehouse and Commodity Indemnity Act and may be fined as provided by applicable law and rules.

(b) This section shall apply to all warehousemen who hold a federal or state charter.

[Source: Added at 38 Ok Reg 1637, eff 9-11-21]

SUBCHAPTER 9. PACKAGING AND LABELING OF PRODUCTS

35:10-9-1. Packaging and labeling of products

The Board adopts the "Uniform Packaging and Labeling Regulation" as approved by the National Conference on Weights and Measures and published in Handbook 130, "Uniform Laws and Regulations", supplements, and revisions.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00]

SUBCHAPTER 11. CHECKING THE NET CONTENTS OF PACKAGED GOODS

35:10-11-1. Sampling procedures

The Board adopts and will employ the sampling procedures as approved by the National Conference on Weights and Measures and published in Handbook 133 "Checking the Net Contents of Packaged Goods," supplements, and revisions.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00]

SUBCHAPTER 13. METHOD OF SALE OF COMMODITIES

35:10-13-1. Method of Sale of food and non-food commodities

The Board adopts the "Uniform Regulations for the Method of Sale of Commodities" as approved by the National Conference on Weights and Measures and published in Handbook 130, "Uniform Laws and Regulations", supplements, and revisions.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00]

SUBCHAPTER 15. NATIONAL TYPE EVALUATION PROGRAM

35:10-15-1. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Certificate of Conformance" means a document issued by the National Institute of Standards and Technology and/or the National Conference on Weights and Measures based on testing in participating laboratories, this document constitutes evidence of conformance of a type with the requirements of Handbook 44 and the National Institute of Standards and Technology Handbook 105-1, 105-2, or 105-3.

"National Type Evaluation Program" means a program of cooperation between the National Institute of Standards and Technology,

the National Conference on Weights and Measures, other Federal Agencies, the States, and the private sector for determining, on a uniform basis, conformance of a type with the relevant provisions as approved by the National Conference on Weights and Measures published in Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices," and the National Conference on Weights and Measures, Publication 14, "National Type Evaluation Program, Administrative Procedures, Technical Policy, Checklist and Test Procedures".

"Participating laboratory" means any State Measurement Laboratory that has been accredited by the National Institute of Standards and Technology or accrediting authority, in accordance with its program for the Certification of Capability of State Measurement Laboratories, any State Weights and Measures Agency, or other laboratory that has been authorized to conduct a type evaluation under the National Type Evaluation Program.

"Type" means a model or models of a particular measurement system, instrument, element, or field standard that positively identifies the design. A specific type may vary in its measurement ranges, size, performance, and operating characteristics as specified in the Certificate of Conformance.

"Type evaluation" means the testing, examination, and/or evaluation of a type by a Participating Laboratory under the National Type Evaluation Program.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00]

35:10-15-2. Application

This subchapter shall apply to all classes of devices and equipment (except for cotton bale weighing devices at cotton gins in Oklahoma) as specified by the National Conference on Weights and Measures and published in Handbook 44 and the National Institute of Standards and Technology Handbook 105-1, 105-2, and 105-3.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00 ; Amended at 20 Ok Reg 15, eff 10-8-02 (emergency); Amended at 20 Ok Reg 795, eff 5-12-03]

35:10-15-3. Certificate of Conformance

The Board shall require any weight, measure, or weighting and measuring instrument or device (except for cotton bale weighing devices at cotton gins in Oklahoma) to be issued a Certificate of Conformance prior to its use for commercial or law enforcement purposes.

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00 ; Amended at 20 Ok Reg 15, eff 10-8-02 (emergency); Amended at 20 Ok Reg 795, eff 5-12-03]

35:10-15-4. Participating laboratory

The Board is authorized to operate a Participating Laboratory as part of the National Type Evaluation Program. In this regard, the Board is authorized to charge and collect fees for type evaluation services commensurate with the expense incurred to conduct such services.

SUBCHAPTER 17. OPEN DATING [REVOKED]

35:10-17-1. Open dating for perishable and semi-perishable commodities [REVOKED]

[Source: Amended at 17 Ok Reg 1016, eff 5-11-00 ; Revoked at 39 Ok Reg 786, eff 9-12-22]

SUBCHAPTER 19. EXAMINATION PROCEDURES FOR PRICE VERIFICATION

35:10-19-1. Examination procedures for price verification [REVOKED]

[Source: Added at 17 Ok Reg 1016, eff 5-11-00 ; Revoked at 28 Ok Reg 2169, eff 7-25-11]

CHAPTER 13. FUEL ALCOHOL [REVOKED]

[**Authority:** 2 O.S., §§ 2-4(2), (29), and 11-20 et seq.]
[**Source:** Codified 6-25-06]

35:13-1-1. Incorporation by reference of federal distilled spirits for fuel use regulations [REVOKED]

[**Source:** Added at 23 Ok Reg 2143, eff 6-25-06 ; Amended at 24 Ok Reg 1743, eff 6-25-07 ; Amended at 26 Ok Reg 1381, eff 7-1-09 ; Amended at 27 Ok Reg 902, eff 7-1-10 ; Amended at 28 Ok Reg 2170, eff 7-25-11 ; Amended at 29 Ok Reg 1689, eff 8-1-12 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 716, eff 9-12-14 ; Amended at 32 Ok Reg 1520, eff 9-11-15 ; Amended at 33 Ok Reg 1149, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 750, eff 9-14-18 ; Amended at 36 Ok Reg 1356, eff 9-14-19 ; Amended at 37 Ok Reg 946, eff 9-14-20 ; Amended at 38 Ok Reg 1637, eff 9-11-21 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

35:13-1-2. Deleted regulations [REVOKED]

[**Source:** Added at 23 Ok Reg 2143, eff 6-25-06 ; Amended at 24 Ok Reg 1743, eff 6-25-07 ; Amended at 26 Ok Reg 1381, eff 7-1-09 ; Amended at 27 Ok Reg 902, eff 7-1-10 ; Amended at 28 Ok Reg 2170, eff 7-25-11 ; Amended at 29 Ok Reg 1689, eff 8-1-12 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 716, eff 9-12-14 ; Amended at 32 Ok Reg 1520, eff 9-11-15 ; Amended at 33 Ok Reg 1149, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 750, eff 9-14-18 ; Amended at 36 Ok Reg 1356, eff 9-14-19 ; Amended at 37 Ok Reg 946, eff 9-14-20 ; Amended at 38 Ok Reg 1637, eff 9-11-21 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

35:13-1-3. Definitions [REVOKED]

[**Source:** Added at 23 Ok Reg 2143, eff 6-25-06 ; Amended at 32 Ok Reg 1520, eff 9-11-15 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

35:13-1-4. Permit required [REVOKED]

[**Source:** Added at 23 Ok Reg 2143, eff 6-25-06 ; Amended at 24 Ok Reg 1743, eff 6-25-07 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

35:13-1-5. Inspections [REVOKED]

[**Source:** Added at 23 Ok Reg 2143, eff 6-25-06 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

35:13-1-6. Fuel alcohol fees [REVOKED]

[**Source:** Added at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 39 Ok Reg 787, eff 9-12-22]

CHAPTER 15. ANIMAL INDUSTRY

[**Authority:** OKLA. CONST. art VI; 2 O.S., §§ 2-4(2), (4),(5), (7), (8), (17), (23), (27), (28), and (29), 6-2, 6-3, 6-4 , 6-124, 6-91 et seq., 6-131 et seq., 6-141 et seq., 6-150 et seq.,6-151, 6-153, 6-302, 6-303, 6-304, and 6-310]

[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:15-1-1. Purpose

(a) This Chapter relates to statutes assigned to the Animal Industry Services with responsibility for Animal Health.

(b) The division is responsible for the detection, eradication, and control of livestock and poultry diseases and parasites. Specific responsibilities include detecting, controlling and eradicating livestock diseases on farms and ranches, in auction markets, feedlots and other concentration points throughout the state; monitoring the interstate and intrastate movement of animals and poultry to verify compliance with state and federal laws, rules, and regulations; controlling the use of vaccines and biologics; and preventing the spread of diseases transmissible to man.

[**Source:** Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 30 Ok Reg 788, eff 7-1-13]

35:15-1-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Accredited veterinarian" means a veterinarian approved by the United States Department of Agriculture (USDA) to perform functions required for state or cooperative state and federal animal disease control and eradication programs.

"Animal disease traceability" means the ability to trace an animal to its site of application of official identification and/or premises of origin as set out in 9 CFR Parts 71, 77, 78, 86, et al. Traceability for Livestock Moving Interstate; Final Rule.

"Approved tagging site" means a premises, authorized by APHIS, State, or Tribal animal health officials, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

"Backtag" means a USDA approved identification system consisting of a tag of special tough paper, bearing identification codes relating to origin of animals, which are stuck to animals a few inches from the midline and just behind the shoulder with very strong glue. The backtag is designed as temporary identification for easy reading in livestock auction markets to help trace the origin of livestock in Department investigations.

"Certificate of veterinary inspection" means an official document or its electronic equivalent approved by the chief livestock official of the state of origin issued by an accredited veterinarian at the point of origin of a shipment of animals that includes the name and

address of the consignor; the name and address of the consignee; the entry permit number, if applicable; the age, sex, number, and breed of the animal; sufficient identifying marks or tags to positively identify each animal; purpose of shipment; and the results of all required tests. It shall also include a record of a physical examination of the animal verifying that each animal is free from visible evidence of any contagious, infectious, or communicable diseases and that the animals do not originate from an area of quarantine, infestation, or infection. A certificate of veterinary inspection is valid for thirty (30) days after the date of issuance. The term certificate of veterinary inspection shall also include an official health certificate, an official certificate, or a certificate.

"Commuter herd" means all livestock under common ownership or supervision, that are located on one (1) or more premises in two (2) or more states and there is an interchange or interstate movement of animals between premises in those states as part of the normal farming, breeding or ranching operation without a change of ownership. A commuter herd agreement shall be completed and approval of commuter herd status shall be obtained from each chief animal health official of all states in which the herd resides.

"Consignment sale" means a sale of livestock in which multiple sellers' livestock are auctioned or sold to multiple buyers. A consignment sale shall not include a licensed livestock auction market but shall include a production sale with guest consignors.

"Designated epidemiologist" means an epidemiologist selected by the State Veterinarian who has been designated to perform those functions necessary for the classification of livestock suspected to be infected with a particular disease, based on an evaluation of test results and consideration of the animal and herd history, as well as other epidemiological factors.

"Livestock special sale" means a consignment, swap meet, or farm sale, other than a regular livestock auction or production sale, where livestock are sold.

"Livestock special sale permit" means a permit from the Animal Industry Services Division to hold a consignment, swap meet, or farm sale.

"Official identification" means any official method of identification approved by USDA, as described by 9 C.F.R. § 86.1, or the State Veterinarian. Official identification for specific species may be further defined within the applicable section of the Oklahoma Administrative Code. Backtags shall not be considered official identification unless the animal is shipped directly to slaughter. The term "official ear tag" is synonymous with "official identification."

"Owner-Shipper statement" means a statement signed by the owner or shipper of the livestock being moved stating the location from which the animals are moved interstate; the destination of the animals; the number of animals covered by the statement; the species of animal covered; the name and address of the owner at the time of the movement; the name and address of the shipper; and the identification of each animal, as required by the regulations, unless the regulations or other documentation approved by the Department specifically provide that the identification does not have to be recorded.

"Production sale" means a sale in which livestock that belongs to a single owner or seller and is intended for breeding or exhibition use is offered for sale or sold to multiple buyers at the same time.

"Quarantine" means a written notice or order issued by an authorized agent of the Department showing the boundaries of the area or premise affected, the animals restricted, and conditions, if any. No livestock held under quarantine may be moved or released without a written permit or quarantine release signed by an authorized agent.

"Resident herd of origin" means a group of livestock that have been maintained as a herd or flock on the same premises for at least four (4) months.

"State animal health official" means the state animal health official, or designee, who is responsible for the livestock and poultry disease control and eradication programs in a state.

[Source: Added at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1808, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 39 Ok Reg 788, eff 9-12-22]

35:15-1-3. Indemnity

(a) An owner may apply for indemnity for each animal ordered depopulated by the State Veterinarian for disease eradication.

(b) The owner shall provide proof of the fair market value of each animal for which indemnity is requested.

(c) Indemnity shall not be paid to an owner unless the Board determines the following:

(1) Funds for indemnity are available;

(2) Amount of indemnity based on the fair market value of the animals; and

(3) Indemnity is warranted due to the circumstances of depopulation.

(d) In no case shall the indemnity exceed fifty dollars (\$50.00) per head for any depopulated animal.

(e) The Board may deny indemnity to any owner found to have not acted in good faith in seeking indemnity.

[Source: Added at 23 Ok Reg 2144, eff 6-25-06]

35:15-1-4. Exhibitions and shows

(a) A swine exhibition, special sale, or show shall not include a regularly scheduled livestock auction market.

(b) It shall be the responsibility of the event management to verify that contestants have met testing and documentation requirements.

[Source: Added at 26 Ok Reg 2819, eff 6-16-09 (emergency); Added at 27 Ok Reg 1104, eff 7-1-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-1-5. Falsification of Records

(a) In addition to other requirements of this chapter veterinarians shall not submit false information to the Department by:

- (1) falsifying test records,
- (2) misrepresenting the source animal of a test sample,
- (3) failing to test all animals listed on a test record,
- (4) falsifying information provided on a test chart, permit, certificate of veterinary inspection, or any form associated with this chapter,
- (5) making or providing any false statement, representation, or certification to the Department, or
- (6) rendering inaccurate information from any monitoring or measuring device.

(b) The submission of false information to the Department by a veterinarian shall be a violation of these rules.

[Source: Added at 30 Ok Reg 788, eff 7-1-13]

35:15-1-6. Animals in disaster purpose

The Care and Disposition of Disaster Animals Act shall only take effect during a Class #1 or Class #2 Event when the Oklahoma Department of Agriculture, Food, and Forestry is administering the event for the applicable jurisdiction.

[Source: Added at 33 Ok Reg 1150, eff 9-11-16]

35:15-1-7. Cattle identification for intrastate movement

(a) The following cattle shall be individually identified by official identification when the cattle change ownership or when the cattle are taken to an event:

- (1) All dairy cattle;
- (2) All "M" branded cattle including any commingled domestic cattle; and
- (3) All roping, event, and rodeo cattle.

(b) Cattle that are sold or consigned to move from a resident herd of origin to a state or federally approved slaughter establishment within seven (7) days of the change of ownership, where they are harvested within three days of arrival at the establishment, are exempt from the requirement of subsection (a) of this section.

(c) Additional requirements for cattle identification may be provided within this chapter.

[Source: Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-1-8. Record keeping

All dealers, auction markets, commission firms, and persons required to have official identification at change of ownership shall keep sufficient records for a minimum of five (5) years of all animals sold to enable any authorized agent to trace the animals satisfactorily to their herd of origin and to their disposition at the time of sale. These records shall be made available to any authorized agent for the purpose of inspection or photocopying during normal business hours. Failure to maintain or provide adequate records shall constitute a violation of rules

adopted by the Board.

[Source: Added at 38 Ok Reg 1638, eff 9-11-21]

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

35:15-3-1. Reportable contagious or infectious diseases of domestic animals

Under provisions of Title 59, Oklahoma Statutes, Section 698.15, the State Board of Agriculture declares and requires the following actions regarding contagious or infectious diseases of domestic animals by any person engaged in the practice of veterinary medicine:

- (1) Listed reportable diseases shall be immediately reported to the State Veterinarian.
- (2) Persons reporting listed reportable diseases shall provide the following information:
 - (A) The name and address of the animal owner or person in possession.
 - (B) Identification information on the animal, including species.
 - (C) Specific location of the animal.
 - (D) Identification of the specific disease identified in the animal.

[Source: Amended at 11 Ok Reg 2571, eff 6-13-94 ; Amended at 13 Ok Reg 3541, eff 4-29-96 (emergency); Amended at 14 Ok Reg 2421, eff 6-26-97 ; Amended at 20 Ok Reg 1518, eff 6-12-03 ; Amended at 24 Ok Reg 1743, eff 6-25-07]

35:15-3-2. Oklahoma reportable disease list

The State Veterinarian shall develop and maintain a list of reportable diseases which may be accessed on the Oklahoma Department of Agriculture, Food, and Forestry webpage.

[Source: Added at 20 Ok Reg 1518, eff 6-12-03 ; Amended at 22 Ok Reg 686, eff 5-12-05 ; Amended at 24 Ok Reg 1743, eff 6-25-07 ; Amended at 29 Ok Reg 896, eff 7-1-12 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 36 Ok Reg 1357, eff 9-14-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-3-3. List B diseases [REVOKED]

[Source: Added at 20 Ok Reg 1518, eff 6-12-03 ; Amended at 22 Ok Reg 686, eff 5-12-05 ; Revoked at 24 Ok Reg 1743, eff 6-25-07]

35:15-3-4. Diseases by clinical symptoms

Diseases not confirmed or diagnosed as a listed reportable disease shall be reported if the following clinical symptoms are exhibited:

- (1) Sore mouth or muzzle, especially if accompanied by foot, udder, vulva, or skin lesions resembling blisters or vesicles.
- (2) Encephalitis (CNS) conditions in all animals and avians.

- (3) High death loss, especially over a short period of time in animals more than several weeks old.
- (4) Reproductive problems.
- (5) Any highly unusual condition or unusual symptomatology of any kind.

[Source: Added at 21 Ok Reg 742, eff 4-26-04 ; Amended at 24 Ok Reg 1743, eff 6-25-07]

SUBCHAPTER 5. BIOLOGICAL PRODUCTS AND LABORATORIES

35:15-5-1. Biological products

(a) No biological product used in the treatment of livestock or any other species of animals shall be manufactured, produced, transported, distributed, sold, offered for sale, or used in Oklahoma unless the biological product has been:

- (1) Licensed or permitted by the United States Veterinary Biologics Division of the United States Department of Agriculture;
- (2) Produced in an establishment licensed by the United States Veterinary Biologics Division of the United States Department of Agriculture; and
- (3) Approved by the Oklahoma Department of Agriculture, Food, and Forestry.

(b) Biological products prepared by any person solely for the treatment of livestock or any other species of animals of such person or prepared solely for treatment of livestock or any other species of animals under a veterinary-client-patient relationship during the state licensed professional practice of veterinary medicine by such person shall be exempt from (a) and (d) of this section if used as follows:

- (1) Permission is obtained from the State Veterinarian in the form of a one (1) year memorandum of understanding between the Department and the persons owning the livestock or any other species of animals;
- (2) An authorized agent of the Board may inspect and monitor the application of the product and verify the proper handling, cleaning, and disinfection of equipment utilized in the application.

(c) John's (Paratuberculosis) vaccine is expressly prohibited in Oklahoma without prior approval of the Department. This approval may be obtained only after a written agreement is developed between the producer, attending veterinarian, and state regulatory officials. A plan of herd management, vaccination, and any restrictions shall be a part of this agreement.

(d) Each biological product manufactured, produced, distributed, sold, offered for sale, or used in Oklahoma or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Department on an annual basis.

(e) Each person registering biological products shall pay an annual registration fee of Two Hundred Dollars (\$200.00) for each biological product registered.

(1) The Department may require the submission of the complete formula of any biological product.

(2) Trade secrets and formulations submitted with the registration shall be kept confidential.

(3) Autogenous biologics shall be registered individually by the specific microorganisms (seed) which make up the composition of the vaccine.

(f) If it appears to the Department that the composition of the biological product is adequate to warrant the proposed claims and if the biological product, its labeling, and other material required to be submitted comply with the requirements of this section, then the biological product shall be registered.

(g) Additional registration of a biological product shall not be required in the case of a biological product shipped from one location within Oklahoma to another location within Oklahoma if the location is operated by the same person.

(h) All biological product registrations shall expire on March 20 of each year but may be renewed by the Department. Any person who fails to renew a biological product by March 20 of each year shall pay a penalty of an additional Two Hundred Dollars (\$200.00).

(i) No person shall sell or offer for sale an unregistered biological product or an expired biological product.

(j) The term "biological product" shall mean all viruses, serums, toxins (excluding substances that are selectively toxic to microorganisms, including antibiotics), or analogous products at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. The term biological products includes but is not limited to vaccines, bacterins, allergens, antibodies, antitoxins, toxoids, immunostimulants, certain cytokines, antigenic or immunizing components of live organisms, and diagnostic components that are of natural or synthetic origin, or that are derived from synthesizing or altering various substances or components of substances such as microorganisms, genes or genetic sequences, carbohydrates, proteins, antigens, allergens, or antibodies. The term shall not include any product identified and regulated as a pesticide by the Department.

(1) A product's intended use shall be determined through an objective standard dependent upon factors such as representations, oral or written claims, packaging, labeling, or appearance.

(2) The term "analogous products" shall include the following:

(A) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which are similar in function to biological products in that they act, or are intended to act, through the stimulation, supplementation, enhancement, or modulation of the immune system or immune response;

(B) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals through the detection or measurement of antigens, antibodies, nucleic acids, or immunity; or

(C) Substances, at any stage of production, shipment, distribution, or sale, which resemble or are represented as biological products intended for use in the treatment of livestock or any other species of animals through appearance, packaging, labeling, claims (either oral or written), representations, or through any other means.

(k) The term "treatment" shall mean the prevention, diagnosis, management, or cure of diseases of livestock or any other species of animals.

(l) The term "unregistered biological product" shall mean a biological product that has not been registered with the Department or a biological product that has been previously registered with the Department but the registration has lapsed.

(m) The term "expired biological product" shall mean a biological product which exceeds the expiration date established by the manufacturer.

[Source: Amended at 26 Ok Reg 1381, eff 7-1-09 ; Amended at 28 Ok Reg 2170, eff 7-25-11 ; Amended at 29 Ok Reg 1689, eff 8-1-12 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 36 Ok Reg 1357, eff 9-14-19 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-5-2. Laboratories

(a) **Privately owned laboratories requesting authority to perform certain procedures.** Privately owned laboratories requesting authority to perform certain official laboratory procedures must apply for said approval on an application provided by the Assistant Director (AD) of the United States Department of Agriculture (USDA) Animal Plant Health Inspections Service (APHIS) Veterinary Services (VS) Surveillance Preparedness Response Service (SPRS) which provides for a joint signature of recommendation for approval of the AD and the State Veterinarian or designee.

(b) **Initial request for laboratory approval.** All initial requests for laboratory approval shall be made to the AVIC or State Veterinarian or designee. Laboratories must specify those tests which they are requesting approval to perform. These tests include, but are not limited to, Bluetongue, Bovine Leukosis, Equine Infectious Anemia, Johne's Disease, Pseudorabies, Bovine Trichomoniasis, and those diseases that are reportable to the Department.

(c) **Requirements prior to approval of laboratory.** Prior to approval of any laboratory to conduct any official laboratory procedure, the following requirements must be met:

(1) An authorized representative of the Department or USDA will review with laboratory officials the responsibilities, regulatory and technical, inherent in conducting and reporting official tests.

(2) The physical facilities of the laboratory will be inspected by a Federal or State representative. Inspection results will be

recorded on a laboratory inspection worksheet. This inspection must be determined as satisfactory before approval will be considered.

(d) Procedures to be followed by approved laboratories.

(1) Only antigen licensed by APHIS or supplied by National Veterinary Services Laboratories (NVSL) and accompanying antiserum will be used.

(2) All tests will be conducted according to protocol provided by NVSL.

(3) Official test results will be reported promptly to State or Federal regulatory officials and the veterinarian submitting the sample.

(4) Only samples submitted by a licensed veterinarian, state or federal animal health official, or military veterinarian will be accepted.

(5) Information with sample submission shall include:

(A) Name and address of submitting veterinarian.

(B) Name and address of owner.

(C) Location (including county) or animal(s) at time of test.

(D) Age, breed, and sex of animal tested.

(E) Identification of animal(s) tested, which may include eartag, tattoo, registration number or physical description adequate to provide positive individual identification of animal(s) tested.

(6) Periodic proficiency testing will be required for continuous authority to conduct approved testing. NVSL will supply the samples and evaluate test results.

(7) If any proficiency test is failed, the approved laboratory shall immediately notify the Department and shall suspend further testing until recertified by NVSL.

(8) Incomplete tests charts shall not be accepted and the sample shall not be tested until the chart is completed.

(e) Training.

(1) Personnel who perform any approved official test must be recognized as qualified by Veterinary Services and the Department. The AD and the State Veterinarian or designee must recommend personnel for approval and training by NVSL.

(2) The person(s) responsible for conducting official tests for private laboratories will be trained by NVSL.

(3) With approval of the AD and the State Veterinarian or designee, personnel previously trained by NVSL for Federal, State, and University laboratories may train others in the laboratory to conduct official tests. Training will include regulatory responsibility.

(4) NVSL will certify training of personnel for Federal, State, and University laboratories by proficiency testing which must be completed in accordance with standards established by NVSL, and maintained by periodic proficiency testing.

(f) Evaluation of personnel. The AD, State Veterinarian or designee, and NVSL will evaluate personnel who do not successfully complete proficiency testing in order to determine if additional training is

necessary.

(g) **Laboratories approved to conduct official tests.** Laboratories approved to conduct official tests must notify in writing the AD, State Veterinarian or designee and NVSL when any person trained by NVSL to conduct official tests is no longer employed. If no one with approved training is available to conduct these tests, approval of the laboratory will be cancelled.

(h) **Recommendation for approval.** The AD and the State Veterinarian or designee must recommend approval of the laboratory prior to obtaining official status. A jointly signed memorandum and the originals of all completed documents of application and approval shall be mailed through the appropriate Regional Director of APHIS for his or her concurrence to the Director of NVSL.

(i) **Approval of laboratories.** After the requirements of training have been satisfactorily completed, the laboratory will be approved by the Director of NVSL and will be so notified of approval by a telegram or a letter signed by the Director of NVSL.

(j) **Removal or suspension of laboratory approval.**

(1) Laboratory approval will be removed or suspended by the Director of NVSL or State Veterinarian or designee when any criteria are not met. If the laboratory is approved to perform tests for more than one disease, removal or suspension will apply only to the disease for which proficiency is not maintained. The laboratory will be informed of removal or suspension by a telegram signed by the Director of NVSL, or by certified letter from the Department, or both.

(2) Failure to maintain competency or failure to perform within any established protocol, shall constitute a violation of this Section and shall submit the laboratory to actions outlined under the Administrative Procedures Act of the State of Oklahoma, above and beyond any action deemed appropriate by APHIS.

[Source: Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 36 Ok Reg 1357, eff 9-14-19]

35:15-5-3. Rabies vaccine

No person or firm shall:

(1) sell or make available to any person or firm any modified live or attenuated virus rabies vaccine for use in animals except to a veterinarian licensed in Oklahoma,

(2) use a modified live virus or attenuated rabies vaccine in animals except an Oklahoma licensed veterinarian.

SUBCHAPTER 7. LIVESTOCK TRAILER IDENTIFICATION

35:15-7-1. Review of rules by the Oklahoma Department of Public Safety

The rules of this Subchapter have been reviewed by the Oklahoma Department of Public Safety as required by law.

35:15-7-2. Failure to identify livestock trailer

(a) It shall be a violation of the rules in this Subchapter to operate any trailer not otherwise required to be licensed by law, which is used for hauling cattle, horses, sheep or hogs upon the roads or highways of the State of Oklahoma unless that trailer bears an identifying number. Out-of-state trailers traveling through the State of Oklahoma are hereby exempt.

(b) Under 2 O.S. §1601 and §1602 any person who violates the provisions of this law by failing to properly display the proper number shall be guilty of a misdemeanor and subject to a fine not to exceed ten dollars (\$10.00). Any person who alters a vehicle identifying number in violation of this law, or regulations issued pursuant thereto, shall be guilty of a misdemeanor.

35:15-7-3. Requirements and application for livestock trailer identification number

(a) Trailers owned by individual persons who have an Oklahoma driver's license shall be identified with that driver's license number. Change of ownership requires the original owner remove his number, and the new owner's license number affixed within 30 days.

(b) Any trailer required by this law to be identified which is owned by a person who has no valid Oklahoma driver's license shall be identified by the valid Oklahoma driver's license number of a member of his family in the first degree or an identification number issued by the Oklahoma Department of Public Safety in lieu of a driver's license number.

(c) Any trailer required by this law to be identified that is owned by a citizen of another state shall be identified by a valid Oklahoma driver's license of the person in charge of said trailer in Oklahoma, or an identification number issued to owner of trailer by the Oklahoma Department of Public Safety in lieu of an Oklahoma driver's license number.

(d) Any trailer required by this law to be identified which is owned by a corporation, school, nonprofit organization, partnership, association or other ownership entity; shall be identified by a valid Oklahoma driver's license number of one of the principals, manager, or individual in charge of said trailer, or an identification number issued by the Oklahoma Department of Public Safety in lieu of an Oklahoma driver's license number.

(e) All trailer numbers shall be painted or otherwise affixed to the rear of the trailer, left of center. They shall be not less than 36 inches from ground level nor more than 72 inches from ground level.

(f) The numbers shall be not less than two inches in height and placed horizontally, from left to right, on the left rear of the trailer.

(g) Numbers must be of a color that contrasts sharply with the color of the trailer or the part of the trailer on which the number is placed.

(h) Application procedure for an identification number in lieu of Oklahoma driver's license number as outlined in Subsections (b), (c), and

(d) of this Section is to write to the Director of Vehicle Inspection, Department of Public Safety, P.O. Box 11415, Oklahoma City, Oklahoma 73111.

SUBCHAPTER 9. LIVESTOCK SPECIAL SALES

PART 1. LIVESTOCK DEALERS [REVOKED]

35:15-9-1. Application for license [REVOKED]

[Source: Amended at 14 Ok Reg 1121, eff 12-2-96 (emergency); Amended at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-1.1. Definitions [REVOKED]

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-2. Written records [REVOKED]

[Source: Amended at 14 Ok Reg 1121, eff 12-2-96 (emergency); Amended at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-3. Dealer's identification card [REVOKED]

[Source: Amended at 14 Ok Reg 1121, eff 12-2-96 (emergency); Amended at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-4. Refusal to issue or renew license [REVOKED]

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-5. Suspension or revocation of license [REVOKED]

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

35:15-9-6. Annual fee [REVOKED]

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97 ; Revoked at 28 Ok Reg 2197, eff 7-25-11]

PART 3. LIVESTOCK SPECIAL SALES

35:15-9-7. Application

(a) Any person shall obtain a permit prior to conducting a livestock special sale from the Department.

- (b) Each application for a Livestock Special Sale permit shall include:
- (1) Name and address of person requesting permit;
 - (2) Location of sale premises;
 - (3) Date and time of sale; and
 - (4) Signature, email address, and telephone number of person requesting the permit.

[Source: Amended at 23 Ok Reg 2152, eff 6-25-06 ; Amended at 40 Ok Reg 1501, eff 9-11-23]

35:15-9-8. Written records

Each permit holder shall keep written records for not less than five (5) years after the special sale that are necessary and adequate to determine the sources and disposition of livestock sold at the sale. Retained records shall include, but not be limited to, the following:

- (1) Accounts of sales;
- (2) Accounts of purchases;
- (3) Bills and invoices to purchasers;
- (4) Documents certifying the health status of animals presented by consignors;
- (5) Records identifying each consignor and purchaser at the sale, including the name, mailing address, and telephone number of the consignor and purchaser; and
- (6) All other written correspondence pertaining to livestock advertised or sold in the sale.

[Source: Amended at 23 Ok Reg 2152, eff 6-25-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 36 Ok Reg 1357, eff 9-14-19 ; Amended at 40 Ok Reg 1501, eff 9-11-23]

35:15-9-9. Submission of record sales

(a) The permit holder may submit to the Department a record identifying each animal consigned on or before the fifteenth day of the month after the special sale. The record shall include the name, mailing address, and telephone number of the consignor, and the name, mailing address, and telephone number of the purchaser.

(b) A permit holder who submits records pursuant to the provisions of subsection (a) of this section shall not be required to comply with the provisions of paragraph 5 of OAC 35:15-9-8.

[Source: Amended at 23 Ok Reg 2152, eff 6-25-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-9-10. Records available for inspection

All records of a livestock special sales shall be available for inspection by an authorized agent of the Board during normal working hours.

[Source: Amended at 23 Ok Reg 2152, eff 6-25-06]

35:15-9-11. Swine Special Sales [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2152, eff 6-25-06 ; Revoked at 27 Ok Reg 2411, eff 7-25-10]

PART 5. LIVESTOCK AUCTION MARKETS

35:15-9-14. Separate custodial accounts for livestock auction markets

Every livestock market shall maintain a separate custodial account for shippers' proceeds for each livestock auction market operated. Applicants for license renewal and new license applicants must provide evidence at the time of application that a separate custodial account for shippers' proceeds has been established with a financial institution.

[Source: Added at 10 Ok Reg 453, eff 12-7-92 (emergency); Added at 10 Ok Reg 1951, eff 5-27-93]

35:15-9-15. Penalties

Failure to maintain or provide proof of separate custodial accounts for shippers' proceeds for each livestock auction market operated shall be cause for revocation, suspension, denial of reissuance, denial of application, and/or the imposition of civil penalties as provided by Oklahoma law.

[Source: Added at 10 Ok Reg 453, eff 12-7-92 (emergency); Added at 10 Ok Reg 1951, eff 5-27-93]

35:15-9-16. Application requirements for license to operate livestock auction market

(a) The application for a livestock auction market license shall be submitted on a form supplied by the Department, signed by the applicant and filed with the Department. The application shall include the following:

- (1) The names, addresses and phone numbers of the livestock auction yard and the applicant or operator. If the applicant is a firm, association, partnership, or corporation, the names of its directors, officers and members, if applicable;
- (2) The location where the applicant proposes to operate a livestock auction market;
- (3) Location of, and directions to, the property and facilities proposed to be used for the livestock auction market;
- (4) Types of livestock to be handled, sold, or exchanged;
- (5) If the applicant is a foreign corporation or its principal place of business is outside the state, the state in which it is incorporated and proof that it is in compliance with the laws relating to foreign corporations doing business in this state, the name, address and phone number of registered business agent within the United States and Oklahoma;
- (6) Provide information concerning any record of a conviction, guilty plea, or plea of nolocontendere of a felony conviction in any jurisdiction in the United States in the ten years preceding

- submission of the application; and
 - (7) Provide proof that the applicant meets bonding and registration requirements of the Packers and Stockyards Act of 1921, as amended.
 - (8) The applicant shall submit a financial statement when requested by the Department.
- (b) The Twenty-Five Dollar (\$25.00) livestock auction market license fee shall accompany the application.
- (1) The period of the license shall be from January 1 to December 31 of each year.
 - (2) Renewal applications shall be due on November 1 of each year.

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97]

35:15-9-17. Refusal to grant or renew license - Suspension or revocation - Grounds - Notice and hearing

- (a) The Department, on behalf of the Board, may decline to grant or to renew a livestock auction market license or may suspend or revoke a license upon the following grounds:
- (1) The licensee and/or applicant has violated any provisions of law, rules of the Board, orders of the Board, court orders, or federal regulations regarding the livestock auction market business;
 - (2) The licensee and/or applicant is guilty of misrepresentation, deception, or fraud in securing a livestock auction market license;
 - (3) The licensee and/or applicant fails to keep records as required by this Chapter and the Packers and Stockyards Administration Regulations;
 - (4) The licensee and/or applicant fails to provide a bond or other financial instrument as security;
 - (5) The licensee and/or applicant commits fraud or misrepresentation as to the charges, brands and weights of livestock;
 - (6) The licensee and/or applicant has had a license revoked or suspended;
 - (7) The licensee and/or applicant has been denied a bond in Oklahoma or any other state;
 - (8) The licensee and/or applicant has been found guilty of violating Packers and Stockyards Administration regulations;
 - (9) The licensee and/or applicant has failed to comply with a final order of the Board;
 - (10) The licensee and/or applicant knowingly receives on consignment or sells or exchanges stolen livestock or mortgaged livestock without authority from the owner or mortgagee; or
 - (11) The licensee and/or applicant fails to provide a current financial statement when requested by the Department.
- (b) The Department, on its own initiative or on written complaint, may investigate a livestock auction market licensee and may file a complaint against the licensee with the Oklahoma Board of Agriculture.

(1) The complaint shall be set for hearing before the Board for the purpose of determining whether to grant, renew, suspend, or revoke a license.

(2) No hearing shall be held without giving the applicant or the holder of a license at least twenty (20) calendar days written notice thereof.

(3) An investigation or hearing initiated by the Department under this part may be held before an examiner designated by the Board.

(c) The licensee may request a hearing in the event the license has been suspended, revoked, or issuance or re-issuance denied by the Board. No hearing shall be held without giving the applicant or the holder of a license at least twenty (20) calendar days written notice.

[Source: Added at 14 Ok Reg 1121, eff 12-2-96 (emergency); Added at 14 Ok Reg 2422, eff 6-26-97]

SUBCHAPTER 11. IMPORTATION OF ANIMALS

PART 1. GENERAL

35:15-11-1. General import and exportation requirements

(a) All persons importing livestock, as defined in 2 O.S. § 6-150, shall have a certificate of veterinary inspection with the following exceptions:

(1) Livestock transported as part of a commuter herd with a copy of the commuter herd agreement;

(2) Livestock transported directly to an Oklahoma veterinarian for treatment if returned to the premises of origin within two (2) days following cessation of treatment;

(3) Livestock transported from a premises of origin in another state to an approved tagging site or approved livestock market and they are accompanied by an owner-shipper statement;

(4) Livestock transported from a premises of origin in another state directly to a slaughtering establishment and they are accompanied by an owner-shipper statement or a completed Drive-In document; or

(5) Livestock transported as a restricted movement accompanied by a VS form 1-27.

(6) Livestock being exported from Oklahoma shall meet the requirements of the state of destination. The buyer, seller, and transporter shall be equally responsible for ensuring that all requirements are met.

(b) The Commissioner of Agriculture or the State Veterinarian may impose pre-entry test requirements on any species if it becomes known that the threat of disease exists which could place the livestock industries of Oklahoma at risk or could become a public health hazard.

(c) Import requirements of this section may be in addition to import requirements for a species or disease found in this subchapter.

(d) The owner of the livestock, the shipper, and the operator of the vehicle transporting the livestock shall be equally and individually

responsible for meeting all requirements regarding certificates of veterinary inspection (health certificate), permits, and the movement of livestock into this state.

[Source: Added at 10 Ok Reg 47, eff 10-8-92 (emergency); Added at 10 Ok Reg 1957, eff 5-27-93 ; Amended at 15 Ok Reg 2157, eff 6-11-98 ; Amended at 20 Ok Reg 297, eff 12-5-02 (emergency); Amended at 20 Ok Reg 796, eff 5-12-03 ; Amended at 21 Ok Reg 1959, eff 5-11-04 (emergency); Amended at 22 Ok Reg 688, eff 5-12-05 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Added at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-11-2. Importation of domestic companion animals

All companion animals domestically imported into Oklahoma shall be admitted:

- (1) When accompanied by an official Certificate of Veterinary Inspection (CVI);
- (2) If there is an approved vaccine for the species, the animal has been officially vaccinated against rabies, when over three (3) months of age, within twelve (12) months prior to the date of entry with an approved rabies vaccine or within three (3) years with the use of a three (3) year vaccine if the primary vaccination and subsequent boosters are documented on the CVI; and
- (3) When an additional permit has been obtained from the Oklahoma Department of Agriculture, Food, and Forestry within thirty (30) days prior to the entry of a companion animal that originates from an area under quarantine for rabies or has been exposed to rabies within six (6) months prior to entry.

[Source: Added at 38 Ok Reg 1638, eff 9-11-21]

35:15-11-3. Requirements regarding vesicular stomatitis

Any livestock (equine, bovine, porcine, caprine, ovine, or cervidae) entering Oklahoma from a county where vesicular stomatitis has been diagnosed within the last thirty (30) days or a county that contains a premise quarantined for vesicular stomatitis shall be accompanied by a certificate of veterinary inspection dated within five (5) days of entry containing the following statement: "All animals identified on this certificate of veterinary inspection have been examined and found to be free from signs of vesicular stomatitis and have not originated from a premise which is under quarantine for vesicular stomatitis."

[Source: Added at 38 Ok Reg 1638, eff 9-11-21]

PART 3. OFFICIAL HEALTH CERTIFICATES [REVOKED]

35:15-11-5. Official health certificate [REVOKED]

[Source: Amended at 23 Ok Reg 2144, eff 6-25-06 ; Revoked at 31 Ok Reg 717, eff 9-12-14]

35:15-11-6. Provisions for health certificates [REVOKED]

[Source: Revoked at 31 Ok Reg 717, eff 9-12-14]

PART 5. PERMITS

35:15-11-10. Requests for permits

Request for permits shall be directed to the State Veterinarian of the state of Oklahoma and shall set forth the following information: the name and addresses of the consignor and the consignee, and number, age, sex, and breed of the animal.

[Source: Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-11-11. Consignment of animals entering the state under permit

All animals entering the state under permit, shall be consigned to an individual who is a resident of the state or to a legal entity authorized by law to do business within the state.

35:15-11-12. Void permits

All permits shall be void fifteen (15) days after the date of issuance.

PART 7. LIVESTOCK [REVOKED]

35:15-11-15. Definitions [REVOKED]

[Source: Added at 19 Ok Reg 2761, eff 6-21-02 (emergency); Added at 20 Ok Reg 797, eff 5-12-03 ; Amended at 23 Ok Reg 2144, eff 6-25-06 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-11-16. Cattle importation [REVOKED]

[Source: Revoked at 21 Ok Reg 1959, eff 5-11-04 (emergency); Revoked at 22 Ok Reg 688, eff 5-12-05]

35:15-11-17. Companion animal importation [REVOKED]

[Source: Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-11-18. Requirements for cervidae [REVOKED]

[Source: Added at 10 Ok Reg 47, eff 10-8-92 (emergency); Added at 10 Ok Reg 1957, eff 5-27-93 ; Amended at 12 Ok Reg 3386, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 19 Ok Reg 2761, eff 6-21-02 (emergency); Added at 20 Ok Reg 797, eff 5-12-03 ; Amended at 23 Ok Reg 2153, eff 6-25-06 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-11-19. Requirements for ratitae [REVOKED]

[Source: Added at 10 Ok Reg 4515, eff 8-30-93 (emergency); Added at 11 Ok Reg 3109, eff 6-27-94 ; Revoked at 20 Ok Reg 297, eff 12-5-02 (emergency); Revoked at 20 Ok Reg 796, eff 5-12-03]

35:15-11-20. Requirements regarding vesicular stomatitis [REVOKED]

[Source: Added at 14 Ok Reg 3704, eff 8-1-97 (emergency); Added at 15 Ok Reg 2157, eff 6-11-98 ; Amended at 23 Ok Reg 11, eff 8-4-05 (emergency); Amended at 23 Ok Reg 866, eff 5-11-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

PART 9. FOREIGN ANIMALS

35:15-11-31. Importation of foreign animals

(a) Prior to entry, all animals imported into Oklahoma from a foreign country shall obtain a permit issued by the Oklahoma Department of Agriculture.

(b) All animals imported into Oklahoma from a foreign country shall meet all United States Department of Agriculture import requirements for the country of origin and for any country the animals have resided during shipment, in addition to all Oklahoma import requirements.

(c) In addition to meeting the requirements of subsections (a) and (b), all companion animals imported into Oklahoma from a foreign country shall be admitted:

(1) When accompanied by an official Certificate of Veterinary Inspection (CVI);

(2) If ,when over three (3) months of age, officially vaccinated against rabies within twelve (12) months prior to the date of entry with an approved rabies vaccine or within three (3) years with the use of a three (3) year vaccine if the primary vaccination and subsequent boosters are documented on the CVI;

(3) When an additional permit has been obtained from the Oklahoma Department of Agriculture, Food, and Forestry within thirty (30) days prior to the entry of a companion animal that originates from an area under quarantine for rabies or has been exposed to rabies within six (6) months prior to entry; and

(4) After any required quarantine and examination by an accredited veterinarian for companion animals imported into Oklahoma with potential exposure to foreign animal diseases.

[Source: Added at 14 Ok Reg 377, eff 10-28-98 (emergency); Added at 16 Ok Reg 2106, eff 6-25-99 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-11-32. Importation from foot and mouth disease affected country

(a) No cloven-hooved animals from a foot and mouth disease (FMD) affected country shall enter Oklahoma until six (6) months after the Office of International des Epizooties (OIE) and the United States

Department of Agriculture, Veterinary Services (USDA) have declared a country free from FMD. When a country is declared free from FMD by OIE and USDA, the Oklahoma State Veterinarian shall review the findings of OIE and USDA and make the final determination for purposes of these rules.

(b) All domestic animals and nontraditional livestock imported from a FMD affected country shall be accompanied by an import permit obtained prior to entry into Oklahoma from the Oklahoma Department of Agriculture Animal Industry Services Division, P.O. Box 528804, Oklahoma City, Oklahoma 73152-6357, 405-522-6141, fax 405-522-0756. The Oklahoma State Veterinarian may require any and all necessary information and documentation prior to issuing an import permit. The import permit may be denied, or may include additional requirements or restrictions.

(c) Equine entering Oklahoma from FMD affected countries or equine in contact with animals from FMD affected countries shall be accompanied by an import permit and shall move in a carrier bearing a USDA seal to the farm of destination.

(1) Upon arrival at the farm of destination, the following disinfection procedure shall occur:

(A) Equine shall be sprayed or sponged down with vinegar or a solution of 6.5 ounces of concentrated glacial acetic acid in one (1) gallon of water.

(B) Hooves shall be cleaned and disinfected with a four percent (4%) sodium carbonate solution.

(2) Completion of the disinfection procedure shall be verified to the Oklahoma State Veterinarian by an affidavit signed by a veterinarian.

(d) Companion animals entering Oklahoma from FMD affected countries shall be bathed at the premises of destination and subjected to a sponge application or heavy misting of a one to one (1-1) vinegar and water solution applied to the entire body within 24 hours of arrival. Animals shall also be quarantined to the premises of destination for a minimum of five (5) days and shall have no contact with or exposure to cloven-hooved animals during the quarantine period. Completion of the disinfection procedure shall be verified to the Oklahoma State Veterinarian by an affidavit signed by a veterinarian.

[Source: Added at 18 Ok Reg 2305, eff 4-13-01 (emergency); Added at 19 Ok Reg 948, eff 5-13-02]

PART 11. POULTRY AND OTHER AVIAN SPECIES

35:15-11-41. Poultry and other avian species importation

(a) No person shall import poultry or other avian species or products of poultry or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Avian Influenza or Exotic Newcastle Disease. The State Veterinarian or designee may grant a written exception to this rule and shall base the decision to grant an exception on current science and published

guidelines.

(b) Poultry or other avian species determined to be infected with or exposed to Avian Influenza or Exotic Newcastle Disease shall be destroyed.

[Source: Added at 20 Ok Reg 785, eff 3-18-03 (emergency); Added at 21 Ok Reg 742, eff 4-26-04 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 197, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1150, eff 9-11-16]

PART 13. EQUINE PIROPLASMOSIS [REVOKED]

35:15-11-51. Purpose [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11¹; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-1 to 35:15-11-51 to avoid duplication in numbering.*

35:15-11-52. Definitions [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11¹; Amended at 29 Ok Reg 896, eff 7-1-12 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-2 to 35:15-11-52 to avoid duplication in numbering.*

35:15-11-53. Testing for Equine Piroplasmosis [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11¹; Amended at 29 Ok Reg 896, eff 7-1-12 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-3 to 35:15-11-53 to avoid duplication in numbering.*

35:15-11-54. Management and disposition of Positive Equidae [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11¹; Amended at 29 Ok Reg 896, eff 7-1-12 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-4 to 35:15-11-54 to avoid duplication in numbering.*

35:15-11-55. Release and removal options for Exposed Equidae [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11 ¹; Amended at 29 Ok Reg 896, eff 7-1-12 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-5 to 35:15-11-55 to avoid duplication in numbering.*

35:15-11-56. Long term maintenance of Negative Exposed Equidae [REVOKED]

[Source: Added at 28 Ok Reg 2173, eff 7-25-11 ¹; Amended at 29 Ok Reg 896, eff 7-1-12 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*Editorially renumbered from 35:15-13-6 to 35:15-11-56 to avoid duplication in numbering.*

SUBCHAPTER 12. PET OVERPOPULATION FUND

35:15-12-1. Purpose

The purpose of these rules is to set out the process that governs the disbursement of the Oklahoma Pet Overpopulation Fund for implementing and maintaining pet sterilization efforts in the State of Oklahoma. These rules establish minimum requirements for receiving funds and establish procedures for publishing, accepting, evaluating, selecting, and granting funds.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-2. Definitions

The following words and terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Administrator" means the administrator of the Oklahoma Pet Overpopulation Fund and is appointed by the State Veterinarian.

"Advisory committee" means a committee established by the Oklahoma Veterinary Medical Association to review policies, grant applications, and make recommendations to the Oklahoma Department of Agriculture, Food, and Forestry.

"Fund" means the Oklahoma Pet Overpopulation Fund.

"Owner" means the person to whom the pet belongs.

"Participating organization" means an animal organization or shelter owned and operated by a nonprofit animal welfare organization or a public animal shelter that files an annual letter of request for grant funds with the administrator and is approved for funding.

"Participating veterinarian" means a veterinarian that files an application with the administrator and is approved for participation.

"Payee" means a participating veterinarian, veterinary facility, or participating organization.

"Pet" means a dog or cat.

"State assistance program" means the Medicaid Program, the Food Stamp Program, the Women, Infants and Children's Program (WIC), Temporary Assistance to Needy Families (TANF), the Aged, Blind or Disabled Program, or the Child Care Program.

"Sterilization" means ovariohysterectomy (spay) or castration (neuter), including examination, maintenance, discharge, and removal of sutures.

"Vendor identification number" means the federal tax number or social security number of the veterinary facility or participating veterinarian.

"Veterinary facility" means a veterinary practice with multiple participating veterinarians.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-3. Funding

(a) Taxpayer donations to the Fund shall be collected throughout the calendar year by the Oklahoma Tax Commission. Any funds not expended shall be carried forward and applied to the next calendar year.

(b) Applications by owners and participating veterinarians shall be reviewed by the administrator to verify an applicant's eligibility.

(c) The advisory committee may approve recommendations for allocation of monies and the Administrator shall provide detailed recommendations for disbursement of monies from the fund to the Department.

(d) The Department shall review recommendations of the administrator and any applications necessary to determine and approve the final distribution of monies from the Fund.

(e) Within thirty (30) calendar days after the end of the calendar year, the Department shall determine if sufficient funds are available to warrant applications for funding. The fund shall contain a minimum of \$10,000 before applications will be accepted. If the fund falls below \$5,000 the monies in the fund shall be carried forward and applied to the next calendar year.

(f) The Department is not required to allocate all of the funds available for disbursement.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-4. Eligible owners

(a) Any owner who is a resident of this state may request the sterilization procedure if the owner is participating or eligible to participate in a state assistance program.

(b) The owner shall provide verification of the owner's participation or eligibility to participate in a state assistance program.

(c) Verification shall be provided as one of the following documents issued by the Oklahoma Department of Human Services:

- (1) Medicaid Card verifying eligibility in the Medicaid program;
- (2) Electronic Balance Transfer (EBT) Card verifying eligibility in the Food Stamp, WIC, TANF, or Day Care programs;
- (3) Social Security award letter; or

(4) Any other written correspondence from the Department of Human Services to the owner indicating the owner's current eligibility for any of the state assistance programs.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-5. Owner application and consent form requirements

(a) The owner requesting the sterilization procedure shall submit the following to the administrator:

- (1) Name, address, and telephone number of the owner;
- (2) Verification of eligibility for a state assistance program;
- (3) The pet's name, species, breed, sex, age, and any vaccination history;
- (4) Owner's signature and date signed;
- (5) A statement that the information is verified under oath as true and correct to the best of the owner's knowledge; and
- (6) An owner consent form indicating consent to:
 - (A) Sterilization of the listed pet;
 - (B) Rabies vaccination, if requested; and
 - (C) Any other listed vaccinations the owner may request.

(b) The administrator shall review the application and shall approve the application if all required information is complete and accurate.

(c) The administrator shall return the approved or disapproved form to the owner.

(d) Upon receipt of the approved form, the owner shall submit the form and a ten dollar (\$10.00) copayment to the participating veterinarian that agrees to perform the sterilization procedure on the pet.

(e) The owner shall have the sterilization procedure performed within fifteen (15) days of the application approval date. Exceptions to this date shall only be granted if the participating veterinarian determines that a delay is necessary for medical reasons and provides appropriate written documentation to the administrator.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-6. Veterinarian Participation

(a) Any veterinarian that is licensed by the Oklahoma State Board of Veterinary Medical Examiners and is a member of the Oklahoma Veterinary Medical Association may submit an annual application to participate in the program.

(b) The veterinarian application shall contain the following:

- (1) Name and title of person making request;
- (2) Name of veterinary facility and the vendor identification number;
- (3) Address and telephone number of the veterinary facility;
- (4) Name, Oklahoma Veterinarian Medical License Number, and signature of each veterinarian at the veterinary facility;
- (5) Fee schedule for sterilization of pets in all categories requested on the application form;
- (6) IRS W-9 Form; and

- (7) Signature of authorized person and date signed.
- (c) The veterinarian shall file the application annually with the administrator and the agreement shall be effective from January 1 of each calendar year, or from the date of application approval, whichever is later, and shall expire on December 31 of each calendar year.
- (d) Fee schedules shall remain in effect for the entire term of the agreement.
- (1) Fees shall be for the entire surgical procedure, including but not limited to presurgical examination, any required presurgical blood work, hospital care, removal of sutures, and any other costs normally associated with the surgical procedure, and in no case shall any additional fee be charged to the owner for any veterinary required presurgical blood work or vaccinations.
 - (2) The veterinarian shall be reimbursed for no more than eighty percent (80%) of the fee schedule for sterilization.
 - (3) The veterinarian shall collect and retain a ten dollar (\$10.00) copayment for surgery from the eligible owner.
 - (4) Fees associated with any surgical complications shall not be subject to reimbursement.
 - (5) Upon request of the owner, the veterinarian shall vaccinate each surgical pet for rabies and provide a rabies vaccination certificate at no more than five dollars (\$5.00) per pet.
- (e) If the fee schedules are determined to be at least twenty percent (20%) higher than the average surgical fee for sterilization procedures as determined from all fee schedules submitted by participating veterinarians, the veterinarian's fee schedule shall not be approved.
- (f) If funds become depleted, the veterinarian shall be notified by the administrator and shall immediately stop performing surgeries that may have already been authorized by the administrator.
- (g) The veterinarian shall not be reimbursed for surgeries performed for any owner who is not approved by the administrator.
- (h) The participating veterinarian reserves the right to postpone or refuse surgery if in the medical opinion of the veterinarian, the pet is medically unfit to undergo the surgical procedure. A written statement explaining surgical refusal shall be provided to the owner and the administrator.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-7. Invoices

- (a) Upon completion of the surgery, the participating veterinarian shall submit an invoice on a form provided by the administrator and a copy of the owner application and consent form to the Administrator within ten (10) working days following the end of the month that the surgery was performed.
- (b) Reimbursement for the invoice submitted shall be determined by:
- (1) Separately listing the amount of surgeries performed on dogs by sex and weight;
 - (2) Separately listing the amount of surgeries performed on cats by sex;

- (3) Separately listing the unit cost of each surgery performed;
- (4) Multiplying the number of surgeries by their respective unit cost to calculate the subtotals;
- (5) Adding the subtotals to calculate the surgical total;
- (6) Calculating eighty percent (80%) of the surgical total.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-8. Participating organization eligibility

- (a) A participating organization may apply for a grant of funds to perform pet sterilization procedures.
- (b) A participating organization shall submit a detailed written grant application that shall include but is not limited to:
 - (1) Name, address, and telephone number of the participating organization;
 - (2) Title and name of person representing the participating organization;
 - (3) Detailed description of the proposed use of the grant funds, including but not limited to:
 - (A) The participating organization's method for determining owner eligibility for sterilization procedures;
 - (B) The participating organization's proposed method for providing pet sterilization services to eligible owners; and
 - (C) The term of the grant request, but in no case shall the grant term exceed one year.
 - (4) Amount of grant funds requested; and
 - (5) Signature of authorized person.
- (c) The advisory committee shall review each grant application submitted by a participating organization and make recommendations for approval or disapproval to the Department.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

35:15-12-9. Administrator's duties

- (a) The administrator shall maintain the following:
 - (1) A current list of participating organizations; and
 - (2) A current list of participating veterinarians.
- (b) At least annually, the administrator shall calculate the average sterilization fees from the fee schedules provided by participating veterinarians.
- (c) The administrator shall notify participating veterinarians and organizations if funds become depleted and reimbursement funds are no longer available.
- (d) The administrator shall provide all recommendations for payment of funds to the Department for review and disbursement. In no case shall the Department be prohibited from independently reviewing any recommendation of the administrator or the advisory committee and revising or rejecting the recommendation.

[Source: Added at 22 Ok Reg 690, eff 5-12-05]

SUBCHAPTER 13. TESTING AND INSPECTION FOR DISEASE AND RELEASE OF LIVESTOCK AT AUCTION MARKETS

35:15-13-1. Definitions

35:15-13-1.¹ Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Approved veterinarian" means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"Drive-in" means a written record of livestock in a single consignment. Information on a drive-in shall include name and address of the consignor, license tag number of vehicle used to haul livestock, list and brief description of livestock and corresponding backtags applied, and any special notes or instructions concerning the livestock.

"Livestock auction market veterinarian" means a licensed, accredited veterinarian who has been approved to represent the Department by performing the veterinarian's duties at livestock auction markets.

"Official forms" means forms furnished or approved by the State Board of Agriculture or Animal and Plant Health Inspection Service of the United States Department of Agriculture.

"Restricted cattle" means cattle that have not met specific requirements for change of ownership.

"Slaughter only" means to go directly to a slaughter establishment or to an approved feedlot to be fed to go directly to slaughter.

"Slaughter only tag" means a cardboard tag with the words, "For Slaughter Only" applied to the hip of an animal that is to be taken directly to a slaughter establishment or to an approved feedlot to be fed before going directly to slaughter.

[Source: Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Added at 34 Ok Reg 799, eff 9-11-17 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

Editor's Note: ¹On 7-25-11, a permanent rule called "Purpose" was added at this number (35:15-13-1), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-51 prior to codification.

35:15-13-2. Brucellosis classification-cattle and bison [REVOKED]
35:15-13-2.¹ Brucellosis classification-cattle and bison [REVOKED]

[Source: Revoked at 26 Ok Reg 607, eff 1-13-09 (emergency); Revoked at 26 Ok Reg 1809, eff 7-1-09]

Editor's Note: ¹On 7-25-11, a permanent rule called "Definitions" was added at this number (35:15-13-2), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-52 prior to codification.

35:15-13-3. General requirements for a livestock auction market

(a) Any person owning, operating, conducting, or maintaining a livestock auction market shall be required to employ a livestock auction market veterinarian for auctions selling cattle, horses, swine, or other species as determined by the state veterinarian.

(b) The buyer's invoice shall include the buyer's name and address and a description of the livestock as to age, color, and sex.

(c) The seller's invoice shall include the seller's name and address and a description of the livestock as to age, color, and sex.

(d) The livestock auction market veterinarian or sale company shall not be responsible for results of any tests that are conducted properly or for any reactor animals or responder animals found in the market.

(e) Refusal or failure to comply with Department rules shall be just cause for the revocation or suspension of the livestock auction market license.

(f) No person owning, operating, conducting, or maintaining a livestock auction market shall allow any of the following animals to leave the livestock auction market unless it is individually identified by an official identification with an exception for weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person:

(1) All beef cattle eighteen (18) months of age or older, except terminal fed steers and heifers, going directly to a feedlot or slaughter which will not be reintroduced into the breeding herd;

(2) All dairy cattle;

(3) All "M" branded cattle including any commingled cattle, and

(4) All roping, exhibition, event, and rodeo cattle.

(g) Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.

(h) The owner or operator of the livestock auction market shall keep records of each animal consigned or delivered to the livestock auction market for a period of five (5) years for disease traceback purposes, including but not limited to, the following:

(1) "Drive-in" or any other documents identifying the backtag, owner's name and address, and license tag of mode of transportation;

(2) Any records kept pursuant to the Livestock Auction Market Act;

- (3) Records of any official identification applied to the animal or already existing with the animal;
 - (4) Any records available regarding the purchaser of the animals; and
 - (5) Records of official identification that are sufficiently legible and accurate to facilitate successful tracebacks.
- (i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market. Markets shall sell only species approved to be handled, sold, or exchanged pursuant to their livestock auction market license.
- (j) The livestock auction market shall make the above records available to Department personnel when requested on non-sale days. In an emergency, records may be requested and shall be made available to Department personnel regardless of sale schedule.
- (i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market.
- (k) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the State Veterinarian.

[Source: Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: *On 7-25-11, a permanent rule called "Testing Equine Piroplasmosis equids" was added at this number (35:15-13-3), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-53 prior to codification.*

35:15-13-4. Approval of livestock auction market laboratory to conduct diagnostic tests

35:15-13-4.¹ Approval of livestock auction market laboratory to conduct diagnostic tests

Diagnostic tests may be conducted in an Auction Market Laboratory when approval is granted and the laboratory meets the following requirements:

- (1) Constructed and equipped to be maintained at room temperature (70° to 78°) both winter and summer;
- (2) Contains a sink with running water;
- (3) Equipped with a refrigerator in working condition;
- (4) Constructed so the veterinarian or technician shall have sufficient space and maintain privacy in conducting tests and filling out records and forms;
- (5) Constructed so the laboratory can be kept clean easily and locked at all times when not in use;

- (6) Contains a work counter and sufficient shelf, locked cabinet, or storage space to store forms, official identification, etc., required by the veterinarian or technician in performing the tests and releasing animals;
- (7) Supplied with adequate artificial light. The electric wiring shall be adequate to carry a minimum of a centrifuge, electrical refrigerator, cooling facility, and have a minimum of two (2) electrical outlets; and
- (8) Located to be convenient for the veterinarian or technician.

[Source: Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

Editor's Note: ¹On 7-25-11, a permanent rule called "Management and disposition of positive equids" was added at this number (35:15-13-4), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-54 prior to codification.

35:15-13-5. Approval and responsibilities of veterinarians in livestock auction markets

35:15-13-5.¹ Approval and responsibilities of veterinarians in livestock auction markets

- (a) The veterinarian shall make application for approval to the Department and shall be examined as to his or her ability to function as a livestock auction market veterinarian.
- (b) The livestock auction market veterinarian shall inspect cattle, bison, horses, swine, or other species as determined by the State Veterinarian at the livestock auction market for the purposes of determining the condition of health and freedom from infectious or contagious diseases.
- (c) The livestock auction market veterinarian shall arrive at the market in sufficient time to do all required testing, official identification, and inspection prior to the beginning of the sale.
- (d) The livestock auction market veterinarian is responsible for completion of state and federal forms necessary for the release of livestock from markets and other state and federal forms required for disease traceability, control, and eradication programs. These state and federal forms shall be sufficiently legible and accurate to facilitate successful tracebacks.
- (e) The livestock auction market veterinarian shall submit the identification of cattle required by OAC 35:15-13-3 (f) electronically to the Department within two (2) business days of the date of the sale using a software program designed for livestock auction market operations.
- (f) In the event that an official identification is already present in the animal being tested, the livestock auction market veterinarian shall use this tag instead of retagging, and include all prefixes and numbers in recording the tag on test charts and official documents.
- (g) The livestock auction market veterinarian shall use separate bleeding needles or separate syringes for each animal. The use of the same syringe or needle for multiple animals is prohibited.

- (h) If the livestock auction market veterinarian cannot determine the class of livestock to be shipped by the description on the purchaser's invoice, the livestock auction market veterinarian shall look at each shipment prior to release.
- (i) All reactor or responder cattle received for sale shall be examined as to official identification by the livestock auction market veterinarian prior to sale.
- (j) Copies of all forms shall be forwarded to the office of the State Veterinarian by the livestock auction market veterinarian immediately after sale.
- (k) All official ear tags, forms, certificates of veterinary inspection, or documents and official stamps and signature stamps, shall be kept in the exclusive possession of the livestock auction market veterinarian and shall be dated and signed by him or her only at the time it is filled out and issued. Under no circumstances shall any official document be pre-signed or pre-stamped by the livestock auction market veterinarian. Use of any official stamp by persons other than the livestock auction market veterinarian or a state or federal employee is expressly prohibited. The livestock auction market veterinarian shall be solely responsible for the unauthorized or improper issuance of any official document or the use of any official stamp or signature stamp.
- (l) The livestock auction market veterinarian shall ensure another livestock auction market veterinarian is available at the market when the regular livestock auction market veterinarian is absent from the market.
- (m) The livestock auction market veterinarian shall not resign his duties without written notice to the sale company and State Veterinarian's office at least ten (10) days prior to resignation.
- (n) The livestock auction market veterinarian's failure or neglect to perform any of the functions in this Section shall be cause for disapproval and immediate removal from the livestock auction market.

[Source: Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18]

Editor's Note: ¹On 7-25-11, a permanent rule called "Release and removal options for exposed equids" was added at this number (35:15-13-5), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-55 prior to codification.

35:15-13-6. Movement of livestock through livestock auction markets

- (a) All certificates of veterinary inspection, permits, and other documents, including out-of-state documents accompanying livestock into Oklahoma livestock auction markets, that are incomplete or have been altered in any way are void and shall not be accepted. This shall include documents that are incomplete as to official identification numbers and descriptions of the animals they represent. To be accurate and acceptable, the prefix of each official identification number shall be

recorded.

(b) All livestock shipped or exported from the State of Oklahoma shall meet the state of destination importation requirements.

(c) Cattle that are required to be tuberculosis tested after change of ownership that are not held at the livestock auction for testing shall be consigned to the purchaser's accredited veterinarian of choice accompanied by a VS 1-27 form to verify the arrival of the animal for testing.

(d) Restricted cattle shall be tagged with a slaughter only tag except in instances where the cattle have been tested for the disease of concern.

(e) Cattle tagged with a Slaughter Only Tag shall not be diverted from slaughter channels and shall be transported to an approved livestock facility within seven (7) days of sale.

(f) It shall be a violation of the Oklahoma Administrative Code to remove a Slaughter Only Tag from an animal.

(g) It shall be a violation of the Oklahoma Administrative Code to present feral swine to a livestock auction market or to sell feral swine at livestock auction markets.

[**Source:** Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: *On 7-25-11, a permanent rule called "Long term maintenance of negative exposed equids" was added at this number (35:15-13-6), creating a duplication in numbering. The rule, which was intended to be included in a new Part 13 of Subchapter 11 of this Chapter, was editorially renumbered to 35:15-11-56 prior to codification.*

35:15-13-7. Specific approval of livestock auction markets

(a) No livestock auction market shall be specifically approved until proper application is made and a determination is made by the State Veterinarian that Department regulations and standards are met.

(b) All animals received at the livestock auction market shall be considered in interstate commerce and be handled in accordance with interstate regulations.

(c) All cattle, bison, horses, swine, or other species, as determined by the State Veterinarian, shall be visually inspected by the livestock auction market veterinarian prior to sale for diseased conditions such as cattle scab, sheep scab, Actinomycosis (lump jaw), Carcinomas (cancer eye), Infectious Rhinitis (bull nose) or any other infectious, contagious, or communicable disease.

(d) Any animal determined to be diseased by the livestock auction market veterinarian shall be sold direct to slaughter or quarantined for treatment pursuant to the judgment of the livestock auction market veterinarian.

(e) Each market shall furnish and maintain in good repair sufficient equipment suitable for restraining animals for careful inspection, testing, tagging, branding, and other treatments and procedures ordinarily

required in providing livestock sanitary service at markets. The equipment shall be covered or housed so that necessary work can take place during inclement weather.

(f) The appointment and termination of the livestock auction market veterinarian by the livestock auction market is subject to approval of both state and federal officials.

(g) Failure or neglect to perform any of the functions in this section shall be cause for withdrawal of the approval.

(h) Each livestock auction market shall sign and have on record with the Board the most current livestock market contract for each of the species sold at the market. Markets shall sell only species approved to be handled, sold, or exchanged pursuant to their livestock auction market license.

(i) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the Board of Agriculture or the State Veterinarian.

[Source: Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 14. EQUINE VIRAL ARTERITIS

35:15-14-1. Definitions [RESERVED]

[Source: Reserved at 24 Ok Reg 575, eff 12-21-06 (emergency); Reserved at 24 Ok Reg 1752, eff 6-25-07]

35:15-14-2. Entry requirements

(a) No equidae originating from an area under quarantine for Equine Viral Arteritis shall enter the state of Oklahoma.

(b) Equidae originating from a state with areas under quarantine for Equine Viral Arteritis shall be accompanied by the following:

- (1) A Certificate of Veterinary Inspection listing the body temperature of each equine that shall be equal to or less than one hundred one degrees Fahrenheit; and
- (2) The statement that the listed animals do not have any clinical signs associated with Equine Viral Arteritis, respiratory, or dependent edema and did not originate from an area under quarantine for Equine Viral Arteritis.

[Source: Added at 24 Ok Reg 575, eff 12-21-06 (emergency); Added at 24 Ok Reg 1752, eff 6-25-07]

35:15-14-3. Authority to require testing

(a) The State Veterinarian or any state or federal veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any test eligible Equidae known or suspected to be infected with or exposed to Equine viral arteritis.

(b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

[Source: Added at 36 Ok Reg 1357, eff 9-14-19]

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 1. GENERAL PROVISIONS

35:15-15-1. Equidae entering Oklahoma [REVOKED]

[Source: Revoked at 12 Ok Reg 3388, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 1847, eff 6-14-96]

35:15-15-2. Equidae within the State of Oklahoma found to be reactors to official test for EIA [REVOKED]

[Source: Revoked at 12 Ok Reg 3388, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 1847, eff 6-14-96]

35:15-15-3. Blood samples for EIA test [REVOKED]

[Source: Revoked at 12 Ok Reg 3388, eff 7-1-95 (emergency); Revoked at 13 Ok Reg 1847, eff 6-14-96]

35:15-15-4. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Adjacent herds" means a group or groups of Equidae sharing common pasture or having any direct contact with an affected herd or positive animal and includes any herd containing an animal purchased from or exchanged with the affected herd. Herds separated by a distance of less than two hundred (200) yards are adjacent herds.

"Affected herd" means a herd of Equidae that contains or has contained one or more animals infected with equine infectious anemia and that has not passed all tests required for release from quarantine.

"Approved laboratory" means a laboratory approved prior to operating by the State Veterinarian and the Federal Area Veterinarian In Charge to conduct an official test for equine infectious anemia.

"Approved market" means a stockyard, livestock market, or other premises approved by the Board, where horses or other Equidae are assembled for sale purposes.

"Equidae" means a family of perissodactyl ungulate mammals containing a single genus *Equus*, which includes but is not limited to horses, asses, jacks, jennies, hennies, mules, donkeys, burros, ponies, and zebras.

"Equine infectious anemia (EIA)" means a blood borne viral infection of Equidae.

"Exposed animals" means Equidae that have been in contact with, associated with, or adjacent to animals known to be equine infectious anemia positive.

"Herd" means one or more Equidae maintained on common ground and includes all Equidae under single or multiple ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management, movement, and testing agreement designed by a state or federal veterinarian and a herd owner to control and eradicate equine infectious anemia from an affected, adjacent, or exposed herd of Equidae.

"Livestock dealer" means any person engaged in the business of buying or selling Equidae in commerce or any person registered and bonded under the provisions of the Federal Packers and Stockyards Act of 1921, as amended, who buys Equidae. The term livestock dealer shall not include a farmer or rancher who buys or sells Equidae in the ordinary course of their farming or ranching operation, unless they are registered and bonded under the Federal Packers and Stockyards Act of 1921, as amended.

"Market veterinarian" means any accredited veterinarian who has entered into a written agreement to work a specified market.

"Negative animals" means Equidae that show a negative response to an official test for equine infectious anemia or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Extended Equine Certificate of Veterinary Inspection" means an electronic document issued by an accredited veterinarian which allows a horse to be transported for up to six (6) months between states with an Extended Equine Certificate of Veterinary Inspection agreement.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an equine exhibition.

"Official test" means the agar gel immunodiffusion (AGID) or "Coggins" test, the enzyme-linked immunosorbent assay (ELISA) test, or any other diagnostic test approved by the State Veterinarian.

"Official test record" means an original yellow copy of the VS Form 10-11 or a clear and legible printout of an electronic EIA test chart.

"Owner" means any person with the legal right of possession or having control over any Equidae, and shall include but not be limited to agents, caretakers, and other persons acting on behalf of that person.

"Permit" means an official document that shall accompany positive or exposed Equidae. The permit shall be issued by the Board, a representative of USDA, or an accredited veterinarian. The permit shall list the name, breed, any registration number, any tattoo, any brand, sex, age, color, and markings sufficient to positively identify each Equidae listed on the form and shall also include the owner's name and address, origin and destination locations, and the purpose of the movement.

"Positive" means any Equidae which discloses a positive reaction to an official test for equine infectious anemia.

"State or federal veterinarian" means any veterinarian employed by a state or federal regulatory agency.

"Test eligible" means all Equidae other than foals less than six (6) months of age accompanied by their negative tested dam.

"VS Form 10-11" means the official USDA Equine Infectious Anemia Laboratory Test form labeled VS Form 10-11 or an approved electronic version.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 16 Ok Reg 2107, eff 6-25-99 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 21 Ok Reg 743, eff 4-26-04 ; Amended at 23 Ok Reg 2155, eff 6-25-06 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 3. PROCEDURES

35:15-15-31. Authority to require test

- (a) The State Veterinarian, any state or federal veterinarian, or any accredited veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any test eligible Equidae known or suspected to be infected with or exposed to EIA.
- (b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.
- (c) The State Veterinarian may provide and require supervision for any collection of test samples submitted by an accredited veterinarian.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

35:15-15-32. Personnel authorized to collect blood samples

All official samples collected from Equidae for EIA testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10]

35:15-15-33. Submission of sample and test charts

(a) All blood samples submitted for official tests shall be accompanied by a properly completed VS Form 10-11 or a USDA approved EIA test chart that lists the following:

- (1) Description of the Equidae, including the age, breed, color, sex, animal's name, any registration number, all distinctive markings, including color patterns, brands, tattoos, scars, or blemishes. In the absence of any distinctive color markings or visible permanent identifications, the Equidae shall be identified by indicating the location of all hair whorls, vortices, or cowlicks with an "X" on the illustration provided on the VS Form 10-11.
- (2) Test charts shall include a drawing or a photograph with three views (head, left side, right side).
- (3) Owner's name, address, and telephone number.

- (4) The animal's home premise and county.
 - (5) The name, address, and telephone number of the authorized person collecting the test sample.
 - (6) The laboratory and the person conducting the test.
- (b) All blood samples taken from the animal listed on the VS Form 10-11 shall be submitted in approved tubes and the tubes shall be identified with the same animal name, registration number, tattoo, or other identification as recorded on the VS Form 10-11.
- (c) Samples submitted without proper identification and proper test charts shall not be classified.
- (d) Authorized personnel shall use only one chart or VS Form 10-11 for each Equidae to be tested.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 23 Ok Reg 2155, eff 6-25-06 ; Amended at 27 Ok Reg 1105, eff 7-1-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-34. Requirements for approved EIA testing laboratories

- (a) No person shall operate an EIA testing laboratory without first obtaining approval from the Board.
- (b) Conditions of approval.
- (1) Submit a complete application to the office of the State Veterinarian.
 - (2) Upon receipt of an application, the facility shall be inspected by an authorized agent of the USDA.
 - (3) A report of the inspection shall be submitted to the State Veterinarian and identify the EIA testing laboratory's compliance with the minimum standards for facilities, equipment, and personnel.
 - (4) The applicant shall agree in writing to operate the laboratory in conformity with the Department rules and the requirements of the USDA and shall continually meet all requirements during operation of the laboratory.
 - (5) A determination by the Department that an additional EIA laboratory is necessary in the area.
- (c) Operating requirements.
- (1) All personnel conducting an official test at an approved laboratory shall receive training prescribed by the National Veterinary Services Laboratories (NVSL).
 - (2) Approved laboratories shall use USDA licensed ELISA test kits and follow standard test protocols prescribed by NVSL.
 - (3) Approved laboratories shall maintain a work log clearly identifying each individual sample and test results.
 - (4) Approved laboratories shall maintain a work log and a file of all submission forms for a period of not less than two (2) years.
 - (5) All approved laboratories shall report all positive results to an official test for EIA to the State Veterinarian's office within twenty four (24) hours.
 - (6) A copy of all test charts for positive Equidae shall be sent to the State Veterinarian's office within seventy two (72) hours.

(7)

Approved laboratories shall not test samples until an officially completed test chart is received.

(d) Inspections, proficiency tests, and licenses.

(1) The USDA APHIS VS shall randomly and without prior notification collect samples and inspect the facilities and records of all EIA laboratories in Oklahoma at least one (1) time per year.

(2) All records required to be maintained by approved laboratories shall be open to inspection by state or federal employees during normal business hours.

(3) All approved laboratories shall pass annual proficiency test requirements administered by the NVSL.

(6) Each approved laboratory shall obtain a license on an annual basis.

(A) The annual license fee shall be Two Hundred Fifty Dollars (\$250.00).

(B) The annual license shall expire on January 31 of each calendar year.

(C) The renewal license application shall be submitted no later than January 31 of each calendar year.

(D) A renewal application received or postmarked after January 31 shall be in violation of these rules.

(E) Failure to renew may result in disapproval of the laboratory.

(F) A fee waiver may be granted to an EIA laboratory at a university or state agency.

(e) An EIA laboratory may have its approval cancelled if the Department finds that the laboratory has failed to meet the requirements or has falsified records or reports.

(f) Any action taken by the Department to cancel laboratory approval shall conform to the Administrative Procedures Act.

(g) The Department may deny the application of any EIA laboratory if it fails to meet any criteria required by the Department.

(h) Approved laboratories shall only perform the ELISA test.

(i) The Department may at its discretion in limited and approved circumstances grant approved laboratories the ability to perform the AGID test for equine . The limited exception shall be detailed in a written agreement between the Department and the approved laboratory.

(j) Any approved EIA laboratory shall resubmit all application information for approval by the Department upon a change in ownership of the facility or a change in location of the facility.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 22 Ok Reg 692, eff 5-12-05 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 27 Ok Reg 1105, eff 7-1-10 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-35. Approved diagnostic tests [REVOKED]

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Revoked at 19 Ok Reg 1927, eff 6-27-02]

35:15-15-36. Classification of Equidae tested

(a) All Equidae tested for EIA pursuant to an official test shall be classified as negative or positive.

(b) Positive Equidae and retests.

(1) A positive is any Equidae which discloses a positive reaction to an official test.

(2) Equidae classified as positive may be retested prior to branding upon the owner's written request to the State Veterinarian no more than fifteen (15) days following the date of the original test.

(3) All retest samples shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board and submitted to the National Veterinary Services Laboratory or an approved laboratory as designated by the State Veterinarian.

(4) The owner shall provide documentation verifying the equine tested is the same animal identified as positive on the original test document.

(5) All positive Equidae shall be held in isolation and under quarantine until the retest results are received.

(6) All other Equidae on the premise shall be held under quarantine until the retest results are received.

(7) Retest results from the National Veterinary Services Laboratory or an approved laboratory designated by the State Veterinarian shall be the official retest results. Results from other approved laboratories shall not be official when conducted as retests of positive animals.

(c) All Equidae that show a negative response to an official test shall be classified negative by the approved laboratory.

(d) The designated epidemiologist may deviate from the positive or negative classification so long as the reasons to do so are documented.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-37. Reporting of test results

- (a) The person operating an approved laboratory shall notify the State Veterinarian's office and the individual submitting the sample for testing within twenty four (24) hours of all positive test results.
- (b) The individual who collected the test sample shall notify the owner of the positive horse within forty eight (48) hours of all positive test results and of the quarantine resulting from the positive test results.
- (c) Approved laboratories shall only report test results on samples properly submitted and accompanied by a completed VS Form 10-11.
- (d) Any person operating an approved laboratory that reports results prior to the appropriate time period necessary for the proper completion of an official test shall be in violation of these rules and may be subject to removal of the laboratory's approved status and other administrative remedies.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10]

35:15-15-38. Identification of positive Equidae

- (a) Any Equidae with a positive result to an official test for EIA shall be permanently identified by branding with a "73A" on the left shoulder and an implant of an official microchip no more than thirty (30) days after the date of the official test.
- (b) The brand shall be clearly visible and permanently applied by an authorized agent of the Board using a hot iron brand or freeze brand marking no less than two (2) inches high.
- (c) Any Equidae destroyed prior to branding or microchipping shall be described in a written statement by the accredited veterinarian or authorized agent certifying the destruction.
- (d) The certification shall be submitted to the State Veterinarian's office within ten (10) days of the date the animal is destroyed.
- (e) It shall be a violation of these rules for any person to conceal, alter, or remove the "73A" brand or official microchip on any positive animal.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 23 Ok Reg 2155, eff 6-25-06 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-39. Quarantines

- (a) Any Equidae testing positive to an official test shall be quarantined to the premise of origin or other approved premises until natural death or disposition by euthanasia .
- (b) The quarantine shall include the positive Equidae, all other Equidae on the premise, and all Equidae epidemiologically determined to have been exposed to an EIA positive animal.
- (c) The owner shall maintain isolation of all positive Equidae on an affected premise a minimum of two hundred (200) yards from all other negative Equidae and Equidae of unknown status on adjacent premises.
- (d) In addition to a quarantine, the owner may enter into a herd plan for an affected herd that specifies testing and movement details, in addition

to any exceptions to the specifications of the quarantine.

(e) The owner of an adjacent or exposed herd may enter into a herd plan in addition to or in lieu of a quarantine, pursuant to an agreement with the State Veterinarian.

(f)

Release of quarantine.

(1) No Equidae held under quarantine shall be moved or released without a permit or quarantine release issued by an authorized agent

(2) The EIA quarantine may be released by an authorized agent after all quarantined Equidae in the affected herd or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.

(3) The EIA quarantine on exposed, contact, or adjacent herds may be released by an authorized agent after all quarantined Equidae have met the testing requirements in this part or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.

(4) Epidemiologic data shall be considered in the release of the quarantine.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-40. Testing requirements in affected herds

(a) All test eligible Equidae determined to have been on the same premise as an EIA positive animal at the time the positive animal was tested shall be tested by a state or federal veterinarian or an authorized agent of the Board within thirty (30) days of the confirmation of the positive EIA test.

(b) A second test shall be conducted not less than sixty (60) days nor more than one hundred twenty (120) days following removal of the last positive Equidae for quarantine release.

(c) Foals nursing EIA positive mares shall be tested not less than sixty (60) days nor more than one hundred twenty (120) days upon weaning and isolation from any positive animal. If positive, foals may remain under quarantine for additional testing at the discretion of the designated epidemiologist.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10]

35:15-15-41. Testing in exposed, contact, and adjacent herds

(a) All test eligible Equidae epidemiologically determined to have been exposed to an EIA positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

(b) All test eligible exposed, contact, or adjacent herds shall be tested within thirty (30) days of notification.

- (c) A second test shall be conducted not less than sixty (60) days nor more than one hundred twenty (120) days following the removal of the last positive animal from the affected herd.
- (d) Exposed, contact, or adjacent herds tested by a state or federal veterinarian or an authorized agent of the Board shall be tested at state expense so long as funds are available.
- (e) Exposed, contact, or adjacent herds tested by accredited veterinarians shall be tested at the owner's expense.
- (f) Epidemiologic data may be considered in the testing requirements and release of quarantine for exposed, contact, and adjacent herds.
- (g) Any owner who chooses to maintain an EIA positive animal shall adhere to the following requirements:
- (1) Brand and isolate the EIA positive animal in accordance with the provisions of this subchapter;
 - (2) Test each Equidae under common ownership or present on the property annually at the owner's expense;
 - (3) Submit an annual inventory of all Equidae under common ownership or present on the property to the Department by June 30 of each year; and
 - (4) Test any Equidae thirty (30) days prior to any sale or movement of any Equidae under common ownership or present on the property.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 23 Ok Reg 2155, eff 6-25-06 ; Amended at 27 Ok Reg 1105, eff 7-1-10]

35:15-15-42. Movement of positive and exposed animals

- (a) All positive and exposed Equidae shall be accompanied by a permit when moved from any quarantined premises.
- (b)
An owner who intends to change the location of positive or exposed Equidae to an alternate quarantined premise shall request approval and shall only move the animal following an epidemiological investigation by a state or federal veterinarian.
- (c) No diversion from the destination identified on the permit is allowed.
- (d) If a change in destination is necessary, a new permit shall be issued.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 1105, eff 7-1-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-43. Requirements for quarantined holding facilities [REVOKED]

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-44. Authority to enter premise

- (a) An authorized agent of the Board shall have the authority to enter upon any premise, place, building, or enclosure for the purpose of

inspecting, testing, identifying, and examining Equidae found or suspected to be exposed or infected with EIA.

(b) The owner of the Equidae shall assist in handling and restraining the animals as the State Veterinarian or agent requires.

(c) Any person interfering with the inspection, testing, identification, or examination through acts, words, or threats shall be in violation of these rules.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

35:15-15-45. Fictitious names and erroneous information

(a) Test charts, permits, and other official forms shall be completed with the name of the owner or person responsible for the Equidae.

(b) An approved market, market operator, or market veterinarian shall not be held responsible for recording erroneous information if provided by an owner, buyer, or seller.

(c) Any person providing erroneous or fictitious information shall be in violation of these rules.

(d) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the EIA program shall be in violation of these rules.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

PART 5. CHANGE OF OWNERSHIP OF EQUIDAE

35:15-15-51. Testing requirements for change of ownership

(a) All test eligible Equidae sold, bartered, traded, or offered for sale within Oklahoma shall be accompanied by a record of a negative official test for EIA conducted at an approved laboratory within the previous twelve (12) months and naming the seller as the Equidae's owner.

(b) The record shall include the name of the laboratory, test accession number, and the date of the official test.

(c) A copy of a VS Form 10-11 shall not be considered an official record of test.

(d) Printed versions of electronic test charts shall be clear and legible. Printed versions that do not meet the requirements shall be considered non-official and the equid shall be re-tested.

(e) On all private sales, trades, barter, or any sale other than through an approved market, the seller shall be solely responsible for meeting EIA testing requirements prior to sale.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-52. Intrastate movement [REVOKED]

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

PART 7. REQUIREMENTS FOR APPROVED MARKETS

35:15-15-71. Movement of Equidae through approved markets

(a) All test eligible Equidae offered for sale or sold at any market shall meet one of the following requirements:

(1) Be accompanied by a record of an official negative test for EIA conducted by an approved laboratory within twelve (12) months of the date of the sale. If the market veterinarian is unable to verify the authenticity of the test record, the market veterinarian shall complete a new test chart and test the Equid for EIA.

(2) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and obtain official negative test results for EIA from an approved laboratory before the animal leaves the market.

(3) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and be quarantined to the market or to an Oklahoma premise until negative results are received from an approved laboratory.

(b) A copy of a VS Form 10-11 shall not be considered an official test record.

(c) All Equidae consigned to an approved market shall be released by the market veterinarian to meet the requirements of this subchapter and the state of destination.

(d) Known positive or exposed Equidae shall not be consigned for sale at approved markets.

(e) Equidae found to be positive or exposed through testing conducted at an approved market shall be maintained in quarantine pens, isolated as far as possible from all other Equidae in the sale facility, and the quarantine pen or pens shall be clearly identified, by sign or paint, with the word "Quarantined."

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-15-72. Identification of untested Equidae [REVOKED]

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 29 Ok Reg 896, eff 7-1-12]

35:15-15-73. Responsibilities of approved veterinarians at approved markets

(a) The market veterinarian shall arrive at the market in sufficient time to perform all required testing, inspection of all animals, and paperwork prior to any movements from the sale premise, including the completion of all state and federal forms necessary for the release of the animals from the market and other state and federal forms required for EIA control.

(b) All official forms, certificates, documents, or stamps shall be kept in the exclusive possession of the market veterinarian and shall be dated and signed by the market veterinarian only at the time they are completed and issued.

(1) Under no circumstances shall any official document be presigned or prestamped by the market veterinarian.

(2) The market veterinarian shall be responsible for the unauthorized or improper issuance of any official document or the use of any official stamp.

(c) If unable to work the market, the market veterinarian shall secure another accredited veterinarian to work the market.

(d) The market veterinarian's failure or neglect to perform any of the required functions shall be cause for disapproval and immediate removal from the market.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

35:15-15-74. Release of Equidae from markets

All Equidae, regardless of age, shall be approved for release from markets by an accredited veterinarian or an authorized agent of the Board and are not to be released unless they meet the importation and transportation requirements of the state of destination, including Oklahoma.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

PART 9. EQUINE EXHIBITIONS

35:15-15-91. Requirements of Equidae entering equine exhibitions

(a) All Equidae moving within the state to equine exhibitions, including but not limited to, fairs, livestock shows, breed association shows, rodeos, racetracks, or other equine gatherings shall be accompanied by a record of a negative official test for EIA conducted within the previous twelve (12) months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the test accession number, and the date of the test shall appear on the official test record.

(b) The official in charge shall be responsible for verifying that all Equidae entering an equine exhibition meet all recordation requirements.

(1) An official in charge of an equine exhibition shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.

(2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(c) Any official in charge who knowingly, negligently, or willfully allows an untested or positive animal to enter an equine exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 11. REQUIREMENTS FOR EQUIDAE ENTERING OKLAHOMA

35:15-15-111. General requirements for Equidae entering Oklahoma

All test eligible Equidae entering Oklahoma for any purpose other than consignment to a veterinarian's clinic or livestock auction market shall be accompanied by one of the following:

(1) A record of a negative official test for EIA conducted within the previous twelve (12) months and an Extended Equine Certificate of Veterinary Inspection.

(2) A record of a negative official test for EIA conducted within the previous twelve (12) months and a certificate of veterinary inspection.

(3) An equivalent certificate as approved by the State Veterinarian.

(4) A certificate of veterinary inspection, when in compliance with the terms of a Memorandum of Understanding which allows for testing upon arrival.

(5) A copy of a VS Form 10-11 shall be considered an official record of test when accompanied by a properly completed certificate of veterinary inspection.

(6) An exception to import test requirements may be issued by the Department. To qualify for the exception, the person seeking the exception shall:

(A) Apply for an entry permit during the Department's office hours. ;

(B) Obtain a certificate of veterinary inspection issued no more than thirty (30) calendar days prior to entry;

(C) Test the Equidae for EIA within thirty (30) days after entry; and

(D) Immediately quarantine the Equidae entering Oklahoma pursuant to this subsection until the Equidae is tested negative for EIA.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 16 Ok Reg 2107, eff 6-25-99 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok

Reg 1927, eff 6-27-02 ; Amended at 21 Ok Reg 743, eff 4-26-04 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 39 Ok Reg 788, eff 9-12-22]

35:15-15-112. Entry requirements to a veterinarian's clinic for care or treatment

- (a) All test eligible Equidae, entering Oklahoma for care or treatment at an accredited veterinarian's clinic may do so provided they are accompanied by a waybill or bill of lading listing the name and address of the consignor, number and identification of all Equidae in the shipment, and the name and address of the veterinarian's clinic to which consigned.
- (b) There shall be no diversion from the destination on the waybill or bill of lading.
- (c) The Equidae may remain at the veterinarian's clinic until care or treatment is complete and shall return to their premise of origin or meet testing requirements for additional movements.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

35:15-15-113. Entry requirements to an approved slaughter facility [REVOKED]

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02 ; Revoked at 37 Ok Reg 947, eff 9-14-20]

PART 13. VIOLATIONS OF REQUIREMENTS FOR TESTING OR MOVEMENT OF EQUIDAE INTO OR WITHIN THE STATE OF OKLAHOMA

35:15-15-131. Penalties and fines

- (a) Upon notice and a hearing pursuant to the Administrative Procedures Act, the Board may assess administrative penalties against any person in violation of these rules.
- (b) Any person violating these rules may be civilly liable to the Board for any assessed fees and penalties.
- (c) Each day of continuing violation and each Equidae shall be a separate violation.

[Source: Added at 12 Ok Reg 3388, eff 7-1-95 (emergency); Added at 13 Ok Reg 1847, eff 6-14-96 ; Amended at 17 Ok Reg 2821, eff 7-13-00 ; Amended at 19 Ok Reg 1927, eff 6-27-02]

SUBCHAPTER 16. CONTAGIOUS EQUINE METRITIS

35:15-16-1. Incorporation by reference

- (a) The contagious equine metritis regulation found in Title 9 of the Code of Federal Regulations (CFR) (2021 Revision), Section 93-301 and USDA VS Guidance Document 13406.1 (2013) Revision are hereby adopted in

their entirety.

(b) All words and terms defined or used in the federal regulation incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

[Source: Added at 23 Ok Reg 2155, eff 6-25-06 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 24 Ok Reg 1753, eff 6-25-07 ; Amended at 25 Ok Reg 1035, eff 7-1-08 ; Amended at 26 Ok Reg 1382, eff 7-1-09 ; Amended at 27 Ok Reg 902, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22]

SUBCHAPTER 17. BOVINE AND BISON BRUCELLOSIS

PART 1. DEFINITIONS AND GENERAL PROVISIONS

35:15-17-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Affected herd" means a herd of cattle that has had a brucellosis reactor disclosed from an on-farm test or is the herd of origin of a market cattle identification brucellosis reactor from which a field strain *Brucella abortus* bio-variety has been isolated.

"Animals" means all bovine, dairy and beef breeds, and bison.

"Approved brucella vaccine" means a product that is approved by and produced under license of the United States Department of Agriculture for injection into cattle or bison to enhance their resistance to brucellosis.

"Cattle" means bison, dairy, and beef animals.

"Commuter herd" means all cattle under common ownership or supervision, that are located on one (1) or more premises in two (2) or more states and there is an interchange or interstate movement of animals between premises in those states as part of the normal farming, breeding or ranching operation without a change of ownership. A commuter herd agreement shall be completed and approval of commuter herd status shall be obtained from each chief animal health official of all states in which the herd resides.

"Domestic livestock" means those species of animals that have adapted to life in intimate association with, and provide advantage to man for use as food, fiber (furs and leather), labor and companionship. This adaptation usually involves the modification of growth or other traits through the provision of food, protection from enemies and selective breeding, thereby reducing the ability of that species to survive in the wild.

"Exposed animals" means animals that are part of a known affected herd or have been in contact with brucellosis reactors in marketing channels for periods of twenty-four (24) hours or periods of less than twenty-four (24) hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge. These animals are considered to be exposed regardless of the blood test results, and shall

be placed under quarantine and restricted pending slaughter or testing after return to the herd of origin. These animals shall be identified with a hot iron letter "S" brand on the tailhead at least 2x2 inches prior to movement from the premise.

"Farm of origin" means a farm or other premises where the cattle to be shipped were born or have been kept for not less than four (4) months prior to the date of shipment and the premises within the four (4) months prior to the date of shipment have not been used to assemble cattle from any other premises.

"Feedlot" means a confined drylot area for finish feeding of animals on concentrated feed with no facilities for pasturing or grazing. The feedlot may not hold any test eligible animals of unknown status or "S" branded animals.

"Herd" means all cattle (genus Bos) and bison (genus Bison bison) under common ownership or supervision, that are grouped on one or more parts of any single premise (lot, farm, or ranch) or on two (2) or more premises geographically separated, but have had an interchange movement or contact. Contact shall be accepted as fact unless otherwise established by the owner and consistent with the findings of the epidemiologic investigation. Groups of animals under multiple ownership on common premises, such as community pastures, grazing association allotments, etc., shall also be considered as a herd. For brucellosis eradication purposes the herds shall include all other groups of animals owned by those persons unless the veterinary medical officer, based on an epidemiologic investigation, establishes that association has not occurred.

"Herd test" means a test that includes all animals over six (6) months of age except steers and spayed heifers. Breeding animals tested shall be identified with official identification.

"Individual herd plan" means a herd management and testing plan designed by the herd owner and a veterinarian of the Cooperative Brucellosis Eradication Program that will control and eradicate brucellosis from an affected herd and shall include a similar plan for determining the true status of suspects and preventing exposure to brucellosis within the herd.

"Official test" means any serologic or bacteriologic test recognized by and listed in the USDA Uniform Methods and Rules of Brucellosis Eradication or the Code of Federal Regulations. The official test sample shall be collected by an accredited veterinarian or an employee of the State-Federal Brucellosis Program. The test shall be conducted in an official State-Federal Brucellosis Laboratory or licensed and approved Auction Market Laboratory, or by an employee of the State-Federal Brucellosis Program in field situations. All tests shall be confirmed in an official State-Federal Brucellosis Laboratory.

"Official vaccinate" means a female bovine or bison animal vaccinated against brucellosis with an approved brucella vaccine between four (4) and twelve (12) months of age. All vaccination shall be conducted under the supervision of a federal or state veterinary official or accredited veterinarian. Vaccinated animals shall be permanently identified as vaccinates and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of

brucellosis.

"Permit" means an official document (USDA VS Form 1-27 or comparable State Form) that is required to accompany "B" branded cattle, "S" branded cattle, and exposed cattle moved under official seal, issued by a veterinary services representative, state representative or accredited veterinarian that lists the official identification, USDA backtag, registration number, reactor tag number, owner's name and address, origin and destination, number of animals covered, and the purpose of the movement. If a change in destination becomes necessary a new permit shall be prepared. No diversion from the permitted destination is allowed. Copies of the permit shall be distributed in accordance with the instructions printed on the official document.

"Permit for entry" means a premovement authorization for entry of cattle into a state from the animal health official in that state. The authorization shall state the conditions under which movement may be made, and these conditions may be in addition to the requirements of the USDA Uniform Methods and Rules for Brucellosis Eradication (UM&R) and Code of Federal Regulations.

"Rodeo bulls" means sexually intact male cattle kept for the purposes of performances at rodeos, for exhibition purposes or for breeding to produce rodeo bulls, and shall include bulls changing ownership.

"S brand" means identification of animals by branding with a hot iron the "S" that is at least 2x2 inches and placed on the tailhead. "S" branding is required for suspect animals and movement of exposed animals from affected herds.

"Test eligible animals" means all animals eighteen (18) months of age, as determined by the loss of first pair of temporary incisor teeth, except exposed animals that have been "S" branded, steers, and spayed heifers.

[Source: Amended at 9 Ok Reg 183, eff 11-4-91 (emergency); Amended at 9 Ok Reg 1763, eff 5-26-92 ; Amended at 9 Ok Reg 1797, eff 5-26-92 ; Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13]

35:15-17-2. Whole herd vaccination

Animals older than the age of official calfhood vaccination may be vaccinated under specific conditions with a dose of vaccine as prescribed in the UM&R for Brucellosis Eradication. All eligible calves shall also be vaccinated and identified as official vaccinates.

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10]

35:15-17-3. Identification of vaccinates

Brucellosis vaccinates may be calfhood vaccinated animals or adult vaccinated animals.

(1) Calfhood vaccinated animals are to be permanently identified as vaccinates by tattoo and by official eartag. Brands, registration tattoos, or other official identification may be used in lieu of

official vaccination eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which will be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the vaccination was done. Official tattoos shall be applied to the right ear.

(2) Adult vaccinated animals are to be permanently identified as vaccinates by tattoo and by official eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which shall be preceded by the letter "A" and followed by a number corresponding to the last digit of the year in which the vaccination was performed. The accompanying VS Form 4-26 (Calfhood Vaccination Record) should be clearly marked "Adult Vaccination."

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-17-4. Traceback of reactors [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-5. Quarantined feedlot [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Revoked at 27 Ok Reg 2420, eff 7-25-10]

35:15-17-6. Incorporation by reference

(a) The brucellosis regulations found in Title 9 of the Code of Federal Regulations (CFR) Part 78 (2020 Revision), are hereby adopted in their entirety.

(b) All words and terms defined or used in the federal regulation incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

[Source: Added at 38 Ok Reg 1638, eff 9-11-21]

PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES (UM&R) FOR BRUCELLOSIS ERADICATION [REVOKED]

35:15-17-32. Laboratories [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-33. Reporting [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-34. Supervision [REVOKED]

[Source: Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-35. Quarantine [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-36. Disposition of affected herds [REVOKED]

[Source: Amended at 12 Ok Reg 3396, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1855, eff 6-14-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-37. Community notification of brucellosis affected herds [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-38. Contact herds and adjacent herds [REVOKED]

[Source: Amended at 11 Ok Reg 2573, eff 6-13-94 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-39. Cleaning and disinfection [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-40. Classification of cattle and bison [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-41. Identification of reactors [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-42. Identification of exposed animals [REVOKED]

[Source: Amended at 9 Ok Reg 183, eff 11-4-91 (emergency); Amended at 9 Ok Reg 1797, eff 5-26-92 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-43. Slaughter requirements [REVOKED]

[Source: Amended at 9 Ok Reg 183, eff 11-4-91 (emergency); Amended at 9 Ok Reg 1797, eff 5-26-92 ; Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-44. Movement of reactors, exposed animals and suspects [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-45. Entering premises [REVOKED]

[Source: Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-46. Services to owner [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Revoked at 27 Ok Reg 2420, eff 7-25-10]

35:15-17-47. Herd depopulation [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-48. Diagnostic agents for brucellosis [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-49. Adult vaccination [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-50. Epidemiologic services [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-51. Individual herd plan [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-52. Heifers to be spayed [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-53. Assurance test [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 15 Ok Reg 2158, eff 6-11-98 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-54. Fictitious names and erroneous information [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-55. Area test [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Revoked at 27 Ok Reg 2420, eff 7-25-10]

35:15-17-56. Commuter herds [REVOKED]

[Source: Added at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-57. High risk herds [REVOKED]

[Source: Added at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Revoked at 27 Ok Reg 2420, eff 7-25-10]

PART 5. BRUCELLA VACCINE [REVOKED]

35:15-17-59. Brucella vaccine [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-60. Official calfhood vaccination shield [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

PART 7. CERTIFIED BRUCELLOSIS-FREE HERDS OF CATTLE OR BISON [REVOKED]

35:15-17-64. Qualifying methods [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-65. Qualifying standards [REVOKED]

[Source: Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

35:15-17-66. Certified Brucellosis-Free Herd [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

PART 9. CHANGE OF OWNERSHIP TESTING [REVOKED]

35:15-17-69. Change of ownership of cattle and bison within Oklahoma [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 26 Ok Reg 607, eff 1-13-09 (emergency); Revoked at 26 Ok Reg 1809, eff 7-1-09]

PART 11. ENTRY PERMIT AND RETEST REQUIREMENTS

35:15-17-73. Brucellosis requirements for entry of cattle and bison into Oklahoma

(a) All cattle and bison shall have a Certificate of Veterinary Inspection prior to entry. Test eligible cattle and bison from states or areas not classified as "Brucellosis free" shall have a permit in addition to a Certificate of Veterinary Inspection prior to entry. All test eligible cattle and bison from states or areas not classified as "Brucellosis free" shall test negative within thirty (30) days prior to entry and shall be quarantined and retested at owner's expense not less than fort-five (45) nor more than one hundred twenty (120) days after entry.

(b) All brucellosis agglutination blood tests associated with the importation of animals into Oklahoma, shall be conducted or confirmed at a state or federal laboratory.

[Source: Amended at 9 Ok Reg 1929, eff 5-31-91 (emergency); Amended at 9 Ok Reg 1761, eff 5-26-92 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14]

35:15-17-74. Cattle and bison from an out-of-state farm of origin

Cattle and bison from an out-of-state farm of origin may be consigned to an approved livestock auction market in Oklahoma without test, permit or vaccination. Before release from the livestock auction market the cattle or bison shall meet all Oklahoma entry requirements. Animals going to another state shall meet state of destination requirements.

[Source: Amended at 9 Ok Reg 1929, eff 5-31-91 (emergency); Amended at 9 Ok Reg 1761, eff 5-26-92 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13]

35:15-17-75. "S" branded cattle

All "S" branded cattle shall obtain a permit prior to entry, be individually identified on a USDA, Veterinary Services, Form 1-27, or a comparable state form, and

- (1) Be shipped directly to an approved slaughter establishment with no diversion enroute; or

(2) Be consigned to an approved market to be sold direct to slaughter with no diversion enroute.

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10]

**35:15-17-76. Out-of-state animals held under quarantine
[REVOKED]**

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-17-77. Cattle and bison shipped to an approved slaughter facility in Oklahoma

Cattle and bison shipped into Oklahoma to an approved slaughter facility for immediate slaughter are exempt from the permit and test requirements provided they meet interstate requirements as specified in the Code of Federal Regulations

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10]

35:15-17-78. Test eligible sexually intact animals

(a) Sexually intact animals , greater than six (6) months of age, imported into the state in violation of any import regulation shall be quarantined to the nearest approved livestock auction market or approved slaughtering establishment.

(b) Sexually intact animals which are less than six (6) months of age imported into the state in violation of any import regulation shall be quarantined to the premise of destination.

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13]

**35:15-17-79. Vaccination requirements for importation of cattle
[REVOKED]**

[Source: Revoked at 9 Ok Reg 1929, eff 5-31-91 (emergency); Revoked at 9 Ok Reg 1761, eff 5-26-92]

35:15-17-80. Rodeo bulls [REVOKED]

[Source: Added at 9 Ok Reg 1763, eff 5-26-92 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 33 Ok Reg 1150, eff 9-11-16]

35:15-17-81. International import requirements

(a) All sexually intact cattle and bison from any foreign country or part thereof with no recognized brucellosis program equivalent to Oklahoma and the UM&R standards of the U.S. Bovine Brucellosis Eradication program that are imported for reasons other than immediate slaughter or feeding for slaughter shall meet the following criteria:

(1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry, and be quarantined to the Oklahoma premise approved in the entry permit pending two (2) consecutive negative brucellosis tests.

(2) Males shall have the first test conducted not less than ninety (90) days nor more than one hundred twenty (120) days after arrival and the second test to be not less than 210 days nor more than 240 days after arrival in Oklahoma.

(3) Females shall have the first test conducted not less than ninety (90) days nor more than one hundred twenty (120) days after arrival and the second test to be thirty (30) to sixty (60) days after all females in the consignment have calved and not less than 210 days after arrival. Any females which are S-branded for immediate slaughter or feeding for slaughter prior to calving shall test negative within thirty (30) days of being S-branded.

(b) Those sexually intact cattle and bison, from any foreign country or part thereof with or without a recognized brucellosis program equivalent to Oklahoma and the UM&R standards of the U.S. Bovine Brucellosis Eradication program, imported for immediate slaughter or feeding for slaughter shall meet the following criteria:

(1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry, and

(2) Be consigned direct to an approved slaughter establishment with no diversion from the permitted destination.

(c) All sexually intact cattle or bison, from any foreign country or part thereof with a recognized brucellosis program equivalent to Oklahoma and the UM&R standards of the U.S. Bovine Brucellosis Eradication program, imported for reasons other than immediate slaughter or feeding for slaughter shall meet the following criteria:

(1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry.

(2) All test eligible cattle and bison from areas equivalent to Class A state status shall test negative within thirty (30) days prior to entry.

(3) All test eligible cattle and bison from areas equivalent to Class B and C state status shall be required to meet the same requirements for entry as listed in subsection (a) of this section.

(4) Test eligible cattle and bison from areas equivalent to Class Free state status are exempt from quarantine and retest requirements provided they are individually identified and the Free state status is recorded on the certificate of veterinary inspection.

[Source: Added at 13 Ok Reg 1099, eff 1-31-96 through 7-14-96 (emergency); Added at 13 Ok Reg 3951, eff 10-11-96 ; Amended at 27 Ok Reg 2420, eff 7-25-10]

PART 13. COMMUNITY PASTURES [REVOKED]

35:15-17-83. Community pastures [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

PART 15. DEPOPULATION PAYMENT [REVOKED]

35:15-17-87. Conditions and animal qualifications for depopulation payment [REVOKED]

[Source: Amended at 13 Ok Reg 3945, eff 10-11-96 ; Amended at 14 Ok Reg 2425, eff 6-26-97 ; Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

PART 17. BLOOD TYPING [REVOKED]

35:15-17-91. Misrepresentation of blood samples or animals [REVOKED]

[Source: Amended at 27 Ok Reg 2420, eff 7-25-10 ; Revoked at 38 Ok Reg 1638, eff 9-11-21]

SUBCHAPTER 18. EQUINE PIROPLASMOSIS

35:15-18-1. Purpose

Equine Piroplasmosis is a parasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, dental equipment, and surgical equipment. These rules allow the State Veterinarian to issue stop movement orders or quarantines of Equine Piroplasmosis reactors. In managing any premises that houses negative, positive, or reactor equids, exposing a negative equid to the blood or blood products of a positive or reactor equid shall be avoided. Proper handling of infected needles, surgical instruments, dental equipment, blood, or blood products collected from positive or reactive equids, or other blood contaminated fomites, including blood contaminated semen collected for artificial insemination is essential, as Equine Piroplasmosis may also be transmitted through these routes.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-18-2. Definitions

The following words and phrases shall have the following meanings:

"Equine Piroplasmosis reactor" means any Equidae that tests positive for Equine Piroplasmosis from either *B. caballi* or *T. equi* but has not been confirmed by NVSL.

"Exposed" means all Equidae in the same herd as a Piroplasmosis positive animal or had recent direct and sustained contact with a Piroplasmosis animal.

"High risk premises" means premises where transmission of Equine Piroplasmosis is known or suspected to have occurred or has the

potential to occur, through either natural tick borne transmission or high risk management practices and as determined by the State Veterinarian.

"Low risk premises" means premises where transmission of Equine Piroplasmosis has not been demonstrated or suspected to have occurred and has a low potential to occur, through either natural tick borne transmission or management practices and as determine by the State Veterinarian.

"Negative Equidae" means Equidae that show a negative result to a competitive enzyme-linked immunosorbent assay (c-ELISA) test for Equine Piroplasmosis or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Positive Equidae" means Equidae that show a positive result to for Equine Piroplasmosis by the National Veterinary Services Laboratories (NVSL) on the complement fixation (CF) test or competitive enzyme-linked immunosorbent assay (c-ELISA) test.

"Racetrack facility" means a premises used to conduct live horse racing events and is not limited to facilities licensed by the Oklahoma Horse Racing Commission.

"Suspect case" means an Equidae with clinical signs consistent with Equine Piroplasmosis, a history of exposure, or a non-negative test.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-18-3. Testing for Equine Piroplasmosis

(a) All racing Quarter horses, Paint horses, and Appaloosas entering a racetrack facility shall have proof of a negative Piroplasmosis test (T. equi) within the past twelve (12) months.

(b) All official samples collected from Equidae for Piroplasmosis testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board. Samples shall be submitted to an approved lab within 30 days of collection.

(1) The State Veterinarian, a state or federal veterinarian, an authorized agent of the Board, or an accredited veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Piroplasmosis.

(2) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

(3) The State Veterinarian may provide and require supervision for collection of test samples submitted by an accredited veterinarian.

(4) Any person providing erroneous or fictitious information shall be in violation of these rules.

(5) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the Piroplasmosis program shall be in violation of these rules.

- (6) Equine piroplasmosis laboratory results shall include a description of the horse.
- (c) All Equidae epidemiologically determined to have been exposed to a Piroplasmosis positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.
 - (1) Test results for suspect cases and reactor Equidae shall be confirmed by NVSL.
 - (2) Positive results shall be confirmed by NVSL.
 - (3) Exposed Equidae that test negative shall be retested at least thirty (30) calendar days from last exposure to a Positive Equidae.
 - (4) Epidemiologic data may be considered in the testing requirements for Exposed Equidae and affected herds.
- (d) Release of quarantine.
 - (1) No Equidae held under quarantine shall be moved or released without a permit or quarantine release signed by an authorized agent has been executed.
 - (2) Exposed Equidae may be released from quarantine after obtaining a negative test a minimum of thirty (30) calendar days from the last exposure.
 - (3) Epidemiologic data may be considered in the release of the quarantine.
- (e) Foals born to positive mares are considered exposed and shall be tested because Equine Piroplasmosis hemoparasites may be transmitted in utero or at parturition.
 - (1) Foals under six (6) months of age may carry maternal antibodies to infection but may not be infected. Therefore, seropositive foals without other evidence of infection via PCR or blood smears shall be retested after waning of maternal antibodies.
 - (2) Foals shall be kept in quarantine until weaned or separated from the mare and until tested negative for Equine Piroplasmosis at NVSL.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-18-4. Management and disposition of Positive Equidae

- (a) Any Equidae confirmed positive for Equine Piroplasmosis shall be officially identified by the Department or regulatory personnel acting under the authority of the State Veterinarian, unless already electronically identified.
- (b) Options for managing Positive Equidae include quarantine, quarantine with treatment, export, and euthanasia. Conditions for quarantine shall be outlined in an established herd plan between the owner and the State Veterinarian. Standards for quarantine shall differ for high risk and low risk premises.
- (c) Management of Positive Equidae shall be conducted under the direct supervision of the State Veterinarian.
 - (1) Quarantine on high risk premises:

(A) Positive Equidae shall be housed in a tick free facility on any premises approved by the State Veterinarian.

(B) If no tick free facility is available, the Positive Equidae shall be housed at a predetermined safe distance from other Equidae. The State Veterinarian shall determine the predetermined distance with the goal of reducing the risk of tick borne transmission and shall consider tick species in the area, natural geographical barriers, seasonal variation, the potential role of wildlife in tick movement, and other factors.

(C) A tick free facility may be of any size but shall be surrounded by two (2) fences a minimum of thirty (30) feet apart, with the zone between the fences free of vegetation and animals.

(D) Prior to moving Positive Equidae into a facility, the Equidae, the facility, and the thirty (30) foot barrier zone shall be treated to eliminate ticks using an approved acaricide.

(i) Positive Equidae shall be maintained on an acaricide treatment interval pursuant to label directions of an approved product to minimize tick infestations.

(ii) Acaricides used shall be labeled as effective against and approved for use on Equidae or on the environment (i.e., pasture, stall, soil, etc.).

(E) Unless approved by the State Veterinarian, only positive Equidae are allowed in the tick-free facility. Dogs, other domestic animals, or livestock shall not be allowed to enter the facility unless maintained on acaricide treatment and remain tick free at all times.

(F) Facility inspections shall be conducted pursuant to the following schedule:

(i) The State Veterinarian shall make at least two (2) unannounced inspections of the facility within the first sixty (60) calendar days of quarantine to ensure no unauthorized animals are moving to or from the facility, the thirty (30) foot zone is free of vegetation and animals, and the Positive Equidae are not tick infested.

(ii) During the first year of quarantine, premises shall be inspected at least quarterly, or more frequently as determined by the State Veterinarian, to assess compliance. At least one of these inspections shall be unannounced.

(iii) After the first year of quarantine, there shall be a minimum of two (2) intensive premises inspections per year for premises that repeatedly demonstrate complete compliance. These inspections may be scheduled or unannounced at the discretion of the State Veterinarian.

- (iv) Frequency of inspections shall be increased in cases where the State Veterinarian has identified the potential for noncompliance.
- (G) Working, exercising, or allowing other contact between Positive and Negative Equidae shall not be allowed except in the following circumstances:
 - (i) Any contact with other animals shall only occur on the quarantined premises.
 - (ii) Both Positive and Negative Equidae shall be treated with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to any contact.
 - (iii) Equidae shall not be left unattended in pastures. When acaricide treated Positive Equidae are not being ridden, they shall be placed in a trailer or kept a minimum of ten (10) feet from acaricide treated Negative Equidae.
 - (iv) Trailers used to transport Positive Equidae within the quarantined premises shall be treated with acaricide after each use.
 - (v) Premises where Positive and Negative Equidae have any contact shall be subject to more frequent inspections by the State Veterinarian.
- (2) Quarantine on low risk premises:
 - (A) Positive Equidae shall be housed in separate pens or pastures away from Negative Equidae.
 - (i) There shall be a minimum ten (10) foot separation maintained between Positive Equidae and Negative Equidae on the same or adjacent low risk premises, with vegetation kept no higher than four (4) inches tall in the intervening space.
 - (ii) If the ten (10) foot separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine if sufficient space and barriers are available to establish and maintain the necessary isolation of Positive Equidae.
 - (B) Inspections shall occur on the same schedule as for Positive Equidae quarantined on high risk premises.
- (3) Quarantine and enrollment in an approved Equine Piroplasmosis treatment program shall be available upon the approval of the State Veterinarian.
 - (A) Any associated costs for an approved Equine Piroplasmosis treatment program shall be the owner's responsibility.
 - (B) Management of Positive Equidae enrolled in an approved Equine Piroplasmosis treatment program shall be in accordance with the standards specified in this section.
 - (C) If an Equidae completes an approved treatment program, effectively demonstrates freedom from the

organism, and no longer meets the confirmed positive case definition for Equine Piroplasmosis, the Equidae may be eligible for quarantine release at the discretion of the State Veterinarian.

(4) It shall be the owner's responsibility to coordinate with authorities in the destination country for the export of an Equine Piroplasmosis Positive Equidae and to arrange for transportation. The Positive Equidae shall be transported to the export facility under an APHIS movement permit and official seal.

(5) Euthanasia and disposal:

(A) Both euthanasia and disposal shall be documented and conducted pursuant to the supervision of the State Veterinarian.

(B) Federal and State indemnity shall not be available.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-18-5. Release and removal options for Exposed Equidae

(a) On high risk premises where positive Equidae remain, exposed Equidae may be released from quarantine and removed from the premises under the following conditions:

(1) NVSL tests the Exposed Equidae and determines they are negative.

(2) The Negative Equidae are treated for ticks using an approved acaricide.

(3) Exposed Equidae are confined to a negative equine facility (e.g., pen, paddock, stall):

(A) The negative facility shall contain no vegetation and shall have been treated with an approved acaricide;

(B) The facility is surrounded by two fences a minimum of thirty (30) feet apart with a zone free of vegetation between the fences or barriers;

(C) The thirty (30) foot zone around the facility is kept free of vegetation and treated with an acaricide approved for treating facilities to eliminate ticks. Treatments shall be repeated as often as necessary according to label instructions to maintain a zone with no ticks. If thirty (30) feet of separation is not possible, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space and barriers are available for isolating the Negative Equidae; and

(D) No equipment, tack, hay, feed, bedding, manure, clothing, or other items have been brought into the negative facility from any Positive Equidae premises.

(4) After the animals are confined, they are retreated with an acaricide pursuant to the product label requirements.

(5) The Negative Equidae are inspected for ticks ("scratched") and retested by the NVSL not less than thirty (30) days following entry into the negative equine facility. Exposed Equidae that are negative on the retest and free of ticks may be released from the

quarantine if treated with an approved acaricide and removed from the premises.

(6) Dogs, other domestic animals, or livestock that have access to a negative equine facility shall be treated to prevent tick transmission to the facility.

(b) After all Positive Equidae have been removed from high risk premises, the remaining Equidae may be released from quarantine through the following process based on the presence of vegetation on the premises:

(1) Premises with no vegetation:

(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.

(B) Treat the premises with an approved acaricide.

(C) Retest the negative Exposed Equidae at NVSL no less than thirty (30) days after removing the Positive Equidae.

(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

(2) Premises with vegetation:

(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.

(B) The vegetation shall be mowed to less than four (4) inches, residual grass clippings shall be removed, and the premises shall be treated with a registered acaricide effective against ticks and approved for grazing pastures. While spraying pastures, animals shall be kept in stalls, sheds, trailers, or other areas until the forage is safe for ingestion, per acaricide label directions.

(C) The Negative Exposed Equidae shall be retested by NVSL no less than thirty (30) days after removing Positive Equidae.

(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

(E) Dates of treatment shall be recorded on a treatment record maintained by the owner.

(F) The State Veterinarian shall review records regularly for the duration of the quarantine period.

(c) Exposed Equidae on low risk premises may be released from quarantine order under the following conditions:

(1) NVSL tests the Exposed Equidae and finds them negative for Equine Piroplasmiasis.

(2) Negative Equidae on the premises or adjacent premises are separated from Positive Equidae by a minimum of ten (10) feet, with vegetation kept below four (4) inches tall in the intervening space.

(3) If ten (10) feet of separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space is available to isolate Positive Equidae.

- (4) At the time they are tested, all Equidae shall undergo an initial treatment for ticks with an approved acaricide.
- (5) Negative Equidae shall be retreated following initial treatment, according to product label instructions, and kept free of ticks until retested.
- (6) Negative Equidae shall be inspected for ticks (scratched) and retested negative by NVSL not less than thirty (30) days following the initial treatment and separation from Positive Equidae.
- (7) If Exposed Equidae are removed from the premises within thirty (30) days of a verified negative status (i.e., the releasing test) and within fourteen (14) days of a treatment, no additional testing or treatment shall be required.
- (8) If the State Veterinarian identifies possible pasture contamination after removal of a Positive Equidae, the following steps shall be taken for twelve (12) months after removal:
 - (A) Apply an acaricide treatment each time the Negative Equidae is moved from the premises;
 - (B) Within thirty (30) days prior to movement, retest the Negative Exposed Equidae, and confirm their negative status; and
 - (C) Conduct a final negative test at the end of the twelve (12) month period for all remaining Negative Exposed Equidae.
- (9) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmiasis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-18-6. Long term maintenance of Negative Exposed Equidae

- (a) On premises where Negative and Positive Equidae remain long term, management practices shall minimize the risk of Equine Piroplasmiasis transmission.
- (b) Long term maintenance of Negative Exposed Equidae on high risk premises that have Positive Equidae shall meet the following:
 - (1) The owner shall complete all requirements found in these rules, except instead of confining the Negative Equidae to a prescribed facility, the Positive Equidae shall be confined to an enclosure with the same restrictions and requirements.
 - (2) The Negative Equidae shall be retested for Equine Piroplasmiasis annually and within thirty (30) days prior to any movement from the premises or change of ownership.
 - (3) Immediately prior to moving any Negative Equidae, the State Veterinarian shall inspect (scratch) the Negative Equidae for ticks and require treatment of the Equidae with an approved acaricide. The animals shall not be moved unless the inspection reveals no ticks and the animals move off the premises with

acaricide.

- (c) Long term maintenance of Negative Exposed Equidae on low risk premises that have Positive Equidae shall comply with the following:
- (1) Negative and Positive Equidae shall be kept separated.
 - (2) Negative Equidae shall be retested and found negative within thirty (30) days prior to movement off the premises.
 - (3) The owner shall treat Negative Equidae with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to moving them from the premises.
 - (4) Dates of acaricide treatment shall recorded on a treatment record maintained by the owner.
 - (5) Negative Exposed Equidae shall receive annual retests if Positive Equidae remain on the premises.
 - (6) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Baby poultry" means newly hatched poultry that have not been fed or watered.

"Check testing" means the process of collecting blood samples from birds in a flock by state inspectors to verify compliance with rules and testing procedures used by permitted testers.

"Custom hatching" means a process in which a person incubates eggs, through mechanical means, for another person.

"Dealer" means a person other than a flock owner or hatchery who offers poultry products for sale or trade.

"Domesticated" means propagated and maintained under the control of a person.

"Exhibition poultry" means domestic fowl bred for purposes of meat or egg production and competitive or noncompetitive showing.

"Flock" means:

(A) As applied to breeding, all poultry of one kind of mating (breed and variety or combination of stocks) and one classification on one farm.

(B) As applied to disease control, all the poultry on one farm except that, at the discretion of the Official State Agency, any group of poultry segregated from another group and has been segregated for a period of at least 21 days may be considered a separate flock.

"Fowl typhoid" or "typhoid" means a disease of poultry caused by *Salmonella gallinarum*.

"Hatchery" means hatchery equipment on one premise operated or controlled by any person used for the incubation of eggs with the intention of:

- (A) Selling or dispensing of hatched chicks before they reach sixteen (16) weeks of age, or
- (B) Custom hatching.

"Infected flock" means a flock in which one or more birds have been diagnosed by an approved test or isolation of a reportable salmonella group.

"Laboratory" means a laboratory approved by the Board for performing approved serological testing procedures and bacteriological culture techniques.

"Negative test result" means an approved testing procedure in which the blood or serum antigen mixture fails to agglutinate.

"Official leg band" or "wing band" means an individual identification device for poultry approved by the State Veterinarian.

"Official State Agency" means the Department.

"Official test" means the official blood tests for pullorum-typhoid shall be the standard tube agglutination test, the microagglutination test, the rapid serum test, or the stained antigen, rapid whole-blood test for all classes of poultry.

"Permitted tester" means a person qualified and authorized by the State Veterinarian or the poultry disease control authority of the state of origin to collect and test blood samples for the pullorum-typhoid eradication program.

"Positive test result" means an approved testing procedure in which there is complete or nearly complete agglutination.

"Poultry" means domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.

"Poultry house" or "house" means any building used to house poultry.

"Products" means poultry breeding stock, hatching eggs, baby poultry, and started poultry.

"Pullorum disease" or "pullorum" means a disease of poultry caused by *Salmonella pullorum*.

"Quarantine" means, but is not limited to, any order, hold, affected area, quarantine, infected premise or area, movement restrictions of any kind, or notice issued by any state or federal entity specifying boundaries or conditions of the quarantine.

"Started poultry" means young poultry that have been fed and watered and are less than sixteen (16) weeks of age.

"State" means any state, the District of Columbia, the Virgin Islands, or Puerto Rico.

"State Inspector" means any person employed by the Official State Agency to supervise the selecting and testing of participating flocks and to perform the official inspections and tests necessary to verify compliance with the requirements of the National Poultry Improvement

Plan.

[Source: Amended at 9 Ok Reg 1757, eff 5-26-92 ; Amended at 17 Ok Reg 2828, eff 7-13-00 ; Amended at 21 Ok Reg 1173, eff 3-29-04 (emergency); Amended at 22 Ok Reg 694, eff 5-12-05 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-19-2. Applicability and scope

The rules in this Subchapter shall apply to all persons producing hatching eggs, hatching, selling, or exhibiting domesticated poultry within the State of Oklahoma. The National Poultry Improvement Plan regulations found in Title 9 of the Code of Federal Regulations, Sections 145-147, are hereby adopted in their entirety.

[Source: Amended at 17 Ok Reg 2828, eff 7-13-00 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-19-3. Hatcheries and infected flocks

(a) **Hatcheries.** All hatcheries shall be approved by the Official State Agency prior to operations.

(1) The application shall include:

- (A) Name and address.
- (B) Incubator capacity.
- (C) Types of poultry hatched.
- (D) Name and address of supplier flocks of hatching eggs and/or baby chicks.
- (E) Pullorum-typhoid status of supplier flocks.

(2) Approved hatcheries shall:

- (A) Allow entry of state inspectors for inspection of facilities and records during normal operating hours.
- (B) Maintain facilities in a clean and sanitary manner including fumigation practices when indicated.
- (C) Obtain hatching eggs and/or baby chicks only from flocks that meet U.S.D.A. pullorum-typhoid clean status.
- (D) Maintain records of origin and disposition of all hatching eggs and baby chicks.
- (E) Obtain hatching eggs only from flocks that allow premise inspection by the state inspector including check-testing for pullorum-typhoid as needed.

(b) **Reporting of poultry diseases.** All persons performing poultry disease diagnostic services are required to report all positive cases of reportable diseases to the State Veterinarian within 48 hours of classification. Permitted testers are only required to report positive test results.

(c) **Epidemiological investigation.** Upon receipt of a report of pullorum or typhoid disease in poultry, the State Veterinarian shall direct an authorized representative to determine the origin and route of transmission of the disease.

(d) **Issuance of quarantine.** Flocks found to be infected or suspected of being infected with pullorum or typhoid shall be quarantined by the State Veterinarian. Quarantined flocks or any portion shall be removed from the premises only with the written permission of the State Veterinarian

or authorized representative. A quarantined flock found to be infected with *Salmonella pullorum* or *Salmonella gallinarum* shall be kept under quarantine until disposed of or retested in a manner approved by the Department.

(e) **Testing requirements for release of quarantine.** Any flock suspected of being infected may be released from quarantine upon completion of a complete negative flock test. All testing of quarantined flocks shall be under the supervision of a state inspector.

(f) **Disposal of quarantined flocks or products.** Any infected flock shall be disposed of in one of the following manners:

(1) Birds reacting to the pullorum-typhoid test shall be removed from the flock and may be submitted to an authorized laboratory for bacteriological examination at the discretion of the Official State Agency. If, as a result of two consecutive negative flock tests at least 21 days apart, the first test not less than 21 days after the last known reactor was removed, the flock shall be considered to have a pullorum-typhoid clean status. The flock shall not be treated with antibiotics or other drugs that may mask the presence of the diseases. The number of poultry removed from a flock to be submitted for laboratory confirmation of serologic test may be all reactor birds up to four (4).

(2) The owner or caretaker of any flock found or suspected to be infected with pullorum-typhoid disease shall present and restrain their birds for testing at a time and place deemed appropriate by the Official State Agency.

(3) All hatching eggs from infected flocks shall be removed from the incubator and destroyed under supervision prior to hatching, except that by special permission of the Official State Agency eggs may be hatched under quarantine.

(4) An infected or quarantined flock may be moved to a state or federally inspected poultry processing establishment for immediate slaughter if accompanied by a written certificate issued by a state inspector.

(5) An infected or quarantined flock may be depopulated at the owner's request under the supervision of a state inspector.

(g) **Cleaning and disinfecting.** Premises found to have housed, incubated, brooded, or ranged an infected flock shall be cleansed and disinfected under the supervision of the Official State Agency within 15 days if deemed necessary. An extension of time for cleaning and disinfecting may be granted by the Official State Agency. No infected premises or hatcheries shall be restocked with poultry or eggs until the cleaning and disinfecting requirement is certified complete.

[Source: Amended at 17 Ok Reg 2828, eff 7-13-00]

35:15-19-4. Import and exhibition poultry

(a) Domesticated fowl including chickens, turkeys, game chickens, game birds, or waterfowl over four (4) months of age and intended for breeding, meat, or egg production purposes shall not be imported into the state unless they:

- (1) Have originated from a National Plan source which is U.S. pullorum-typhoid clean or equivalent with a NPIP 9-3, or
- (2) Have passed a negative agglutination test for reportable salmonella groups within ninety (90) days prior to import and have received a Certificate of Veterinary Inspection within thirty (30) days.

(b) All poultry under four (4) months of age, including baby chicks, started chicks, turkey poults, started poults, other newly hatched domestic poultry, game chickens, game birds, waterfowl, and hatching eggs shipped, brought into, or offered for sale in Oklahoma, except those intended for immediate slaughter, shall:

- (1) Have originated from a NPIP Pullorum-Typhoid clean breeder flock and shall be accompanied by a NPIP VS Form 9-3 or an APHIS VS form 17-6;
- (2) Have an approved commuter flock agreement on file with the state of origin and ODAFF; or
- (3) Have obtained an entry permit prior to shipment.

(c) Exhibition poultry are subject to the following:

- (1) Any poultry or other domestic fowl being exhibited in Oklahoma shall be free of visible evidence of disease, and
- (2) Have passed a negative test for reportable salmonella groups within ninety (90) days prior to exhibition, with the results recorded on an official form from the state of origin certifying that the testing was done by a permitted tester of that state, or
- (3) Have originated from negative or clean flocks authoritatively participating in the disease control and eradication phases of the National Poultry Improvement Plan or NPIP approved state plan, and
- (4) Be from flocks not known to be infected with reportable salmonella groups.
- (5) Poultry qualifying under 2 or 3 may be imported without an official health certificate if accompanied by an approved state or NPIP form.
- (6) All exhibition poultry shall be identified by an official leg or wing band unless they originate from a negative or clean flock authoritatively participating in the National Poultry Improvement Plan or NPIP approved state plan.
- (7) Application of official leg or wing bands shall not be required for birds tested on the exhibition premise for a specific event. Birds tested and not identified with an official leg or wing band shall be tested prior to entering any future exhibitions.

(d) All persons holding poultry exhibitions in Oklahoma shall obtain a permit from the State Veterinarian prior to the exhibition. Those persons holding multiple exhibitions at the same location may apply for a permit by listing the dates and times of all exhibitions scheduled during a fiscal year beginning July 1 and ending June 30. The permittee shall be responsible for maintaining a list of the names and addresses of all exhibitors for each exhibition. The permittee shall keep these records and make them available to any authorized agent for inspection or photocopying for at least one (1) year after the date of the exhibition.

[Source: Amended at 17 Ok Reg 2828, eff 7-13-00 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 36 Ok Reg 1357, eff 9-14-19 ; Amended at 39 Ok Reg 788, eff 9-12-22]

35:15-19-5. Live bird imports from Avian Influenza quarantined states

(a) No person shall import poultry, other avian species, products of poultry, or other avian species originating from or transported through an area under quarantine by any state or federal animal health official for Avian Influenza or Exotic Newcastle Disease. The State Veterinarian or designee may grant a written exception to this rule and shall base the decision to grant an exception on current science and published guidelines.

(b) Poultry or other avian species determined to be infected with or exposed to Avian Influenza or Exotic Newcastle Disease shall be destroyed.

[Source: Amended at 17 Ok Reg 2828, eff 7-13-00 ; Amended at 21 Ok Reg 1173, eff 3-29-04 (emergency); Amended at 22 Ok Reg 694, eff 5-12-05 ; Amended at 33 Ok Reg 1150, eff 9-11-16]

35:15-19-6. Poultry carcass disposal [REVOKED]

[Source: Revoked at 17 Ok Reg 2828, eff 7-13-00]

35:15-19-7. Permitted testers

(a) Each applicant to become a permitted tester shall complete the following:

- (1) Submit a completed application to attend a Pullorum/Typhoid Testing School on a form approved by the Board;
- (2) Submit a registration card and fee prior to attending the Pullorum/Typhoid Testers' certification school;
- (3) Pass a written examination with a score of at least 70% and successfully demonstrate proper blood testing techniques while attending the certification school; and
- (4) Submit a signed Permitted Tester's Agreement form and Pullorum/Typhoid Tester's Permit fee to the Board.

(b) Each permitted tester shall

- (1) Comply with all rules adopted by the Board;
- (2) Comply with the procedures for sample collecting and blood testing as approved by the Board;
- (3) Submit test reports, on all birds tested, to the Board within ten (10) days following completion of tests; and
- (4) Attend a recertification school at least once every three (3) years.

(c) Each permitted tester shall complete the following for recertification:

- (1) Submit a registration card and fee prior to attending the Pullorum/Typhoid Testers' recertification school;
- (2) Attend and successfully complete all the requirements of a recertification school:

(A) Any permitted tester with six (6) or more years of experience may complete requirements through online or

mail recertification.

(B) Any permitted tester with less than six (6) years shall attend classes to obtain recertification.

(3) Submit a signed Permitted Tester's Agreement form and Pullorum/Typhoid Tester's Permit fee to the Board.

(d) Any falsification of an official document or testing report shall be grounds for revocation of a pullorum-typhoid tester's permit.

[Source: Added at 9 Ok Reg 1757, eff 5-26-92 ; Amended at 17 Ok Reg 2828, eff 7-13-00 ; Amended at 23 Ok Reg 2144, eff 6-25-06]

35:15-19-8. Infectious Laryngotracheitis (ILT)

(a) Chick Egg Embryo Origin (CEO) vaccine for Infectious Laryngotracheitis shall only be used in broilers with the permission of the State Veterinarian by a signed Memorandum of Understanding in specific outbreak situations.

(b) The conditions of any Memorandum of Understanding shall be at the sole discretion of the State Veterinarian.

[Source: Added at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 39 Ok Reg 788, eff 9-12-22]

SUBCHAPTER 21. SWINE PSEUDORABIES [REVOKED]

35:15-21-1. Definitions [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Amended at 15 Ok Reg 2161, eff 6-11-98 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-2. [RESERVED]

35:15-21-3. Requirements for breeding swine entering Oklahoma [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Amended at 15 Ok Reg 2161, eff 6-11-98 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-4. Swine intended to be added to a qualified pseudorabies negative herd directly from another qualified pseudorabies negative herd [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-5. Developing a written agreement for random sampling [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-6. Requirements for all exhibition and prospective swine entering Oklahoma [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-7. Requirements for all market swine exhibited in Oklahoma for fall swine shows [REVOKED]

[Source: Revoked at 14 Ok Reg 2431, eff 6-26-97]

35:15-21-7.1. Exhibition requirements for swine participating in Oklahoma swine shows [REVOKED]

[Source: Added at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-8. Requirements for all market swine exhibited in Oklahoma for Spring swine shows [REVOKED]

[Source: Revoked at 14 Ok Reg 2431, eff 6-26-97]

35:15-21-9. Identification of exhibition swine originating from qualified pseudorabies negative herds [REVOKED]

[Source: Revoked at 14 Ok Reg 2431, eff 6-26-97]

35:15-21-10. Requirements for all breeding swine exhibited in Oklahoma [REVOKED]

[Source: Revoked at 14 Ok Reg 2431, eff 6-26-97]

35:15-21-11. Requirements for all feeding swine entering Oklahoma [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Amended at 15 Ok Reg 2161, eff 6-11-98 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-12. Shipping requirements [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-13. Official sample for pseudorabies testing [REVOKED]

[Source: Revoked at 20 Ok Reg 1520, eff 6-12-03]

35:15-21-14. Pseudorabies vaccines and immunization [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-15. Notification to Chief Animal Health Official of any swine pseudorabies vaccine shipped into or within Oklahoma [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1518, eff 6-12-03]

35:15-21-16. Swine herds in which vaccine is used to be held under quarantine [REVOKED]

[Source: Revoked at 20 Ok Reg 1520, eff 6-12-03]

35:15-21-17. Requirements when animal tests positive [REVOKED]

[Source: Revoked at 20 Ok Reg 1520, eff 6-12-03]

35:15-21-18. Requirements imposed for an infected herd [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1520, eff 6-12-03]

35:15-21-19. Qualified pseudorabies negative herds of swine [REVOKED]

[Source: Amended at 14 Ok Reg 2431, eff 6-26-97 ; Revoked at 20 Ok Reg 1520, eff 6-12-03]

35:15-21-20. Maintenance method for Qualified Pseudorabies Negative [REVOKED]

[Source: Revoked at 20 Ok Reg 1520, eff 6-12-03]

SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCELLOSIS

PART 1. GENERAL PROVISIONS

35:15-22-1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Breeding swine" means all sexually intact swine six (6) months of age or older as determined by an accredited veterinarian.

"Brucellosis" means the contagious infection and communicable disease caused by the bacteria of the genus *Brucella*.

"Commercial production swine" means swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production or feral swine.

"Commuter herd" means two or more groups of swine under common ownership or supervision that are located on more than one premise in more than one state and that have an interchange or movement of swine between the premises in those states as part of the normal feeding, breeding, or growing operation without a change of ownership.

"Commuter herd agreement" means a written herd management and testing agreement made by the chief animal health officials of all states where the commuter herd resides and the herd owner.

"Entry permit" means official permission from the State Veterinarian obtained prior to moving swine into Oklahoma valid for thirty (30) days after the date of issuance that may be obtained by telephone by providing the following information: name and address of the consignor; name and address of the consignee; and the number, age, sex, and breed of the swine to be imported.

"Exposed swine" means swine that have been in contact with, associated with, or adjacent to any animal known to be pseudorabies or brucellosis positive.

"Farm of origin" means the farm where the swine were born or where the swine have resided for at least the previous ninety (90) consecutive days.

"Feeder swine" means swine intended to be fed to a finished slaughter weight and not intended for breeding or exhibition.

"Feral swine" means any hog, pig, or swine species (*Sus scrofa*) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether running at large, free roaming, or wild.

"Herd" means one or more swine maintained on common ground and includes all swine under common ownership or supervision that are geographically separated but have an interchange or movement of swine between the groups.

"Infected herd" means a herd in which an animal has been determined by the designated epidemiologist to be infected with pseudorabies or brucellosis using an official test.

"Isolation" means separation of swine by a physical barrier so that other swine do not have access to the isolated swine's body, excrement, or discharges and the swine do not share a building with a common ventilation system with other swine and are kept at a distance from other swine as determined by the designated epidemiologist.

"Livestock auction market" means a stockyard, livestock market, or other premises approved by the Department where livestock are assembled for sale.

"Monitored Swine Herd" means a commercial production swine herd that undergoes regular testing for pseudorabies and brucellosis.

"Official Blood Sample" means a blood sample obtained and submitted by a state or federal regulatory official, an accredited veterinarian, or individuals under the supervision of an accredited veterinarian for pseudorabies or brucellosis testing of Oklahoma origin

swine. No other blood samples submitted for testing shall be considered an official sample. Costs of blood sample collection and submission shall be paid by the owner. In the event funds are made available by the United State Department of Agriculture or the State Board of Agriculture for blood sample collection or submission or for laboratory fees, these funds may be used without interruption or change in any other program functions or policies.

"Official test" means a test approved by the USDA to be conducted on swine for the diagnosis of pseudorabies or brucellosis and performed in a laboratory listed in a Veterinary Services Notice.

"Official 95/10 random sample test" means a sampling protocol utilizing official pseudorabies and brucellosis tests that provide a ninety-five (95) percent probability of detecting infection in a herd in which at least ten (10) percent of the swine are seropositive for pseudorabies or brucellosis. Each segregated group of swine shall be considered a separate herd and sampled as follows:

(A) less than 100 head - test 25.

(B) 100-200 head - test 27.

(C) 201 - 999 head - test 28.

(D) 1,000 head and over - test 29.

"Owner-shipper statement" means a statement signed by the owner or shipper of swine which includes the number of swine to be moved, the points of origin and destination, the names of the consignor and consignee, and any additional required information.

"Premium Sale" means an auction held in conjunction with a livestock show in which exhibitors are awarded prizes for the work they have done to show their animals.

"Pseudorabies" means the infectious and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

"Slaughter swine" means swine consigned directly to a slaughter establishment.

"Swine Exhibition" means any swine gathering that allows opportunity for commingling of swine under separate ownership, including but not limited to fairs, livestock shows, breed association shows, or sales.

"Transitional production swine" means any swine that are bred, raised, or intended for exhibition, any swine that has outdoor exposure during any portion of its production cycle, or any other swine that have reasonable opportunities to be exposed to feral swine.

"Validated / Qualified Herd or V/Q Herd" means a herd of breeding swine maintained under a surveillance program whereby twenty five percent (25%) of the herd tests negative for pseudorabies and swine brucellosis on a quarterly basis.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 24 Ok Reg 809, eff 3-15-07 (emergency); Amended at 25 Ok Reg 1784, eff 7-1-08 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

**35:15-22-2. Import requirements for Stage IV and Stage V
[REVOKED]**

[Source: Added at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-3. Change of ownership requirements

- (a) All swine, six (6) months of age or older, shall be tested and found negative to pseudorabies and brucellosis within the previous thirty (30) days prior to changing ownership, or originate from a V/Q herd with current test status.
- (b) Swine, six (6) months of age or older, moving directly from a premises of origin to an approved slaughter facility, or through a livestock auction market to an approved slaughter facility, are exempt from testing requirements provided identity to the herd of origin is maintained.
- (c) Feeder swine moving directly from a premises of origin or through a livestock auction market for feeding purposes only are exempt from testing requirements, provided identification to the herd of origin is maintained.

[Source: Added at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1150, eff 9-11-16]

35:15-22-4. Requirements for livestock auction markets

- (a) Except for swine purchased for immediate slaughter, all swine consigned to a livestock auction market shall have an official identification for each pig. The market operator shall maintain a record of each official identification, consignee's name and address, and premise of origin.
- (b) All swine over six (6) months of age not purchased as direct to slaughter shall be tested for brucellosis and pseudorabies prior to leaving the livestock auction market.

[Source: Added at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20]

**PART 3. REQUIREMENTS FOR SWINE ENTERING
OKLAHOMA**

**35:15-22-31. Entry requirements for commercial production
breeding and feeding swine**

- (a) Commercial production breeding or feeding swine imported into Oklahoma shall:
 - (1) Be officially identified;
 - (2) Be tested negative for pseudorabies and brucellosis within thirty (30) days prior to entry;
 - (3) Be assigned an entry permit number; and
 - (4) Be accompanied by a certificate of veterinary inspection

(b) Commercial production breeding or feeding swine entering Oklahoma under a completed and approved commuter herd agreement pursuant to OAC 35:15-22-35 shall exempt from subsection (a) provided the swine are not changing ownership.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-22-32. Entry requirements for commercial production feeding swine [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-33. Entry requirements for transitional production swine

(a) A person importing transitional production swine into Oklahoma shall obtain an entry permit from the Department.

(b) Transitional production swine entering Oklahoma shall be accompanied by a certificate of veterinary inspection, containing the following information:

- (1) the entry permit number;
- (2) official identification; and
- (3) if applicable, the V/Q herd number and date of last pseudorabies and brucellosis quarterly test.

(c) Transitional production exhibition and prospective exhibition swine entering Oklahoma shall either:

- (1) be accompanied with a negative official pseudorabies and brucellosis test performed within thirty (30) days prior to entry;
- or
- (2) originate from a V/Q herd.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 28 Ok Reg 119, eff 9-17-10 (emergency); Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-22-34. Entry requirements for livestock auction market and slaughter swine

(a) All swine from an out-of-state approved livestock market and consigned to an Oklahoma livestock auction market shall be accompanied by a certificate of veterinary inspection listing the swine's official individual identification number and an entry permit.

(b) All farm origin swine shipped directly, with no diversion enroute, to a livestock auction market or slaughtering establishment operating under state or federal supervision shall be accompanied by one of the following:

- (1) a certificate of veterinary inspection, or
- (2) a way bill, bill of lading, or owner-shipper certificate that lists the consignor, the point of origin of the shipment, and the livestock auction market or slaughtering establishment to which the swine are being shipped.

(c) For market swine only, the results from an official pseudorabies and brucellosis test on a nursing sow shall constitute evidence of the pseudorabies status of its nursing pigs, if the pigs accompany that sow.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14]

35:15-22-35. Commuter herd agreement requirements

- (a) A written commuter herd agreement shall be effective upon review and approval by the State Veterinarian.
- (b) A written commuter herd agreement shall include the following:
 - (1) premises identification numbers for all premises covered by the agreement;
 - (2) global positioning system (GPS) data for all premises covered by the agreement;
 - (3) the location of the premise of origin and destination for all swine imported into Oklahoma under the commuter herd agreement; and
 - (4) the acceptable surveillance and testing requirements as determined by the designated epidemiologist based on the status of the state of origin, history of the herd of origin, and the intended purpose of the swine entering Oklahoma.
- (c) All pseudorabies and brucellosis testing performed pursuant to a commuter herd agreement shall utilize an official 95/10 random sample test.
- (d) By the tenth (10th) of each month, the producer shall submit a monthly report of all swine entering Oklahoma.
- (e) A commuter herd agreement shall be completed and approved prior to any interchange or movement of commuter herd swine between states.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14]

**PART 5. REQUIREMENTS FOR A
VALIDATED/QUALIFIED HERD**

35:15-22-51. Validated/qualified herd establishment

- (a) A person shall establish a swine herd as a V/Q herd status by completing the following:
 - (1) Each pig shall be permanently identified with both ear notches and an 840 button-type electronic official identification ear tag by the time of testing.
 - (2) The herd owner shall submit a completed application and inventory no later than thirty (30) days after a complete herd test for brucellosis and pseudorabies.
 - (A) The application shall include, at a minimum, the herd owner's name, mailing address, telephone number, signature, and date of application.

- (B) The inventory shall include, at a minimum, animal identification, age, breed, sex, and date of inventory.
- (3) The herd owner shall test negative all swine six (6) months of age or older to an official brucellosis and pseudorabies test to establish a V/Q herd.
- (4) A minimum of ninety (90) percent of the swine in the herd shall have been on the premises and a part of the herd for at least ninety (90) days prior to the whole herd test or have entered directly from another V/Q herd.
- (b) Swine maintained outside of the primary herd premises shall not be considered a part of the V/Q herd.
- (c) Herd owners shall have a minimum of four (4) adult sows to be eligible for the V/Q herd program.
- (d) V/Q herd status and herd number shall be issued after completion of the first quarterly test following the whole herd test.
- (e) Only the primary herd owner or an immediate family member may exhibit swine under V/Q herd status.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-22-52. V/Q herd additions

- (a) Swine may be added to a V/Q herd directly from another V/Q herd without isolation or testing provided that the swine are tested during the next quarterly test required to maintain V/Q herd status.
- (b) Swine intended to be added to a V/Q herd from another V/Q herd but with interim contact with swine other than those from a single V/Q herd shall be isolated until the swine test negative to official brucellosis and pseudorabies tests performed not less than thirty (30) days but not more than sixty (60) days after arrival.
- (c) Swine may be added to a V/Q herd through natural increase.
- (d) Swine returning to the herd after being exhibited or having contact with other swine shall be isolated from the V/Q herd until testing negative to brucellosis and pseudorabies tests not less than thirty (30) days but not more than sixty (60) days after contact.
- (e) Additions to a V/Q herd from a herd of unknown status shall have negative brucellosis and pseudorabies tests performed not more than thirty (30) days prior to movement and be isolated from the V/Q herd until negative brucellosis and pseudorabies test are performed not less than thirty (30) days but not more than sixty (60) days after arrival.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-53. V/Q herd maintenance

- (a) V/Q herd status shall be maintained by subjecting all swine six (6) months of age or older to brucellosis and pseudorabies tests at least once each testing year.
- (1) The herd owner shall test negative twenty five percent (25%) of swine six (6) months of age and older every quarter.
- (2) Quarterly testing dates shall be assigned by the Department.

(b) No swine shall be tested twice in a single twelve (12) month period to comply with the twenty five percent (25%) requirement unless a V/Q herd consists of less than four (4) test eligible swine. If the herd consists of less than four (4) test eligible swine, one or more of the animals shall be repeat tested during the same twelve (12) month testing period and quarterly tests shall not be missed.

(c) All swine six (6) months of age and older within a V/Q herd shall be tested at least once in any twelve (12) month period, even if the testing exceeds the twenty five percent (25%) requirement.

(d) If any quarterly tests are missed, late, incomplete, inaccurate, or do not meet V/Q herd standards, the V/Q herd status may be suspended or revoked. A history of noncompliance by the herd owner may result in prevention of the herd's participation in the program.

(e) The herd owner shall submit a completed renewal application and inventory with the first quarterly herd test each testing year.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 7. REQUIREMENTS FOR SWINE EXHIBITIONS

35:15-22-71. Exhibition requirements

(a) Each person who presents swine for a swine exhibition, special sale, or show shall provide verification of one of the following:

- (1) A federal premises identification number; or
- (2) A state location identification number.

(b) Swine shall be individually identified at the time of testing with both ear notches and an 840 button-type electronic official identification . Untested exhibition swine originating from a V/Q herd shall be similarly identified prior to exhibition.

(c) All swine shall meet one of the following testing requirements:

(1) Oklahoma origin swine shall have a negative brucellosis and pseudorabies test after May 15 each year for summer fall exhibitions and after November 10 each year for winter and spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies or brucellosis. The swine shall also be accompanied by a copy of the official test chart or a certificate of veterinary inspection listing the test results, laboratory name, laboratory accession number, and individual identification.

(2) Swine originating from outside of Oklahoma shall meet the requirements of OAC 35:15-22-33(a) - (c).

(3) Each swine shall originate from a V/Q herd and only be exhibited by an immediate family member of the VQ herd owner. The V/Q herd number, most recent quarterly test date, and official identification of all swine being exhibited shall be listed on the certificate of veterinary inspection.

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 24 Ok Reg 809, eff 3-15-07 (emergency); Amended at 25 Ok Reg 1784, eff 7-1-08 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Amended at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-22-72. Swine exhibition event requirements

(a) No swine exhibitions shall be held within five (5) working days after the dates in OAC 35:15-22-71(c) to allow time for required testing to be performed. Swine exhibition permits shall not be approved during that time.

(b) Prior to an event, the exhibition official in charge shall obtain one of the following:

- (1) A federal premises identification number for the location of the swine exhibition, or
- (2) state location identification number.

(c) Prior to the event, the exhibition official in charge shall also obtain a swine exhibition permit from the Department by filing an application that at a minimum shall include:

- (1) The name of the official in charge,
- (2) The name of the exhibition,
- (3) The date of the exhibition,
- (4) The location of the exhibition,
- (5) The federal premises identification number or state location identification number, and
- (6) A signature certifying the exhibition official understands and agrees to the requirements for conducting a swine exhibition.

(d) The exhibition official in charge shall verify that all swine allowed to enter the exhibition grounds meet all identification, testing, and recordation requirements prior to entry.

(e) The exhibition official in charge shall submit, at a minimum, the following records to the Department within fifteen (15) days after the exhibition:

- (1) Name, address, telephone number, and federal premise identification number or state location identification number of participants, and
- (2) Official identification, age, breed, and sex of swine exhibited.

(f) A swine exhibition shall not include a livestock market.

(g) No swine exhibitions shall be conducted after March 1 of each year, except for the Oklahoma Youth Expo until its conclusion.

- (1) If a premium sale is conducted after March 1, the swine may not return for the event.
- (2) A swine exhibition permit shall not be approved pursuant to (g) above.
- (3) If proof exists of a swine being exhibited after March 1, that swine and any other swine from the same premises are prohibited from attending the Oklahoma Youth Expo.

[Source: Added at 28 Ok Reg 2178, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 9. REQUIREMENTS FOR APPROVED MARKETS [REVOKED]

35:15-22-91. Requirements for approved markets [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

PART 11. PSEUDORABIES AND BRUCELLOSIS

35:15-22-109. Incorporation by reference [REVOKED]

[Source: Added at 28 Ok Reg 2178, eff 7-25-11 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-22-110. Official sample for pseudorabies testing [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-111. Pseudorabies vaccines and immunization [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-112. Notification requirements regarding all swine pseudorabies vaccines [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-113. Quarantine requirements [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-114. Requirements for swine tested positive for pseudorabies [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-22-115. Requirements for an infected herd [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

PART 13. VIOLATIONS OF REQUIREMENTS FOR TESTING OR MOVEMENT OF SWINE INTO OR WITHIN THE STATE OF OKLAHOMA [REVOKED]

35:15-22-131. Penalties and fines [REVOKED]

[Source: Added at 20 Ok Reg 1520, eff 6-12-03 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

SUBCHAPTER 23. SWINE BRUCELLOSIS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:15-23-1. Definitions [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-2. Quarantine feedlot [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

PART 3. PROCEDURES [REVOKED]

35:15-23-6. Laboratories [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-7. Reporting [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-8. Supervision [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-9. Quarantine [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-10. Retest of infected herds [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-11. Cleaning and disinfection [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-12. Classification of swine [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-13. Identification of reactor swine [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-14. Immediate slaughter of reactors [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-15. Movement of quarantined and exposed swine [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-16. Entering premises [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-17. Services to owner [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-18. Affected herd plan [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-19. Human infection [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

**PART 5. PARTICIPATION IN HERD OR AREA
VALIDATION PLANS [REVOKED]**

35:15-23-23. Obtaining initial validation status [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-24. Maintaining validation status [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-25. Terminating validation status [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-26. Reinstatement of validation status [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

PART 7. VALIDATED BRUCELLOSIS-FREE HERDS OF SWINE [REVOKED]

35:15-23-30. Qualifying methods [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-31. Qualifying standards [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

PART 9. VALIDATED BRUCELLOSIS-FREE AREAS (STATE) [REVOKED]

35:15-23-35. Qualifying methods [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-36. Qualifying standards [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

PART 11. TEST REQUIREMENTS FOR MOVEMENT [REVOKED]

35:15-23-40. Movement of Swine on Change of Ownership within Oklahoma [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

35:15-23-41. Movement of Swine into Oklahoma [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

PART 13. ERADICATION OF BRUCELLOSIS [REVOKED]

35:15-23-45. Plans for eradicating brucellosis infected swine herds [REVOKED]

[Source: Revoked at 14 Ok Reg 2437, eff 6-26-97]

SUBCHAPTER 24. SWINE BRUCELLOSIS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:15-24-1. General [REVOKED]

[Source: Added at 14 Ok Reg 2437, eff 6-26-97]

35:15-24-2. Definitions [REVOKED]

[Source: Added at 14 Ok Reg 2437, eff 6-26-97 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 25 Ok Reg 1784, eff 7-1-08 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

35:15-24-3. Requirements [REVOKED]

[Source: Added at 14 Ok Reg 2437, eff 6-26-97 ; Amended at 23 Ok Reg 2157, eff 6-25-06 ; Amended at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 25 Ok Reg 1784, eff 7-1-08 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 28 Ok Reg 2178, eff 7-25-11]

SUBCHAPTER 25. MEAT INSPECTION [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:15-25-1. Incorporation by reference of federal meat inspection regulations [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Amended at 19 Ok Reg 1936, eff 6-27-02 ; Amended at 20 Ok Reg 1532, eff 6-12-03 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-2. Definitions [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-3. Deleted regulations [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Amended at 19 Ok Reg 1936, eff 6-27-02 ; Amended at 20 Ok Reg 1532, eff 6-12-03 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-4. Guidelines and procedures [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 3. APPLICATION OF INSPECTION AND OTHER REQUIREMENTS [REVOKED]

35:15-25-6. Establishments requiring inspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-7. Registration and application requirements for custom exempt plants [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-8. Livestock and products entering official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 5. EXEMPTIONS [REVOKED]

35:15-25-12. Exemptions [REVOKED]

[Source: Amended at 8 Ok Reg 3565, eff 9-11-91 (emergency); Amended at 9 Ok Reg 1753, eff 5-26-92 ; Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 7. MOBILE FARM SLAUGHTER REGULATIONS [REVOKED]

35:15-25-16. Definitions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-17. Registration and permitting [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-18. Revocation or suspension of permit [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-25-19. Temporary suspension or modification of permit
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-25-20. Labeling or marking by mobile farm slaughter
establishment [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-21. Grandfather clause [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-25-22. Sanitation of mobile custom slaughter establishment
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-23. Conditions of transport and slaughter [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-25-24. Availability for inspection of farm slaughtering
establishment [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 9. APPLICATION FOR INSPECTION: GRANT OR
REFUSAL OF INSPECTION [REVOKED]**

**35:15-25-28. Application for inspection; tenants, subsidiaries and
construction standards for packing plants [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-25-29. Drawings, information to be furnished; grant or
refusal of inspection [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 11. OFFICIAL NUMBERS; INAUGURATION OF
INSPECTION WITHDRAWAL OF INSPECTION;
REPORTS OF VIOLATIONS [REVOKED]**

**35:15-25-33. Official numbers; subsidiaries and tenants
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-34. Separation of official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-35. Sanitation and adequate facilities [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-36. Inauguration of inspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-37. Withdrawal of inspection; statement of policy
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-38. Reports of violations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 13. ASSIGNMENT AND AUTHORITIES OF
DIVISION EMPLOYEES [REVOKED]**

**35:15-25-42. Designation of inspector in charge and assistants
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-43. Division employees to have access to establishments
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-44. Badge as identification of inspectors [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-45. Assignment of division employees where members of family employed; soliciting employment; procuring product from official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-46. Appeals [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 15. FACILITIES FOR INSPECTION [REVOKED]

35:15-25-50. Facilities for division employees [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-51. Other facilities and conditions to be provided by establishment [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-52. Inspectors to furnish implements and maintain hands and implements in sanitary conditions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-53. Hours of operation of official establishments [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-54. Designation of days and hours of operation by director [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-55. Overtime work of program inspectors [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-56. Multiple shift operations [REVOKED]

[Source: Added at 12 Ok Reg 2973, eff 6-15-96 (emergency); Added at 13 Ok Reg 2337, eff 6-28-96 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 17. SANITATION [REVOKED]

35:15-25-59. Examination and specifications for equipment and sanitation prior to granting inspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-60. Drawings and specifications to be furnished in advance of construction [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-61. Establishments; sanitary conditions; requirements [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-62. Sanitary facilities and accommodations; specific requirements [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-63. Equipment to be easily cleaned; that for inedible products to be so marked [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-64. Scabbards for knives [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-65. Rooms, compartments, etc., to be clean and sanitary [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-66. Operations, procedures, rooms, clothing, utensils, etc., to be clean, and hot carcasses [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-67. Protective handling of products [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-68. Slack barrels and similar containers and means of conveyance used for product; paper in contact with product [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-69. Burlap wrapping for meat [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-70. Second-hand tubs, barrels, other containers, and tank cars; inspection and cleaning [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-71. Inedible operating and storage rooms; outer premises, docks, driveways, approaches, pens, alleys, etc.; flybreeding material; other conditions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-72. Employment of diseased persons [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-73. Tagging insanitary equipment, utensils, rooms, or compartments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 19. ANTE-MORTEM INSPECTION [REVOKED]

35:15-25-77. Ante-mortem inspection in pens of official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-78. Livestock suspected of being diseased or affected with certain conditions; identifying suspects; disposition on post-mortem inspection or otherwise [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-79. Dead, dying, disabled, or diseased and similar livestock [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-80. Livestock showing symptoms of certain metabolic, toxic, nervous, or circulatory disturbances, nutritional imbalances, or infectious or parasitic diseases [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-81. Swine; disposal because of hog cholera; swine injected with hog cholera virus [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-82. Epithelioma of the eye [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-83. Livestock affected with anthrax; cleaning and disinfection of infected livestock pens and driveways [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-84. Cattle and bison affected with anasarca and generalized edema [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-85. Swine erysipelas [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-86. Onset of parturition [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-87. Vaccine livestock [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-88. Emergency slaughter; inspection prior to [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-89. Disposition of condemned livestock [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-90. Brucellosis-reactor goats [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-91. Vesicular diseases [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-92. Livestock suspected of having biological residues
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-93. Livestock used for research [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-94. Official marks and devices for purposes of ante-mortem inspections [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 21. POST-MORTEM INSPECTION [REVOKED]

**35:15-25-98. Extent and time of post-mortem inspection
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-99. Identification of carcass with certain severed parts thereof and with animal from which derived [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-100. Carcasses and parts in certain instances to be retained [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-101. Identification of carcasses and parts; tagging
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-102. Condemned carcasses and parts to be so marked; tanking; separation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-103. Carcasses and parts passed for cooking; marking
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-104. Removal of spermatic cords, pizzles and preputial diverticuli [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-105. Passing and marking of carcasses and parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-106. Anthrax; carcasses not to be eviscerated; disposition of affected carcasses; hides, hoofs, horns, hair, viscera and contents, and fat; handling of blood and scalding vat water; general cleanup and disinfection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-107. Carcasses with skin or hide on; cleaning before evisceration; removal of larvae of hypodermae, external parasites and other pathological skin conditions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-108. Cleaning of hog carcasses before incising [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-109. Sternum to be split; abdominal and thoracic viscera to be removed [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-110. Carcasses or parts thereof not to be inflated; transferring caul or other fat [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-111. Handling of bruised parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-112. Hyperimmune swine bled before entering official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-113. Disposition of lungs [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-114. Inspection of mammary glands [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-115. Contamination of carcasses, organs, or other parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-116. Inspection of kidneys [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 23. DISPOSAL OF DISEASED OR OTHERWISE ADULTERATED CARCASSES AND PARTS [REVOKED]

35:15-25-120. Disposal of diseased or otherwise adulterated carcasses and parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-121. Tuberculosis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-122. Hog cholera [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-123. Carcasses of swine injected with hog cholera virus [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-124. Swine erysipelas [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-125. Diamond skin disease [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-126. Arthritis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-127. Cattle and bison carcasses affected with anasarca or generalized edema [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-128. Actinomycosis and actinobacillosis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-129. Infectious diseases and/or lesions of cattle, bison and sheep [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-130. Neoplasms [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-131. Epithelioma of the eye [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-132. Pigmentary conditions; melanosis, xanthosis, ochronosis, etc. [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-133. Abrasions, bruises, abscesses, pus, etc. [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-134. Brucellosis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-135. Carcasses so infected that consumption of the meat may cause food poisoning [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-136. Necrobacillosis, pyemia, and septicemia [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-137. Caseous lymphadenitis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-138. Icterus [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-139. Sexual odor of swine [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-140. Mange or scab [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-141. Hogs affected with urticaria, tinea tonsurans, demodex folliculorum, or erythema [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-142. Tapeworm cysts in cattle and bison [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-143. Hogs affected with tapeworm cysts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-144. Parasites not transmissible to man; tapeworm cysts in sheep; hydatid cysts; flukes; gid bladderworms [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-145. Emaciation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-146. Injured animals slaughtered at unusual hour [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-147. Carcasses of young calves, pigs, kids, lambs, and foals [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-148. Unborn and stillborn animals [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-149. Livestock suffocated and hogs scalded alive [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-150. Livers affected with carotenosis; livers designated as "telangiectatic", "sawdust", or "spotted" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-151. Vesicular diseases [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-152. Listeriosis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-153. Anemia [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-154. Muscular inflammation, degeneration, or infiltration [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-155. Coccidioid granuloma [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-156. Odors, foreign and urine [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-157. Meat and meat by-products from livestock which have been exposed to radiation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-158. Biological residues [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 25. OFFICIAL MARKS AND DEVICES

35:15-25-162. General [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-163. Official marks and devices to identify inspected and passed products of cattle, bison, sheep, swine, or goats [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-164. [RESERVED]

35:15-25-165. Official ante-mortem inspection marks and devices [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-166. Official seals for transportation of products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-167. Official marks and devices in connection with post-mortem inspection and identification of adulterated products and insanitary equipment and facilities [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-168. [RESERVED]

35:15-25-169. [RESERVED]

35:15-25-170. Official detention marks and devices [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 27. HUMANE SLAUGHTER OF LIVESTOCK [REVOKED]

35:15-25-174. Livestock pens, driveways and ramps [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-175. Handling of livestock [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-176. Chemical slaughter: carbon dioxide [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-177. Mechanical slaughter: captive bolt [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-178. Mechanical slaughter: gunshot [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-179. Electrical slaughter: stunning or slaughtering with electric current [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-180. Tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 29. HANDLING AND DISPOSAL OF CONDEMNED OR OTHER INEDIBLE PRODUCTS AT OFFICIAL ESTABLISHMENTS [REVOKED]

35:15-25-184. Disposition of condemned products at official establishment having tanking facilities; sealing of tanks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-185. Tanking and other facilities for inedible products to be separate from edible product facilities [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-186. Disposition of condemned products at official establishments having no tanking facilities [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-187. Suppression of odors in preparing inedible products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-188. Inedible rendered fats prepared at official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-189. Inedible fats from outside official establishment [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-190. Carcasses of livestock condemned on ante-mortem inspection not to pass through edible product areas [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-191. Dead animal carcasses [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-192. Specimens for educational, research, or other nonfood purposes: permits for, required [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-193. Livers condemned because of parasitic infestation and for other causes: conditions for disposal for purposes other than human food [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-194. Handling of certain condemned products for purposes other than human food [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 31. RENDERING OR OTHER DISPOSAL OF CARCASSES AND PARTS PASSED FOR COOKING [REVOKED]

35:15-25-198. Carcasses and parts passed for cooking: rendering into lard, rendered pork fat, or tallow [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-199. Carcasses and parts passed for cooking: utilization for food purposes after cooking [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-200. Disposal of products passed for cooking if not handled according to this part [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 33. MARKING PRODUCTS AND THEIR CONTAINERS [REVOKED]

35:15-25-204. Authorization required to make devices bearing official marks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-205. Approval required for official marks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-206. Use of official marks prohibited except under supervision of division employee; removal of official marks, when required [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-207. Marking devices; to be furnished by official establishments; control of [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-208. Branding ink; to be furnished by official establishment; approval by division; color [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-209. Products not to be removed from official establishments unless marked in accordance with the rules [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-210. Marking devices not to be false or misleading; style and size of lettering; approval required [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-211. Unmarked inspected products; moved between official establishments; moved in commerce [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-212. Products to be marked with official marks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-213. Marking of meat food products with official inspection legend and ingredient statement [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-214. Special markings for certain meat food products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-215. Marking of equine carcasses and parts thereof [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-216. Marking of outside containers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-217. Marking tank cars and tank trucks used in transportation of edible products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-218. Marking outside containers of inedible grease, etc [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-219. Custom prepared products to be marked "not for sale" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 35. LABELING, MARKING DEVICES AND CONTAINERS [REVOKED]

35:15-25-223. Labels required; supervision by division employee [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-224. Labels; definition; required features [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-225. Approval of abbreviations of marks of inspection; preparation of marking devices bearing inspection legend without advance approval prohibited [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-226. Labels to be approved by director [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-227. Inspector in charge may permit modifications of approved labels [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-228. Approved labels to be used only on products to which they are applicable [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-229. Fat, lean, lite and similar terms [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-230. False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-231. Labeling of equine products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-232. Reuse of official inspection marks, reuse of containers bearing official marks, labels, etc [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-233. Labeling, filling of containers, handling of labeled products to be only in compliance with rules [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-234. Relabeling products; requirements [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-235. Storage and distribution of labels and containers bearing official marks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-236. Reporting of obsolete labels [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-237. [RESERVED]

35:15-25-238. Labeling and containers of custom prepared products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-239. Interpretation and statement of labeling policy for cured products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 37. ENTRY INTO OFFICIAL ESTABLISHMENT;
REINSPECTION AND PREPARATION OF PRODUCTS
[REVOKED]**

35:15-25-243. Products and other articles entering official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-244. Reinspection, retention, and disposal of meat and poultry products at official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-245. Designation of places of receipt of products and other articles for reinspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-246. Preparation of products to be officially supervised; responsibilities of official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-247. Requirements concerning procedures [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-248. Requirements concerning ingredients and other articles used in preparation of products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-249. Approval of substances for use in the preparation of products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-250. [RESERVED]

35:15-25-251. Samples of products, water, dyes, chemicals, etc., to be taken for examination [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-252. Prescribed treatment of pork and products containing pork to destroy trichinae [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-253. Canning with heat processing and hermetically sealed containers; cleaning containers; closure; code marking; heat processing; incubation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-254. Manufacture of dog food or similar uninspected article at official establishment [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-255. Mixtures containing product but not amenable to the act [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-256. Adulteration of products by flood water, etc.; procedures for handling [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-257. Tagging chemicals, preservatives, cereals, spices, etc., "Oklahoma retained" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-258. Pesticide chemicals and other residues in products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-259. Cooking requirements for cooked beef, roast beef, and cooked corned beef [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-260. Handling of "mechanically separated (species)" product [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-261. Compliance procedure for cured pork product [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-262. Use of animal drugs [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 39. DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION [REVOKED]

35:15-25-266. General [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-267. Raw meat products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-268. Cooked meats [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-269. Cured meats, unsmoked and smoked [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-270. Fresh sausage [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-271. Uncooked smoked sausage. [RESERVED]

35:15-25-272. Cooked sausage [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-273. Other cooked sausages [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-274. Semi-dry fermented sausage [RESERVED]

35:15-25-275. Dry fermented sausage [RESERVED]

35:15-25-276. Luncheon meat, loaves and jellied products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-277. Meat specialties, puddings and nonspecific loaves [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-278. Canned, frozen, or dehydrated meat food products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-279. Meat food entree products, pies, and turnovers
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-280. Meat snacks, hors d'oeuvres, pizza, and specialty items [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-281. Fats, oils, shortenings [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-25-282. Meat soups, soup mixes, broths, stocks, extracts
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-283. Meat salads and meat spreads [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-284. Meat baby foods [RESERVED]

35:15-25-285. Dietetic meat foods [RESERVED]

35:15-25-286. Miscellaneous [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 41. RECORDS, REGISTRATION, AND REPORTS
[REVOKED]**

35:15-25-290. Records required to be kept [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-291. Place of maintenance of record [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-292. Record retention period [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-293. Access to and inspection of records, facilities, and inventory; copying and sampling [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-294. Registration [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-295. Information and reports required from official establishment operators [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-296. Reports by consignees of allegedly adulterated or misbranded products: sale or transportation as violations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 43. COOPERATION WITH STATES AND TERRITORIES

35:15-25-300. [RESERVED]

PART 45. EXPORTS

35:15-25-310. [RESERVED]

PART 47. TRANSPORTATION [REVOKED]

35:15-25-320. Transactions in commerce prohibited without official inspection legend or certificate: exceptions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-321. Parcel post and ferries deemed carriers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-322. [RESERVED]

35:15-25-323. Oklahoma inspected, passed, and marked product: certificate [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-324. Unmarked inspected product transported under official seal between official establishments for further preparation: certificate [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-325. Shipment of paunches between official establishments under official seal: certificate [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-326. Shipment of products requiring special supervision between official establishments under official seal; certificate [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-327. [RESERVED]

35:15-25-328. [RESERVED]

35:15-25-329. Returned products: certificate; permit; and other requirements [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-330. Inedible articles: denaturing and other means of identification: certificate; exceptions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-331. [RESERVED]

35:15-25-332. Denaturing procedures [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-333. Certificates, retention by carrier [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-334. Evidence of proper certification required on waybills; transfer bills, etc., for shipment by connecting carrier;

forms of statement [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-335. Official seals; forms, use, and breaking [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-336. Loading or unloading products in sealed railroad cars, trucks, etc., enroute prohibited: exception [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-337. Diverting of shipments, breaking of seals, and reloading by carrier in emergency; reporting to director [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-338. Provisions inapplicable to specimens for laboratory examination, etc., or to naturally inedible articles [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-339. Transportation and other transactions concerning dead, dying, disabled, or diseased livestock, and parts of carcasses of livestock that died otherwise than by slaughter [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-25-340. Means of conveyance in which dead, dying, disabled, or diseased livestock and products thereof shall be transported [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 49. RENDERING PLANT REGULATIONS;
DISPOSAL OF DEAD ANIMALS [REVOKED]**

35:15-25-350. Definitions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-351. Rendering and blending plant facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-352. Plant premises [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-353. Maintenance and sanitation of facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-354. Salmonella control for renderers and blenders [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-355. Requirements for barrels used in transporting and storage of used grease and oils [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-356. Vehicles [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-357. Collection centers [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-358. Disposal by collection center of unusable materials [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 51. DETENTION; SEIZURE AND CONDEMNATION [REVOKED]

35:15-25-362. Product or livestock subject to administrative detention [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-363. Method of detention; form, of detention tag [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-364. Notification of detention to the owner of the article or livestock detained, or his agent, or person having custody [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-365. Notification of governmental authorities having jurisdiction over article or livestock detained; form of written notification [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-366. Movement of article or livestock detained; removal of official marks [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-367. Articles or livestock subject to Judicial seizure and condemnation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-368. Procedure for seizure, condemnation, and disposition [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-369. Authority for condemnation or seizure under other provisions of laws [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-25-370. Criminal offenses [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 53. PLANTS IDENTIFIED AS UNSANITARY [REVOKED]

35:15-25-380. Procedure to follow when plant is identified as unsanitary [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 55. ADDENDUM [REVOKED]

35:15-25-390. Rapid reference for percentages of meat required in individual products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**SUBCHAPTER 27. POULTRY PRODUCTS INSPECTION
[REVOKED]**

PART 1. GENERAL PROVISIONS [REVOKED]

35:15-27-1. Definitions and incorporation by reference of federal poultry inspection regulations [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-2. General terms and applications [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-3. Deleted regulations [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-4. Guidelines and procedures [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 3. ADMINISTRATION: APPLICATION OF
INSPECTION AND OTHER REQUIREMENTS
[REVOKED]**

35:15-27-12. Administration [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-13. Inspection in accordance with methods prescribed or approved [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-14. Registration and application requirements for custom exempt plants [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-15. Establishments requiring inspection [REVOKED]

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-16. Coverage of all poultry and poultry products processed in official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 5. EXEMPTIONS [REVOKED]

35:15-27-26. Exemptions for specified operations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-27. Exemptions based on religious dietary laws [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-28. Effect of religious dietary laws exemptions on other persons [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-29. Suspension or termination of exemptions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-30. Inspection concerning purportedly exempted operations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-31. Exemption from definition of "poultry product" of certain human food products containing poultry [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 7. APPLICATION FOR INSPECTION: GRANT OR REFUSAL OF INSPECTION [REVOKED]

35:15-27-41. How application shall be made [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-42. Filing of application [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-43. Authority of applicant [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-44. Application for inspection; required facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-45. Survey and grant of inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-46. Refusal of inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 9. INAUGURATION OF INSPECTION; OFFICIAL ESTABLISHMENT NUMBERS; SEPARATION OF ESTABLISHMENTS AND OTHER REQUIREMENTS; WITHDRAWAL OF INSPECTION [REVOKED]

35:15-27-56. Official establishment numbers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-57. Separation of establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-58. Inauguration of service; notification concerning rules; status of uninspected poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-59. Report of violations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-27-60. Suspension or other withdrawal of inspection service
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 11. ASSIGNMENT AND AUTHORITIES OF
DIVISION EMPLOYEES [REVOKED]**

**35:15-27-70. Licensed or otherwise authorized inspectors
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-71. [RESERVED]

35:15-27-72. Access to establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-73. Identification [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-27-74. Financial interest of inspectors; political activity
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-75. Appeal inspection; how made [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 13. FACILITIES FOR INSPECTION [REVOKED]

35:15-27-85. Facilities required [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-86. Time of inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-27-87. Schedule of operation of official establishment
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-88. Overtime inspection service [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-89. Holiday inspection service [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-90. Multiple shift operations [REVOKED]

[Source: Added at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-91. [RESERVED]

PART 15. SANITATION [REVOKED]

35:15-27-101. Minimum standards for sanitation, facilities and operating procedures in official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-102. Buildings [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-103. Rooms and compartments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-104. Floors, walls, ceilings, etc [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-105. Drainage and plumbing [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-106. Water Supply [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-107. Lavatories, toilets, and other sanitary facilities [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-108. Lighting and ventilation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-109. Equipment and utensils [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-110. Accessibility of equipment [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-111. Restrictions on use of equipment and utensils [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-112. Maintenance of sanitary conditions and precautions against contamination of poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-113. Cleaning of rooms and compartments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-114. Cleaning of equipment and utensils [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-115. Vermin [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-116. Use of compounds [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-117. Cleanliness and hygiene of official establishment personnel [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 17. OPERATING PROCEDURES [REVOKED]

35:15-27-127. Operations and procedures, generally [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-128. Temperatures and chilling and freezing procedures [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 19. ANTE MORTEM INSPECTION [REVOKED]

35:15-27-138. Ante mortem inspection; when required; extent [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-139. Condemnation on ante mortem inspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-140. Segregation of suspects on ante mortem inspection [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-141. Quarantine of diseased poultry [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-142. Poultry suspected of having biological residues [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-143. Poultry used for research [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 21. POST MORTEM INSPECTION; DISPOSITION OF CARCASSES AND PARTS [REVOKED]

35:15-27-153. Post mortem inspection; when required; extent [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-154. Carcasses held for further examination [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-155. Condemnation of carcasses and parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-156. Passing of carcasses and parts [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-157. General; biological residues [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-158. Tuberculosis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-159. Diseases of the leukosis complex [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-160. Septicemia or toxemia [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-161. Airsacculitis [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-162. Special diseases [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-163. Inflammatory processes [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-164. Tumors [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-165. Parasites [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-166. Bruises [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-167. Cadavers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-168. Contamination [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-169. Overscald [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-170. Decomposition [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 23. HANDLING AND DISPOSAL OF CONDEMNED
OR OTHER INEDIBLE PRODUCTS AT OFFICIAL
ESTABLISHMENTS [REVOKED]**

**35:15-27-180. Disposal of condemned carcasses and parts
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 25. OFFICIAL MARKS, DEVICES AND
CERTIFICATES; EXPORT CERTIFICATES;
CERTIFICATION PROCEDURES [REVOKED]**

**35:15-27-190. Wording and form of the official inspection legend
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-27-191. Official dressed poultry identification mark
[REVOKED]**

[Source: Amended at 14 Ok Reg 2445, eff 6-26-97 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-192. Official seal [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-193. Official retention and rejection tags [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-194. Official detention tag [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-195. Official Oklahoma condemned mark [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-196. [RESERVED]

35:15-27-197. Official poultry condemnation certificates [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-198. [RESERVED]

35:15-27-199. [RESERVED]

35:15-27-200. [RESERVED]

35:15-27-201. [RESERVED]

35:15-27-202. Official poultry inspection certificates; issuance and disposition [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-203. Form of official poultry inspection certificate [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-204. Erasures or alterations made on certificates [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-205. Data to be entered in proper spaces [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 27. LABELING AND CONTAINERS [REVOKED]

35:15-27-215. Containers of inspected and passed poultry products required to be labeled [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-216. Wording on labels of immediate containers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-217. Name of product [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-218. Ingredients statement [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-219. Declaration of artificial flavoring or coloring [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-220. Antioxidants; chemical preservatives; and other additives [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-221. Quantity of contents [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-222. Identification of manufacturer, packer, or distributor [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-223. Official inspection mark; official establishment number [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-224. Dietary food claims [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-225. Special handling label requirements [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-226. Date of processing; contents of cans [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-227. Wording on labels of shipping containers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-228. [RESERVED]

35:15-27-229. False or misleading labeling or containers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-230. False or misleading labeling or containers; orders to withhold from use [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-231. Preparation of labeling or other devices bearing official inspection marks without advance approval prohibited; exceptions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-232. Approval required for labeling and other devices bearing official inspection marks [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-233. Requirement of formulas and analyses [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-234. Label approvals by the inspector in charge [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-27-235. Modifications of approved labeling or devices
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-236. Affixing of official identification [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-27-237. Evidence of labeling and devices approval
[REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**35:15-27-238. Unauthorized use or disposition of approved
labeling or devices [REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-239. Removal of official identifications [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-240. Relabeling poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-241. Reporting of obsolete labels [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 29. ENTRY OF ARTICLES INTO OFFICIAL
ESTABLISHMENTS; PROCESSING INSPECTION AND
OTHER REINSPECTIONS; PROCESSING
REQUIREMENTS [REVOKED]**

**35:15-27-251. Poultry products and other articles entering official
establishments [REVOKED]**

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-252. Sampling at official establishments [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-253. Restrictions on the use of substances in poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-254. Processing and handling requirements for frozen poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-255. Processing and handling requirements for canned poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-256. Cooking temperature requirements for poultry rolls and certain other poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-257. Procedures in case of water pollution [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-258. Preparation in an official establishment of articles not for human food [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 31. REQUIREMENTS AND STANDARDS OF IDENTITY OR COMPOSITION [REVOKED]

35:15-27-268. General provisions [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-269. Poultry meat content standards for poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-270. Canned boned poultry and baby food [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-271. Poultry dinners (frozen) and pies [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-272. Poultry rolls [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-273. (Kind) burgers; (Kind) patties [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-274. "(Kind) A La Kiev" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-275. "(Kind) steak or fillet" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-276. "(Kind) baked" or "(Kind) roasted" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-277. "(Kind) barbecued" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-278. "(Kind) barbecued prepared with moist heat" [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-279. Breaded products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-280. Other poultry dishes and specialty items [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-281. Maximum percent of skin in certain poultry products [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-282. Standards for raw poultry [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

**PART 33. RECORDS, REGISTRATION AND REPORTS
[REVOKED]**

35:15-27-292. Records required to be kept [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-293. Place of maintenance of records [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-294. Record retention period [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-295. Access to and inspection of records, facilities and inventory; copying and sampling [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-296. Registration [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-297. Information and reports required from official establishment operators [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-298. Reports by consignees of allegedly adulterated or misbranded products; sale or transportation as violations [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-299. Reports of inspection work [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 35. [RESERVED]

PART 37. TRANSPORTATION; OR SALE OF POULTRY OR POULTRY PRODUCTS [REVOKED]

35:15-27-339. Transactions in slaughtered poultry and other poultry products restricted [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-340. Distribution of inspected products to small lot buyers [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-341. Penalties inapplicable to carriers and public warehouseman [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-342. Poultry carcasses, etc. not intended for human food [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 39. [RESERVED]

PART 41. DETENTION; SEIZURE AND CONDEMNATION; CRIMINAL OFFENSES [REVOKED]

35:15-27-382. Poultry and other articles subject to administrative detention [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-383. Method of detention; form of detention tag [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-384. Notification of detention to the owner of the article detained, or his agent, or person having custody [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-385. Notification of governmental authorities having jurisdiction over article detained; form of written notification

[REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-386. Movement of poultry or other article detained; removal of official marks [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-387. Poultry or other articles subject to judicial seizure and condemnation [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-388. Procedure for judicial seizure, condemnation, and disposition [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-389. Authority for condemnation or seizure under other provisions of law [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

35:15-27-390. Criminal offenses [REVOKED]

[Source: Revoked at 14 Ok Reg 2445, eff 6-26-97]

PART 43. PLANTS IDENTIFIED AS BEING HAZARDOUS TO PUBLIC HEALTH; STATEMENT OF POLICY [REVOKED]

35:15-27-400. Upon inspection and review of a plant, conditions requiring notification of director [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-27-401. Inspector shall inform the plant operator of an unsatisfactory inspection and review; procedures for plant operator to follow to correct hazardous conditions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

SUBCHAPTER 29. CONSTRUCTION STANDARDS FOR MEAT PACKING PLANTS [REVOKED]

PART 1. DESCRIPTION OF PLANS AND SPECIFICATIONS REQUIRED [REVOKED]

35:15-29-1. Submission of plans [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-2. Plot plan [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-3. Floor plans [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-4. Plumbing plan [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-5. Rearrangement of operations or activities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-6. Approval of plans and specifications [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-7. Changes and revisions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-8. Use of competent architect or engineer [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 3. LOCATION OF ESTABLISHMENTS [REVOKED]

35:15-29-12. Site [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-13. Accessibility [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-14. Separation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-15. Retail business on premises [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-16. Expansion [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-17. Inedible products departments and grease catch basins [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 5. WATER SUPPLY, PLANT DRAINAGE, AND
SEWAGE DISPOSAL SYSTEM [REVOKED]**

35:15-29-21. Potable water supply [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-22. Nonpotable water supply [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-23. Vacuum breakers [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-24. Plant waste disposal [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-29-25. Disposal of paunch contents, hog hair, feathers,
blood, and similar waste material [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-26. Acceptance of plant waste system [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-27. Catch basins for grease recovery [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-28. Plant drainage [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 7. PLANT CONSTRUCTION [REVOKED]

35:15-29-32. Minimum requirements [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-33. Materials [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-34. Floors [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-35. Coves [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-36. Interior walls [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-37. Ceilings [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-38. Window ledges [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-39. Doorways and doors [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-40. Screens and insect control [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-41. Rodent proofing [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-42. Interior woodwork [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-43. Stairs [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 9. PLANT LIGHTING, VENTILATION,
REFRIGERATION, AND EQUIPMENT [REVOKED]**

35:15-29-47. Lighting [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-48. Ventilation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-49. Refrgeration [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-50. Equipment [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 11. HANDWASHING FACILITIES, STERILIZERS,
DRINKING FOUNTAINS, AND CONNECTIONS FOR
CLEANUP HOSES [REVOKED]**

35:15-29-54. Lavatories [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-55. Sanitizers [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-56. Drinking fountains [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-57. Hose connections [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-58. Location of facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 13. FACILITIES FOR PROCESSING EDIBLE
PRODUCT [REVOKED]**

35:15-29-62. Size of departments [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-63. Flow of operations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-64. Perishable product departments [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-65. Freezers [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-66. Incubation room for canned product [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-67. Dry storage space for supplies [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-68. Truckways within the plant [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-29-69. Vehicular areas for trucks and railroad track gutters
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 15. DESIGN, EQUIPMENT, AND OPERATION OF MEAT AND POULTRY SLAUGHTERING DEPARTMENTS AND RELATED AREAS [REVOKED]

35:15-29-73. Meat [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-74. Poultry [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-75. Facilities for handling animal or fish food [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-76. Facilities for handling meat and poultry inedible and condemned materials [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 17. REQUIRED CATTLE SLAUGHTERING FACILITIES [REVOKED]

35:15-29-80. Cattle dressing layouts [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-81. Requirements for various types of cattle slaughtering layouts [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-82. Requirements for double-rail and single-rail hang-off dressing systems [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-83. Requirements for "on-the-rail" dressing systems [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-84. Viscera inspection facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 19. REQUIRED SHEEP, GOAT, AND CALF
SLAUGHTERING FACILITIES**

35:15-29-88. Bleeding rail [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-89. Dressing rails [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-90. Dressing space and operations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-91. Calf washing facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-92. Calf head handling facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-93. Carcass washing facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-29-94. Viscera, head, and carcass inspection facilities
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-95. Floor drainage [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 21. REQUIRED HOG SLAUGHTERING
FACILITIES FOR LARGE PLANTS WHICH SCALD HOGS
[REVOKED]**

35:15-29-99. Location of certain operations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-100. Scalding vat [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-101. Space for operations and truckways [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-102. Floor drainage [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-103. Shaving and carcass washing facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-104. Inspection facilities needed for very large slaughter layouts [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 23. REQUIRED HOG SLAUGHTERING FACILITIES FOR SMALL PLANTS [REVOKED]

35:15-29-108. General specifications [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 25. REQUIRED POULTRY SLAUGHTERING FACILITIES [REVOKED]

35:15-29-112. Eviscerating and chilling areas [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-113. Conveyors [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-114. Facilities for processing giblets [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-115. Facilities for handling inedible offal [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-116. Semi-dry poultry offal system [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 27. WELFARE FACILITIES FOR PLANT
EMPLOYEES [REVOKED]**

35:15-29-120. Dressing rooms and equipment [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-121. Lockers [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-122. Shower-bath facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-123. Toilet rooms [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-124. Handwashing facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-125. Ventilation of welfare rooms [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-126. Lunch facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-29-127. Welfare facilities for employees working in inedible
product areas [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 29. INSPECTOR'S OFFICE AND WELFARE FACILITIES [REVOKED]

35:15-29-131. General [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-132. Dressing facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-133. Toilet room [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-134. Shower-bath facilities [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-135. Lighting and ventilation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 31. SUGGESTED NOTES ON SPECIFICATIONS TO ACCOMPANY DRAWINGS [REVOKED]

35:15-29-139. Use of suggested notes [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-140. Building construction [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-141. Water supply, plumbing, drainage, and refrigeration [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-142. Equipment [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-143. Operations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-29-144. General [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

SUBCHAPTER 31. OKLAHOMA RABBIT AND RABBIT PRODUCTS INSPECTION REGULATIONS [REVOKED]

PART 1. GENERAL [REVOKED]

35:15-31-1. Definitions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-2. General terms and applications [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-3. Basis of service [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-4. Eligibility [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-5. Supervision [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-6. Authority to waive provisions of 35:15-31-4 [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-7. Financial interest of inspectors [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-8. Application of inspection provisions [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-9. Filing of application [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-10. Application for inspection service in official plants; approval [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-11. Rejection of application for inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-12. Inspection service may be denied for the following reasons [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-13. Other applicable regulations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 3. IDENTIFYING AND MARKING PRODUCTS
[REVOKED]**

35:15-31-17. Approval of official identification [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-18. Inspection mark with respect to product [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-19. Marking inspected products [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-20. Form of official identification [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-21. Form of inspection mark [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-22. Evidence of label approval [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-23. Affixing of official identification [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-24. Packaging [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-25. Retain and reject tags [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-26. Prerequisites to inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-27. Accessibility of products [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-28. Time of inspection in an official plant [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 5. CHARGES [REVOKED]

35:15-31-32. Payment of overtime charges [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 7. INSPECTION PROCEDURES; ANTE-MORTEM
INSPECTION [REVOKED]**

**35:15-31-36. Manner of handling products in an official plant
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-37. Ante-mortem inspection [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-38. Condemnation on ante-mortem inspection
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-39. Segregation of suspects on ante-mortem inspection
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-40. Quarantine of diseased rabbits [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-41. Evisceration [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-42. Carcasses held for further examination [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-43. Condemnation and treatment of carcasses
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 9. DISPOSITION OF DISEASED RABBIT
CARCASSES AND PARTS [REVOKED]**

35:15-31-47. General [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-48. Diseases or conditions evident which require
condemnation [REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-49. Decomposition [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-50. Disposal of condemned carcasses and parts
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 11. REINSPECTION AND INGREDIENTS; APPEALS [REVOKED]

35:15-31-54. Reinspection of edible products; ingredients [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-55. Appeal inspections; how made [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 13. SANITARY REQUIREMENTS [REVOKED]

35:15-31-59. Minimum standards for sanitation, facilities, and operating procedures in official plants [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-60. Buildings [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-61. Rooms and compartments [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-62. Floors, walls, ceilings, etc. [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-63. Drainage and plumbing [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-64. Water supply [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-65. Lavatory accommodations [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-66. Lighting and ventilation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-67. Equipment and utensils [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-68. Accessibility [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-69. Restrictions on use [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 15. MAINTENANCE OF SANITARY CONDITIONS
AND PRECAUTIONS AGAINST CONTAMINATION OF
PRODUCTS [REVOKED]**

35:15-31-73. General [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-74. Cleaning of rooms and compartments [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-75. Cleaning of equipment and utensils [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-76. Operations and procedures [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-31-77. Temperatures and cooling and freezing procedures
[REVOKED]**

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-78. Vermin [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-79. Exclusion of diseased persons [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-31-80. Detention; seizure and condemnation [REVOKED]

[Source: Revoked at 21 Ok Reg 745, eff 5-27-04]

SUBCHAPTER 33. LIVESTOCK BRANDS

35:15-33-1. Acceptable brands

- (a) A proposed livestock brand defined as a single initial or single unit shall not be accepted for registration.
- (b) Single initial or single unit brands are those brands in which only one letter of the alphabet, numeral, or single character, such as slashes, bars, quarter-circles or half-circles are indicated for use in any of the designated branding positions.
- (c) Combined initials, numerals and characters and symbols that are joined in one pattern shall be considered to be brands of more than one unit, and shall be acceptable for registration.
- (d) A brand for registration which could be interpreted as an addition to, or an extension of, a brand pattern currently registered, for use on the same position, and the proposed brand is intended to be used within the same county or adjoining counties shall not be accepted. An addition or extension of a brand pattern may be accepted for registration after the original registrant has been fully advised of the new applicant's request has given written notice of consent to the addition or extension.

[Source: Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-33-2. Application of brand

Herd identification brands or other ranch brands shall be applied no closer than six (6) inches to an existing brand on an animal.

35:15-33-3. Change of ownership

If a dispute arises as to the ownership of a brand after the brand registrant dies, the ownership shall be determined and assigned by the presiding District Judge.

[Source: Amended at 35 Ok Reg 751, eff 9-14-18]

SUBCHAPTER 34. FERAL SWINE

35:15-34-1. Purpose

The purpose of these rules is to implement the provisions of the Feral Swine Control Act and to adopt aggressive measures for the eradication of all feral swine in the State of Oklahoma. Feral swine are a non-native invasive species to Oklahoma that detrimentally impact agricultural production and natural resources in Oklahoma. As feral swine populations increase, citizens of Oklahoma suffer damage to crops,

livestock and wildlife habitat. Feral swine pose a health risk to humans, livestock, companion animals and native wildlife. The Department's goal is to render the State of Oklahoma free of feral swine. The Department shall investigate and implement new population control methods, technologies, and toxicants as they become available to achieve this goal.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 33 Ok Reg 1160, eff 9-11-16]

35:15-34-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Captive feral swine hunter" means a person of any age who procures a hunt at any of the licensed feral swine hunting facilities in Oklahoma.

"Feral swine" means any domestic or wild animal of the species *Sus scrofa* that is or has been running at large, free roaming, or wild upon public or private lands, or has been captured, hunted, pursued, maintained, utilized, or released for any sporting purpose.

"Feral swine facility" means a handling facility or sporting facility.

"Feral Swine Free Zone" means any region of the state defined by the Board of Agriculture where hunting feral swine or taking feral swine from the region is restricted and the licensing of feral swine facilities or movement of feral swine into or across the region is prohibited.

"Handling facility" means any premises maintaining feral swine in captivity for the purpose of temporary holding, breeding, slaughter, resale, dog training, competition, exhibition, personal use, or any other purpose. Commercial hunting is not permitted in a handling facility.

"Sealed trailer" means a trailer or container holding feral swine that an Oklahoma Department of Agriculture, Food, and Forestry or United States Department of Agriculture employee has affixed a seal for special purpose movement displaying a serial number listed on the VS 1-27 form accompanying the transport.

"Sporting facility" means any premises maintaining feral swine in captivity intended for hunting and feral swine are only removed from the premises through hunting.

"Transport" means intrastate or interstate movement of one or more feral swine.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 37 Ok Reg 947, eff 9-14-20]

35:15-34-3. Importation and transportation of feral swine

(a) No person shall import live feral swine into the State of Oklahoma unless the live feral swine are transported directly to a slaughter facility in a sealed trailer and are accompanied by a written consent order to enter the state signed by the State Veterinarian and a USDA vs 1-27 permit for the movement of restricted animals.

(b) No person shall transport feral swine within the State of Oklahoma without first obtaining both a transporter license and a 24 hour permit issued by the Department.

(c) Any person who knowingly assists with the illegal importation or transportation of feral swine or who knowingly purchases or receives feral swine illegally imported or transported shall be in violation of this section.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 27 Ok Reg 2411, eff 7-25-10 ; Revoked at 30 Ok Reg 788, eff 7-1-13 ; Added at 33 Ok Reg 51, eff 8-24-15 (emergency); Added at 33 Ok Reg 1160, eff 9-11-16]

35:15-34-4. Intrastate testing of feral swine [REVOKED]

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-34-5. Transporter license

- (a) Transporter licenses shall be active for a period of one (1) year and shall not be transferable.
- (b) Transporter licenses shall expire each June 30 but may be renewed.
- (c) Application for a transporter license shall be on a form prescribed by the Department and shall include the following:
- (1) Name, mailing address, physical address, email address, and telephone number of the applicant,
 - (2) Drivers license number of the transporter;
 - (3) A brief statement describing the area for which the applicant typically transports feral swine, and
 - (4) A description of the vehicles, used to transport feral swine, including any license tag numbers.
- (d) Live feral swine shall not be removed from the transport vehicle until released or unloaded pursuant to subsection (f) of this section.
- (e) Any person transporting feral swine pursuant to a valid 24 hour permit may park the transport vehicle at the home premises of a licensed transporter specified in the 24 hour permit, so long as a new 24 hour permit is obtained prior to further transport of the feral swine to a location specified in subsection (g) of this section.
- (f) Live feral swine shall only be released or unloaded at the following locations:
- (1) A licensed sporting facility;
 - (2) A licensed handling facility;
 - (3) A slaughter facility, or
 - (4) A location designated in an order issued by the State Veterinarian.
- (g) Feral swine shall not be commingled with any domestic livestock species at any point during transportation. Common cages or enclosures, water sources or food sources accessible by both domestic livestock species and feral swine shall be prohibited.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-34-5.1. 24 hour permit

- (a) A transporter shall apply for a 24 hour permit to transport feral swine using an online system provided by the Department or by phone during

regular business hours. The transporter may either request immediate approval or request advance approval by specifying the 24 hour period that the transporter intends to transport feral swine.

(b) If the transporter requests immediate approval, the 24 hour permit shall be valid for twenty-four (24) hours following approval by the Department. The online system shall provide automatic approval for 24 hour permits after the following information is provided:

- (1) The date feral swine are transported;
- (2) The number of feral swine transported;
- (3) The name of the county in which the feral swine were acquired;
- (4) The name of the owner of the property on which the feral swine were acquired;
- (5) A description of the acquisition method (capture or purchase); and
- (6) The name and license number of destination facility or consignee.

(c) If the transporter requests advance approval, the 24 hour permit shall specify the 24 hour period in which the transporter is authorized to transport feral swine.

(d) The transporter shall carry paper copy of the approved 24 hour permit in the vehicle transporting feral swine or carry an electronic device capable of accessing and displaying an electronic version of the approved 24 hour permit.

[Source: Added at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-34-6. Sporting facilities

(a) The owner or operator of a sporting facility shall comply with the following requirements:

(1) The owner or operator of a sporting facility shall maintain a perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure.

(2) The owner or operator of a sporting facility shall keep the following records using forms provided by the Department:

(A) The name, 24-hour permit number, and license number for each consignor releasing feral swine into the sporting facility with the corresponding date and number of feral swine released; and

(B) The name of each captive hog hunter killing a feral hog at the sporting facility with the corresponding date and number of feral swine killed.

(3) Any person renewing or procuring a sporting facility license shall provide the following information on a form prepared by the Department:

(A) Name, mailing address, email address, and telephone number of the owner;

(B) Name, mailing address, email address, and telephone number of the operator, if different from the owner;
(C) Name, physical address, and county of the sporting facility;
(D) Legal description to the nearest quarter section and GPS coordinates, if available, of the sporting facility;
(E) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
(F) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;
(G) Whether the property where the sporting facility is located is owned or leased;
(H) Driving directions from the nearest town; and
(I) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(4) The owner or operator of a sporting facility shall submit a report describing all feral swine released into or killed at the sporting facility in a month and any other information required by the Department by the 10th day of the following month using forms provided by the Department.

(b) Sporting facilities may have a gate device installed in the perimeter fence that allow for the ingress of additional feral swine but does not allow the egress of captive feral swine. These devices shall be inspected and approved by the Department within seven (7) days of installation.

(c) Sporting facilities shall be licensed for one year terms beginning July 1 of each calendar year and ending on June 30 of the following calendar year. Applications for the renewal of a sporting facility license shall be due on April 1 of each calendar year.

(d) Feral swine shall not be commingled with any domestic livestock species in any sporting facility. Common pens, water sources or food sources accessible by both domestic livestock species and feral swine shall be prohibited. This subsection is not intended to prohibit a licensee from constructing a feral swine facility along the licensee's property line.

(e) Live feral swine shall not be transported from a sporting facility to any other location.

(f) The owner or operator of a sporting facility shall verify that each person who hunts feral swine on the facility has a valid Oklahoma feral swine hunter's license prior to hunting. If the owner or operator of a sporting facility cannot verify that a person has a feral swine hunter's license prior to hunting, the owner or operator shall collect a captive hog

hunter's fee from each hunter using the sporting facility and remit fees collected to the Department on the 10th day of the month following the hunter's visit. The captive hog hunter's fee:

- (1) Shall be collected only once from each hunter during a calendar year;
- (2) Shall be valid for the calendar year in which it is purchased;
- (3) Shall not restrict the number of feral swine the hunter is permitted to kill; and
- (4) Shall not restrict the number of visits a hunter may make to any sporting facility.

(g) Any person may apply for a captive feral swine hunter's license by using an online system provided by the Department or by phone during regular business hours.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 36 Ok Reg 1095, eff 6-28-19 (emergency); Amended at 37 Ok Reg 947, eff 9-14-20]

35:15-34-7. Handling facilities

(a) An owner or operator shall obtain a handling facility license prior to operation of any new handling facility.

(b) The owner or operator of a handling facility licensed prior to October 1, 2017 shall maintain a perimeter fence at least forty-eight (48) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure.

(c) The owner or operator of a handling facility licensed on or after October 1, 2017 shall maintain a perimeter fence at least sixty (60) inches tall made of solid walls, game fence, or other material constructed in a manner adequate to reasonably prevent the escape of enclosed feral swine, and the unsolicited additions of feral swine from outside the enclosure.

(d) The owner or operator of a handling facility or operator shall keep the following records using forms provided by the Department:

- (1) The name, 24-hour permit number, and license number of each consignor or consignee releasing feral swine into or transporting feral swine from the handling facility and the corresponding date and number of feral swine released or transported;
- (2) The number of feral swine that are killed at the facility and corresponding dates; and
- (3) The number of feral hogs that die of natural causes at the facility and corresponding dates.

(e) The owner or operator of a handling facility shall submit a report describing all feral swine released into, killed, or dying by natural causes at the handling facility in a month by the 10th day of the following month using forms provided by the Department.

(f) Any person applying for a handling facility license shall provide the following information on a form prepared by the Department:

- (1) Name, mailing address, email address and telephone number of the owner;

- (2) Name, mailing address, email address, and telephone number of the operator, if different from the owner;
- (3) Name, physical address, and county of the handling facility;
- (4) Legal description to the nearest quarter section and GPS coordinates, if available, of the handling facility;
- (5) A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;
- (6) Method of carcass disposal for the facility, including carcass storage sites, carcass burial areas, incineration approval, rendering company, composting plan, or landfill.
- (7) Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in Oklahoma or any other jurisdiction;
- (8) Whether the property where the handling facility is located is owned or leased;
- (9) Driving directions from the nearest town; and
- (10) Signature under oath "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(g) Handling facilities shall be licensed for one year terms beginning July 1 of each calendar year and ending on June 30 of the following calendar year. Applications for the renewal of a handling facility license shall be due on April 1 of each calendar year.

(h) Feral swine shall not be commingled with any domestic livestock species in a handling facility. Common pens, water sources or food sources accessible by both domestic livestock species and feral swine shall not be permitted. This subsection is not intended to prohibit a licensee from constructing a feral swine facility along the licensee's property line.

(i) Handling facilities licensed on or after October 1, 2017 shall not exceed one (1) acre in size.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-34-8. Buying stations [REVOKED]

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-34-9. Gathering stations [REVOKED]

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-34-10. Carcass disposal

- (a) Owners and operators of feral swine facilities shall comply with all carcass disposal requirements.
- (b) The following methods may be used for disposal of carcasses from a feral swine facility:
 - (1) Rendering or composting are the preferred methods of disposal; and
 - (2) If rendering or composting are impractical, the owner or operator may use incineration, burial or landfill as disposal methods.
- (c) Carcass disposal areas shall be located a minimum of thirty (30) feet from any live swine.
- (d) The owner or operator shall comply with Title 2, Section 2-18.1 and Title 21, Sections 1222, 1223, and 1224 at all times.
- (e) At the request of the Department, licensees shall make carcasses available for disease testing at the Department's expense.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1160, eff 9-11-16]

35:15-34-11. Inspections

- (a) Each licensed feral swine facility shall be inspected by the Department at least annually.
- (b) Any sporting facility that is licensed by the Oklahoma Department of Wildlife Conservation as a commercial hunting area may be exempt from the annual inspection upon Department approval.
- (c) Prelicensing inspections:
 - (1) Upon submission of a complete application, the Department shall schedule an onsite meeting and inspection to review the feral swine facility.
 - (2) The Department shall review the location of the feral swine facility, including perimeter fencing, gates, carcass disposal areas, and any other facilities for the location.
 - (3) The Department may request appropriate changes to the feral swine facility design.
 - (4) In no case shall a license for a feral swine facility be granted unless the Department has conducted a prelicensing inspection and the Department has approved the facility based on that inspection.
 - (5) The license shall be revoked for any facility that does not construct or operate the facility in accordance with the approved prelicensing inspection.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13]

35:15-34-12. Complaint and compliance investigations

- (a) Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, is notified within five (5) working days. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent possible by the

Department. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

(b) Department initiated investigations may occur at any time.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08]

35:15-34-13. License fees

(a) Sporting facilities:

(1) Application fee - \$325.

(2) Renewal fee -

(A) \$200; or

(B) \$25, if licensed by the Oklahoma Department of Wildlife Conservation(ODWC).

(b) Handling facility:

(1) Application fee - \$225.

(2) Renewal fee -

(A) \$125, if received on or before June 1; or

(B) \$250, if received after June 1.

(c) Transporter: Application and renewal fee - \$25.

(d) Captive feral swine hunter - \$25.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1160, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 40 Ok Reg 1501, eff 9-11-23]

35:15-34-14. Modify, suspend, cancel, or revoke licenses

(a) The license of any owner or operator may be revoked if the owner or operator is convicted of violating any provisions of the Oklahoma Agricultural Code.

(b) In the event a license is denied, revoked, cancelled, or suspended, the owner or operator is not eligible to reapply until after the date the license would have expired.

(c) The Department shall not issue a license in the following circumstances:

(1) The facility was not inspected by the Department.

(2) The owner or operator had any equivalent license denied, revoked, or suspended by any authority.

(d) Using information from the application and from the State's files, the Department shall determine:

(1) The accuracy of all materials in the application;

(2) The applicant can reasonably be expected to comply with all legal requirements; and

(3) The proposed facility is adequate and complies with all legal requirements and would not result in harm to domestic swine.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-34-15. Holding pens [REVOKED]

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Revoked at 34 Ok Reg 799, eff 9-11-17]

35:15-34-16. Closure of the facility

(a) The owner or operator may take up to sixty (60) days to dispose of all feral swine at the facility upon expiration of a license or if ordered to close by the Department.

(b) In no case shall the feral swine be released into the wild.

(c) Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility if required by the Department.

[Source: Added at 25 Ok Reg 1788, eff 7-1-08]

35:15-34-17. Existing facilities [REVOKED]

[Source: Added at 25 Ok Reg 1788, eff 7-1-08 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-34-18. Phenotypic descriptions of feral swine

The Department shall use the following phenotypic descriptions to help differentiate feral swine from domestic swine:

(1) Bristle-top coloration: Feral swine exhibit bristle tips that are lighter in color than the rest of the hair shaft.

(2) Dark point coloration: Feral swine exhibit dark brown to black coloration of the distal portions of the snout, ears, tail, and legs. These areas lack light-colored bristle tips.

(3) Coat coloration: Feral swine exhibit a number of coat coloration patterns. Patterns most frequently observed among wild/feral/hybrid types are wild/grizzled, solid black, solid red/brown, black and white spotted, and black and red/brown spotted patterns.

(4) Underfur: Feral swine exhibit the presence of underfur that is lighter in color than the overlying dark brown to black bristles/guard hairs.

(5) Juvenile coat pattern: Juvenile feral swine exhibit striped coat patterns. This consists of a light grayish-tan to brown base coat, with a dark brown to black spinal stripe and three to four irregular longitudinal stripes with dark margins along the entire body.

(6) Skeletal structure: Feral swine skeletal structure is distinct. Structures include skull morphology, dorsal profile and external body measurements including tail length, head-body length, hind foot length, ear length, snout length and shoulder height.

(7) Tail structure: Feral swine exhibit straight tails. They contain muscle structure to curl their tails if needed, but the tails are typically held straight. Hybrids exhibit either curly or straight tail structure.

(8) Ear structure: Feral swine exhibit erect ear structure. Hybrids exhibit either erect or folded/floppy ear structure.

[Source: Added at 30 Ok Reg 788, eff 7-1-13]

35:15-34-19. Feral swine free zone

- (a) Cimarron, Texas, Beaver, Harper, Woods, Ellis, Woodward, Garfield, Grant, Alfalfa counties shall be a feral swine free zone.
- (b) Transportation of live feral swine into, through, or within a feral swine free zone is prohibited.
- (c) Transporting live feral swine out of a feral swine free zone shall be allowed subject to the other provisions of this subchapter.
- (d) Feral swine facilities are prohibited within any feral swine free zone established by the Board. Licenses for feral swine facilities existing within any feral swine free zone established by the Board shall not be renewed.
- (e) Any person may hunt or capture feral swine within a feral swine free zone pursuant to the provisions of the Feral Swine Control Act and these rules. To assist the Department with tracking and eliminating feral swine populations, a person shall report any feral swine activity to the Department, to include but not limited to any observation, capture, or kill.
- (f) The Board of Agriculture may employ private or public entities to eradicate feral swine anywhere in the State of Oklahoma.

[Source: Added at 33 Ok Reg 1160, eff 9-11-16]

SUBCHAPTER 35. GARBAGE FEEDING

35:15-35-1. Permits [REVOKED]

[Source: Revoked at 37 Ok Reg 947, eff 9-14-20]

35:15-35-2. Cooking of garbage [REVOKED]

[Source: Revoked at 37 Ok Reg 947, eff 9-14-20]

35:15-35-3. Premise and equipment [REVOKED]

[Source: Revoked at 37 Ok Reg 947, eff 9-14-20]

35:15-35-4. Records [REVOKED]

[Source: Revoked at 37 Ok Reg 947, eff 9-14-20]

SUBCHAPTER 36. SCRAPIE

35:15-36-1. Incorporation by reference of federal regulations

Regulations of the United States Department of Agriculture concerning scrapie in sheep and goats found at 9 CFR Part 79 (2021 Revision) are adopted by reference with the exception of the deleted regulations specified in 35:15-36-2.

[Source: Added at 22 Ok Reg 2305, eff 7-11-05 ; Amended at 24 Ok Reg 1753, eff 6-25-07 ; Amended at 25 Ok Reg 1035, eff 7-1-08 ; Amended at 26 Ok Reg 1382, eff 7-1-09 ; Amended at 27 Ok Reg 902, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22]

35:15-36-2. Deleted regulations

The following sections of the Federal regulations governing scrapie in sheep and goats (9 CFR, Part 79 et seq.) (2021 Revision) of the USDA incorporated by reference under 35:15- 36-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 79.6 and 79.7.

[Source: Added at 22 Ok Reg 2305, eff 7-11-05 ; Amended at 24 Ok Reg 1753, eff 6-25-07 ; Amended at 25 Ok Reg 1035, eff 7-1-08 ; Amended at 26 Ok Reg 1382, eff 7-1-09 ; Amended at 27 Ok Reg 902, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22]

35:15-36-3. Requirements for identification

- (a) All sheep and goats imported into Oklahoma shall be identified by a USDA approved official identification device.
- (b) All sheep and goats shall be officially identified prior to movement for sale or exhibition.
 - (1) If moving to a livestock market, identification may be applied by the market before sale.
 - (2) The state veterinarian may grant a written exception for the official identification of wethers on an individual basis.

[Source: Added at 24 Ok Reg 1746, eff 6-25-07 ; Amended at 29 Ok Reg 1691, eff 8-1-12 ; Amended at 37 Ok Reg 947, eff 9-14-20]

SUBCHAPTER 37. MINIMUM STANDARDS FOR CERTIFIED BRUCELLOSIS-FREE GOAT HERDS

35:15-37-1. Minimum standards for certification and recertification of Certified Brucellosis-Free Goat Herds

Minimum standards for certification and recertification of Certified Brucellosis-Free Goat Herds are:

- (1) **Animals to be tested.** Requires complete herd test of all breeding goats six (6) months of age or older, as follows:
 - (A) For initial certification, at least two (2) negative tests not less than ten (10) months, nor more than fourteen (14) months apart.
 - (B) For recertification, a negative herd test, of all breeding animals six (6) months of age or older, not less than ten (10) months nor more than fourteen (14) months from the

anniversary date is required for continuous certification. If the herd certification test is conducted within sixty (60) days following the anniversary date, the certification period will be twelve (12) months from the anniversary, and not twelve (12) months from the date of the recertifying test. If a herd test for recertification is not conducted within sixty (60) days following the anniversary date, then certification requirements are the same as for initial certification.

(2) **Additions.** Additions to a Certified Brucellosis-Free Herd shall originate from a herd of origin which has passed a negative blood test within the previous twelve (12) months, and animals entering a Certified Brucellosis-Free Herd shall have an additional negative retest not less than sixty (60) days from the date of the negative herd test, and within thirty (30) days of date of movement. Animals added under this provision shall not receive new herd status for sale purposes until they have been members of the herd at least thirty (30) days and are included in a complete herd test.

[Source: Amended at 38 Ok Reg 1638, eff 9-11-21]

SUBCHAPTER 38. BOVINE TRICHOMONIASIS

35:15-38-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Acceptable specimen" means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

"Approved feedlot" means a confined animal feeding operation (CAFO) licensed by the Department.

"Approved laboratory" means any laboratory designated and approved by the state veterinarian for examining T. foetus samples.

"Approved veterinarian" means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"Bovine" means any sexually intact male and female animal of the genus bos.

"Change of ownership" means control of an animal being transferred between two (2) persons by sale, lease, or lending.

"Commingle" means animals of opposite sex and/or belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Exposed bull" means an untested bull that has had an opportunity to breed exposed female cattle.

"Exposed female" means a female bovine animal that is sexually intact and sexually mature that could have been exposed to a positive T. foetus bull.

"Herd" means the group of animals consisting of all male and female bovines over twelve (12) months of age that have commingled during the last twelve (12) months.

"Negative T. foetus bull" means a bull that qualifies by one of the following:

(A) A negative official T. foetus bull test within the previous sixty (60) days with no exposure to female cattle for one (1) week prior to the test and no exposure to female cattle between the test and change of ownership;

or

(B) originate from a positive herd but has a series of three negative official T. foetus bull tests at intervals of at least one week.

"Official T. foetus laboratory testing" means the laboratory procedures that shall be approved by the state veterinarian for determination of a bovine T. foetus status.

"Official T. foetus bull test" means the sampling of the preputial content of a bull by a licensed, accredited and trichomoniasis certified veterinarian or a veterinarian from the Oklahoma Department of Agriculture, Food, and Forestry. The test shall be conducted after at least one (1) week separation from all female bovine and the bull and sample shall be officially identified and documented for laboratory submission. The test shall consist of one (1) approved and validated testing procedure. Pooled samples are acceptable.

"Oklahoma trichomoniasis certified free herd" means a herd of cattle that has been determined to be free of bovine trichomoniasis by following the requirements of OAC 35:15-38-4.

"Pooled sample" means a method of sampling where a sample from each bull is submitted in an individual transport pouch approved media containers and the laboratory mixes aliquots from up to five (5) samples together to economize the test cost.

"Positive T. foetus bull" means a bull that has had a positive T. foetus test.

"Positive T. foetus herd" means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any male or female animal has had a positive diagnosis for T. foetus.

"Resident herd of origin" means a group of livestock maintained together as a herd or flock on the same premises for at least four (4) months.

"Suspect T. foetus bull" means a bull from a positive T. foetus herd that has not yet had three (3) consecutive negative official T. foetus bull tests.

"Tritrichomas foetus" or **"T. foetus"** means a contagious venereal protozoan parasite disease of the trichomonas foetus species that frequently results in lifetime infection of male Bovidae as an inapparent carrier and causes infertility, pyometra, abortions and

reproductive inefficiency in female Bovidae.

"Unacceptable sample" means a sample that is deemed not diagnostic by the official testing laboratory.

"Virgin bull" means a sexually intact male bovine less than twelve (12) months of age or a sexually intact male bovine between twelve (12) and eighteen (18) months of age that has had no breeding and no potential breeding contact with females.

"Virgin bull affidavit" means a signed affidavit from the owner, manager, or veterinarian that verifies the bull is between twelve (12) and eighteen (18) months of age and has had no breeding and no potential breeding contact with females.

[Source: Added at 25 Ok Reg 1793, eff 7-1-08 ; Amended at 27 Ok Reg 2430, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-38-2. Import requirements for bulls

(a) All bulls entering Oklahoma shall be accompanied by a certificate of veterinary inspection. All non-virgin bulls shall have a negative official T. foetus test within sixty (60) days prior to entry with no exposure to females from seven (7) days prior to the test to the time of change of ownership.

(b) The pre-entry test shall be conducted at a laboratory approved by the American Association of Veterinary Diagnostic Laboratories or the Oklahoma state veterinarian.

(c) No bull that has ever previously tested positive for T. foetus shall enter Oklahoma unless the bull is consigned directly to slaughter and is individually identified for movement on a VS form 1-27.

(d) No bull from a known positive T. foetus herd shall enter Oklahoma unless the bull has three (3) consecutive negative tests at least a week apart within thirty (30) days prior to entry, in addition to a post entry test and the bulls shall be isolated from all females until the in-state test results are known.

(e) The veterinarian issuing the certificate of veterinary inspection shall list the official identification, date of the test, name of the laboratory, laboratory accession number, type of test, and result of the test for each bull represented on the certificate of veterinary inspection.

(f) Exceptions to the importation requirements are:

- (1) transient rodeo or exhibition bulls that will have no sexual contact with a female bovine and are held in a secure facility to prevent contact, excluding pasture while in Oklahoma;
- (2) bulls consigned direct to slaughter;
- (3) bulls consigned to a feedlot for feeding and slaughter purposes where they will be isolated from all females; and
- (4) bulls consigned from a resident herd of origin to a livestock auction market.

[Source: Added at 25 Ok Reg 1793, eff 7-1-08 ; Amended at 27 Ok Reg 2430, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 37 Ok Reg 947, eff 9-14-20]

35:15-38-2.1. Intrastate change of ownership requirements for bulls

(a) Any bull greater than twelve (12) months of age changing ownership within the state of Oklahoma shall have a negative official T. foetus test within sixty (60) days prior to change of ownership with no exposure to females from seven (7) days prior to the test to the time of change of ownership. Each bull shall be identified with an official ID tag at the time of testing.

(b) Exceptions to this rule shall include the following:

(1) A bull between twelve (12) and twenty-four (24) months of age accompanied by a virgin bull affidavit;

(2) A bull sold directly to slaughter;

(3) A bull sold for feeding and slaughter to be fed in an approved feedlot only and leaves the feedlot only to be slaughtered; or

(c) Any bull presented for sale at a livestock auction market without a virgin bull affidavit (if between twelve (12) and twenty-four (24) months of age) or verification of a negative official T. foetus test:

(1) Shall be tagged for slaughter only and sold for slaughter only;

(2) May go to the purchaser's destination so long as the market veterinarian takes a sample for an official T. foetus test and the purchaser agrees to keep the bull under quarantine at the destination until receipt of negative test results.

(d) A livestock auction market shall not be liable for a virgin bull affidavit and shall not be liable for the results of a market veterinarian's sampling and results for an official T. foetus test.

[Source: Added at 27 Ok Reg 2430, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-38-3. Import requirements for reproductive bovine females

(a) Female cattle or bison may enter Oklahoma with no restrictions unless originating from a known positive T. foetus herd.

(b) A female bovine originating from a known positive T. foetus herd may enter Oklahoma only upon a CVI with a statement that the female is from a known T. foetus infected herd pursuant to one of the following circumstances:

(1) The female bovine has a calf at side and no exposure to other than known negative bulls since parturition;

(2) The female bovine are at least one hundred twenty (120) days pregnant;

(3) The female bovine are known to be virgin heifers;

(4) The female bovine are heifers exposed only to known negative bulls and are not yet one hundred twenty (120) days pregnant;

(5) The female bovine are documented to have had at least one hundred eighty (180) days of sexual isolation; or

(6) The female bovine are consigned directly to slaughter or to a quarantined feedlot.

[Source: Added at 25 Ok Reg 1793, eff 7-1-08 ; Amended at 27 Ok Reg 2430, eff 7-25-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-38-3.1. Exposed female cattle

Exposed female cattle shall be officially identified and change ownership only:

- (1) If the female bovine is diagnosed at least four (4) months pregnant by an accredited veterinarian;
- (2) The female bovine is sold for slaughter only;
- (3) The female bovine is consigned to an approved feedlot to be fed for slaughter only;
- (4) The female bovine has a calf less than thirty (30) days old and has not been exposed to a bull since calving, or;
- (5) Six (6) months has passed since the female bovine's exposure to a bull.

[Source: Added at 33 Ok Reg 1150, eff 9-11-16]

35:15-38-3.2. Exposed bulls

Exposed bulls shall be officially identified and change ownership only:

- (1) With notification of two negative official T. foetus tests, with the first test administered at least seven (7) days after the last exposure to female cattle and the second test administered seven (7) to twenty-one (21) days after the first test;
- (2) If sold for slaughter only; or
- (3) If consigned to an approved feedlot to be fed for slaughter only.

[Source: Added at 34 Ok Reg 799, eff 9-11-17]

35:15-38-4. Oklahoma trichomoniasis free herd certification

Herd owners who enroll in the Trichomoniasis Herd Certification Program shall sign a herd agreement with the department and maintain the herd in accordance with the herd agreement and following conditions:

- (1) All non-virgin breeding bulls shall be tested annually for T. foetus for three consecutive years as required by the herd agreement.
- (2) During the three year inception period, all non-virgin breeding bulls that are sold, leased, gifted, exchanged or otherwise change possession shall be tested for T. foetus within thirty (30) days prior to such change in possession. The test must be completed and test results known prior to the time a bull(s) is physically transferred to the receiving premises or herd.
- (3) Negative T. foetus bulls will be identified with official identification.
- (4) All slaughter bulls removed from the herd must be tested for T. foetus. The test may be performed at a slaughter facility if prior arrangement with a certified veterinarian and an appropriate agreement with the slaughter facility management are made.

(5) Bovine females added to a certified herd shall not originate from a known T. foetus infected herd. Female herd additions must originate from a certified T. foetus free herd or qualify in one of the following categories:

- (A) Calf at side and no exposure to other than known negative T. foetus bulls;
- (B) Checked by an accredited veterinarian, at least one hundred and twenty (120) days pregnant and so recorded;
- (C) Virgin; or
- (D) Heifers exposed as virgins only to known negative T. foetus infected bulls and not yet one hundred and twenty (120) days pregnant.

(6) Records must be maintained for all tests including all non-virgin bulls entering the herd and made available for inspection by a designated accredited veterinarian or state animal health official.

(7) All non-virgin bulls shall be tested for T. foetus every two years after the initial three year inception period to maintain certification status.

(8) Herd premises must have perimeter fencing adequate to prevent ingress or egress of cattle.

(9) All bulls originating from a Trichomoniasis Certified Free Herd that are maintained in accordance with this section and the herd agreement are exempt from the testing requirements found in OAC 35:15-38-2.1.

[Source: Added at 25 Ok Reg 1793, eff 7-1-08 ; Revoked at 27 Ok Reg 2430, eff 7-25-10 ; Added at 34 Ok Reg 799, eff 9-11-17]

35:15-38-5. Exceptions

The state veterinarian may grant a written exception to this rule only on an individual basis.

[Source: Added at 25 Ok Reg 1793, eff 7-1-08]

SUBCHAPTER 39. MINIMUM STANDARDS FOR TUBERCULOSIS ACCREDITED GOAT HERDS [REVOKED]

35:15-39-1. Minimum standards for accreditation and reaccreditation of Tuberculosis Accredited Goat Herds [REVOKED]

[Source: Revoked at 12 Ok Reg 481, eff 12-12-94 (emergency); Revoked at 12 Ok Reg 2997, eff 7-27-95]

SUBCHAPTER 40. BOVINE TUBERCULOSIS

PART 1. DEFINITIONS

35:15-40-1. Definitions

The following words or terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Accredited free state" means a state that maintains full compliance with all of the provisions of the USDA Uniform Methods and Rules for bovine tuberculosis eradication and where no evidence of bovine tuberculosis has been disclosed for five (5) or more years.

"Accredited herd" means a herd of cattle, bison, or dairy goats that passed at least two (2) consecutive negative caudal fold tuberculin tests at an interval of not less than ten (10) months nor more than fourteen (14) months, has no other evidence of bovine tuberculosis, and meet the standards of this Subchapter.

"Affected herd" means a herd of cattle, bison, or dairy goats that contains, or has recently contained, one (1) or more animals infected with *Mycobacterium bovis* and has not passed the required tests necessary for release from quarantine.

"Annual tests" means those tests conducted at intervals of not less than ten (10) months nor more than fourteen (14) months.

"Approved feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing that is licensed as a Concentrated Animal Feeding Operation by the Department's Agriculture Environmental Management Services Division.

"Auction" means a public sale of cattle, bison, or dairy goats to the highest bidder.

"Bison" means a bovine-like animal (genus *Bison*) commonly referred to as American buffalo or buffalo.

"Bovine Tuberculosis" means a disease in cattle, bison, or dairy goats caused by *Mycobacterium bovis*.

"Cattle" means all domestic bovine (genus *Bos*).

"Caudal Fold Tuberculin Test" or "CFT" means the intradermal injection of 0.1 milliliters of USDA bovine purified protein derivative (PPD) tuberculin into either side of the caudal fold, with reading by visual observation and palpation seventy-two (72) hours (+ or - 6 hours) following injection. Animals or herds of unknown status shall not be subjected to retest at intervals of less than sixty (60) days.

"Commission firm" means a person, partnership, or corporation that buys or sells livestock as a third party and reports to the seller or to the buyer details of the transactions whether or not a fee is charged for the services.

"Comparative Cervical Tuberculin Test" or "CCT" means the intradermal injection of biologically balanced bovine PPD tuberculin and avian PPD tuberculin at separate sites in the cervical area and a determination as to the probable presence of bovine tuberculosis (*M. bovis*) by comparing the responses of the two (2) tuberculins seventy-two (72) hours (+ or - 6 hours) following injection.

"Dairy cattle" means any typical dairy framed animals and dairy crossbred animals as determined by the inspecting veterinarian.

"Dairy goats" means domestic caprine (genus Capra) kept for the purpose of producing milk for human consumption.

"Dealer" means any person, firm, or partnership engaged in the business of buying or selling cattle, bison, or dairy goats in commerce, either on the dealer's own account or as the employee or agent of the vendor or purchaser, or any person engaged in the business of buying or selling cattle, bison, swine, sheep, or dairy goats in commerce on a commission basis. The term shall not include any person who buys or sells cattle, bison, or dairy goats as a part of their own bona fide breeding, feeding, or dairy operation; is not engaged in negotiating the transfer of cattle, bison, or dairy goats; or receives cattle, bison, or dairy goats exclusively for immediate slaughter on the person's own premise.

"Eradication" means the complete elimination of bovine tuberculosis from cattle and bison in the state so that the disease does not appear unless introduced from another species or from outside the state.

"Event" means a competition in which Mexican roping cattle, US born Corriente cattle, Longhorn cattle used for roping, or other cattle that may have commingled with these cattle are utilized.

"Exposed animals" means cattle, bison, or dairy goats that have been exposed to bovine tuberculosis by reason of associating with known tuberculous animals.

"Feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing.

"Herd" means one or more cattle, bison, or dairy goats maintained on common ground or two (2) or more groups of cattle, bison, or dairy goats under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management and testing plan designed by a state or federal regulatory veterinarian and the herd owner that will control and eventually eradicate bovine tuberculosis from an affected, adjacent, or exposed herd.

"High risk cattle" means cattle from countries, states, or areas that are not considered Bovine Tuberculosis free, including but not limited to, dairy cattle, exhibition cattle, rodeo cattle, and Mexican origin cattle.

"Mexican origin" means cattle that originate or have ever resided in Mexico.

"Modified Accredited Advanced State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Modified Accredited State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Natural additions" means animals born and raised in a herd.

"No Gross Lesion Animals" or **"NGL"** means any cattle, bison, or dairy goats that do not reveal a lesion of bovine tuberculosis upon postmortem inspection. Any animal with skin lesions alone shall be

considered a NGL animal.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an exhibition.

"Official tuberculin test" means a test for tuberculosis conducted and reported by approved personnel in accordance with this Subchapter and the USDA Uniform Methods and Rules for bovine tuberculosis eradication. The official tuberculin tests are the caudal fold test, the comparative cervical test, the single cervical test, gamma interferon test, or any other test that is approved by the United States Department of Agriculture (USDA).

"Permit" means a VS 127 issued by an authorized agent of the State Board of Agriculture, a representative of USDA APHIS Veterinary Services or an accredited veterinarian that is required to accompany any reactor, suspect, or exposed animals to slaughter.

"Reactor" means any animal that may be classified as a reactor by the designated epidemiologist based on supplemental diagnostic tests results from approved laboratories or other information.

"Rodeo bulls" means sexually intact male cattle kept for the purposes of performances at rodeos, bucking events, exhibition purposes, or for breeding to produce rodeo bulls.

"Suspect" means any cattle, bison, or goats that show a response to the caudal fold tuberculin test and are not classified as reactors, and cattle, bison, or goats that are classified suspects by a comparative cervical test.

"Tuberculin" means a product that is approved by and produced under USDA license for injection into cattle, bison, or goats for the purpose of detecting bovine tuberculosis.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 22 Ok Reg 517, eff 1-28-05 (emergency); Amended at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 24 Ok Reg 2495, eff 5-25-08 (emergency); Amended at 25 Ok Reg 1039, eff 7-1-08 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 3. GENERAL TUBERCULOSIS RULES

35:15-40-31. Authority to require test

The State Veterinarian, or any accredited veterinarian as defined by USDA-APHIS working under the direction of the State Veterinarian, upon reliable information that tuberculosis exists in any bovine, bison or goats, or that any of these animals may have been exposed to tuberculosis, may require a tuberculin test of those animals. Should the owner or caretaker refuse or neglect to comply with the instructions of the accredited veterinarian, the State Veterinarian or authorized agent, the animals shall be quarantined and the quarantine shall prohibit the movement of any animals from the premises. The State Veterinarian reserves the right to supervise, or have supervised, any test conducted by an accredited veterinarian.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-32. Personnel authorized to apply tuberculin tests

Tuberculin tests shall be conducted by a veterinarian employed as a full-time state or federal regulatory veterinarian or by an accredited veterinarian. Technicians or livestock inspectors employed by state or federal governments may conduct routine screening tuberculin tests when directly supervised by state or federal veterinarians.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-33. Approved laboratories

The primary laboratory for all tuberculosis diagnostic purposes shall be the National Veterinary Services Laboratories (NVSL), Ames, Iowa. USDA Food Safety and Inspection Service (FSIS) laboratory results are acceptable for tissue examination of regular kill slaughter cattle or bison in those cases where no submission was made to NVSL. Other approved laboratories may be used for other approved supplemental tests.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-34. Presumptive diagnostic tests

The caudal fold test, or any other test approved by the USDA, is the official tuberculin test for routine use in individual cattle, bison or dairy goats in herds where the tuberculosis status of the animals is unknown.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-35. Supplemental diagnostic tests

The comparative cervical test (CCT), or any other test approved by the USDA, is the official tuberculin test for retesting of suspects. It shall be conducted only by a full-time state or federal regulatory veterinarian and shall not be used in known infected herds without the prior consent of cooperating state and federal officials. The CCT shall not be used as a primary test for animals of unknown status.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-36. Primary/diagnostic tests

(a) The single cervical test is for use in herds affected with bovine tuberculosis and for testing exposed cattle or bison from those herds. It shall be conducted only by a full-time state or federal regulatory veterinarian.

(b) The caudal fold test is a primary diagnostic test when used in herds affected with bovine tuberculosis in lieu of the single cervical test. It shall be conducted only by a full-time state or federal regulatory veterinarian. Any responses shall result in a reactor classification.

(c) In the event new technology and advancements provide alternative testing procedures approved by the USDA, the State Veterinarian may alter testing procedures listed above to conform and utilize the new approved methods and test.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-37. Tuberculin test interpretation

(a) Decisions regarding tuberculin test interpretations shall be based upon the professional judgment of the testing veterinarian in accordance with policies established by the cooperating state and federal officials and the test requirements discussed in 35:15-40-38.

(b) The injection site on each animal shall be observed and palpated. Observation without palpation is not acceptable and shall constitute a violation of rules adopted by the Board.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-38. Classification of cattle and bison tested

(a) All responses to an official caudal fold test shall be recorded and the animal classified as suspect and quarantined for retest unless, in the professional judgement of the testing veterinarian, the reactor classification is required.

(b) All animals with a response to a single cervical test shall be classified as reactors. Responses shall be recorded in millimeters.

(c) Responses to a comparative cervical test shall be recorded and plotted on the CCT scattergram. Classification shall be according to the zone in which the animal is plotted on the scattergram. Animals plotting in the negative zone may be reclassified as negative. Animals plotting in the reactor zone may be classified as suspect provided that there has been no known association of the herd with *M. bovis*. A suspect shall be moved directly to slaughter under permit. The post mortem examination shall be witnessed by a regulatory veterinarian, and specimens shall be submitted for laboratory examination. If the animal fails to disclose gross or microscopic evidence of bovine tuberculosis and a complete epidemiological investigation, including a herd test of all eligible animals, fails to disclose evidence of bovine tuberculosis or exposure thereto, the herd may be considered free of bovine tuberculosis.

(d) Responding animals classified as reactors shall not be retested or reclassified.

(e) Animals responding to the caudal fold tuberculin test that were found negative or suspect by the comparative cervical test shall be reclassified as reactors when included in a herd test that results in the confirmation of bovine tuberculosis in the herd.

(f) In the event new technology and advancements provide alternative testing procedures, which are approved by the USDA, the State Veterinarian may alter testing procedures listed above to conform and utilize the new approved methods and tests.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-39. Intrastate movement

No animal with a response to an official tuberculin test is eligible for intrastate movement unless the animal is subsequently classified negative for *M. bovis* based on an official comparative cervical test or accompanied by an official permit and consigned direct to slaughter with no diversion from the approved destination.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-40. Reporting of tests

A report of all tuberculin tests, including the official identification of each animal, age, sex, and breed and a record of the size of the response and test interpretation, shall be submitted to the Oklahoma Department of Agriculture, Food, and Forestry within ten (10) days of the date the test is read.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-41. Procedures in affected herds

Disclosure of tuberculosis in any herd shall be followed by a complete epidemiologic investigation and written report. All cattle or bison in herds from which tuberculosis cattle or bison originate, and all cattle or bison that are known to have been associated with affected cattle or bison, shall be tested or an approved herd plan shall be on file within thirty (30) days of the date disclosed. These procedures shall apply to adjacent and contact herds as well as to the evaluation and testing of possible source herds for the affected herd. Herds that have received exposed animals shall be tested following the slaughter or testing of exposed animals. Every effort shall be made to insure the immediate elimination of the disease from all species of domestic livestock on the premise. Affected herds shall be depopulated ; however, if depopulation is not possible, the herd shall be handled as outlined under 35:15-40-46.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-42. Procedures in tuberculosis infected feedlots

A tuberculosis infected feedlot shall be handled in the same manner as an affected herd in regard to epidemiologic investigation and the development of epidemiologic tracings for animal movements into

and out of the feedlot. Investigations and testing shall be utilized to detect possible spread from the feedlot. Cattle and bison in feedlots known to be exposed to tuberculous cattle or bison shall be quarantined and shipped under permit directly to slaughter. Feedlots or portions of feedlots that contained affected and exposed cattle or bison shall be vacated, cleaned and disinfected following removal of the cattle or bison to slaughter.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-43. Disposition of tuberculin responding cattle, bison and goats

- (a) Reactors shall remain on the premises where they were identified until a state or federal permit for movement has been obtained. Movement for immediate slaughter shall be directly to a slaughtering establishment where approved state or federal inspection is maintained within fifteen (15) days of classification. Alternatively, the animals may be destroyed under the direct supervision of a regulatory veterinarian to insure that a proper post mortem examination can be conducted and that the carcass is either cooked or condemned.
- (b) Herds containing suspects to the caudal fold tuberculin test shall be quarantined until the suspect animals are:
- (1) Retested by the comparative cervical tuberculin test within ten (10) days of the caudal fold injection, or
 - (2) Retested by the comparative cervical tuberculin test after sixty (60) days, or
 - (3) Shipped under permit directly to slaughter in accordance with state and federal laws, rules, and regulations.
- (c) Suspects to the comparative cervical test shall remain under quarantine until they are:
- (1) Retested by the comparative cervical test in sixty (60) days, or
 - (2) Shipped under permit directly to slaughter.
- (d) An animal in the suspect zone on two successive comparative cervical tests will be classified as a reactor and branded. The testing veterinarian shall justify exceptions in writing to state and federal animal health officials.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-44. Identification of reactor cattle, bison and goats

Reactor cattle and bison shall be identified by branding the letter "T" on the tail head, not less than two (2) inches wide, nor less than three (3) inches high, and by tagging with an approved metal eartag bearing a serial number and inscription US reactor, or a similar state approved reactor tag suitably attached to the left ear of each animal. Reactor goats shall be identified by tagging with an approved metal eartag bearing a serial number and inscription US reactor, or a similar state approved reactor tag suitably attached to the left ear of each animal.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 15 Ok Reg 2494, eff 6-25-98]

35:15-40-45. Identification of exposed cattle, bison, swine and goats

Exposed cattle and bison shall be identified by branding the letter "S" on the tail head not less than two (2) inches wide nor less than three (3) inches high and by tagging with an approved metal eartag bearing a serial number attached to either ear of each animal. In lieu of branding, the animals may be accompanied to an approved slaughter facility by a state or federal representative or be shipped in vehicles closed with official seals. Exposed swine and goats shall be identified by tagging with a serially number metal eartag attached to either ear. All such animals to be destroyed shall be transported to the place of destruction in vehicles closed with official seals or shall be accompanied to the place of destruction by a state or federal representative. The above conditions are required unless animals are destroyed and disposed under the direct supervision of a state or federal representative on the premises where the animals were exposed.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 15 Ok Reg 2494, eff 6-25-98 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-46. Quarantine procedures

- (a) All herds with reactor animals shall be quarantined. Exposed animals shall remain on the premises where disclosed unless a state or federal permit is obtained. Movement for immediate slaughter shall be directly to an approved slaughtering establishment where state or federal inspection is administered. Animals shall be identified by official identification. Use of the "S" brand is required on cattle and bison or animals shipped in a sealed vehicle.
- (b) Sale of feeder calves from quarantined herds shall be restricted. Feeder calves under twelve (12) months of age that have passed a caudal fold tuberculin test within sixty (60) days may be permitted to move intrastate to an approved feedlot.
- (c) Herds in which mycobacterium bovis infection is confirmed shall remain under quarantine if not depopulated and shall pass two tuberculin tests of intervals of at least sixty (60) days and one (1) additional test after one hundred eighty (180) days. All animals moved from the farm shall be shipped directly to slaughter and shall be accompanied by slaughter permit issued by a state or federal representative.
- (d) Herds in which only NGL reactor(s) occur and in which no evidence of mycobacterium bovis infection is disclosed may be released from quarantine after a sixty (60) day negative caudal fold retest of the entire herd.
- (e) Suspects in herds where only suspect animals are disclosed shall be quarantined on the premises until retested and classified negative or shipped directly to slaughter under permit. If an animal is slaughtered as a comparative cervical test reactor following two (2) CCT tests as a suspect and shows no gross lesions, results in an entire herd retest at

sixty (60) days by caudal fold test and released from quarantine as in 35:15-40-46(d). If animals are slaughtered as suspects, but show no gross lesions, a sixty (60) day herd retest is recommended.

(f) Herds indicated as the source of slaughter trace back case investigations shall be placed under quarantine within thirty (30) days of notification, and a herd test scheduled.

(g) The issuance of a quarantine may be waived if the State Board of Agriculture or the State Veterinarian enters into a formal cooperative agreement with the affected party that will control and eradicate bovine tuberculosis.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-40-47. Retest schedules for high-risk herds

(a) In herds with a history of lesions suspicious of bovine tuberculosis but not confirmed, two (2) complete annual herd tests shall be given after release from quarantine. The first test shall be conducted not less than ten (10) months nor more than fourteen (14) months after release from quarantine.

(b) In a newly established herd on premises where a tuberculosis herd has been depopulated, two (2) annual herd tests shall be conducted to all cattle and bison. The first test shall be conducted not less than four (4) months nor more than eight (8) months after establishment of the new herd. If the premises are vacated for one (1) year, these requirements may be waived by the designated epidemiologist or State Veterinarian.

(c) Exposed animals previously sold from a known infected herd shall be depopulated, if possible. If the exposed animal is not depopulated, the single cervical test shall be the only test used. All responding animals shall be classified as reactors. If negative to the test, the exposed animals shall be handled as if a part of the infected herd of origin for purposes of testing, quarantine release and the five (5) annual high-risk tests. The remainder of the herd shall be retested in one (1) year with the caudal fold test. The balance of the receiving herd shall be retested as follows:

(1) If lesions of tuberculosis based on histopathologic examination are found in an exposed animal, the remainder of the herd shall be tested with the single cervical test.

(2) In all other cases, the remainder of the herd shall be tested by the caudal fold test. The responding animals may be classified as suspects and retested with the comparative cervical test.

(d) The testing of source herds of regular kill animals having lesions of tuberculosis shall be done by full-time state or federal regulatory veterinarians. If the herd of origin is positively identified, all animals responding to the caudal fold test shall be classified as reactors. If the herd of origin is not positively identified, the comparative cervical test shall be used to classify animals that respond to the caudal fold test.

(e) Testing of source herds of reactors shall be by full-time state or federal regulatory veterinarians using the caudal fold test procedure. Responding animals may be classified as reactors or, if classified as suspects, may be retested by the comparative cervical test.

(f) In herds where mycobacterium bovis infection is confirmed, but the herd is not depopulated, five (5) annual tests on the entire herd shall be required following the release from quarantine.

(g) In the event new technology and advancements provide alternative testing procedures approved by USDA, the State Veterinarian may alter testing schedules listed above to conform and utilize the new approved methods and tests.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-48. Cleaning and disinfection of premises, conveyances, and materials

All premises, including all structures, holding facilities, conveyances and materials determined by state and federal officials to constitute a health hazard to humans or animals because of tuberculosis, shall be properly cleaned and disinfected. Cleaning and disinfection shall be performed in accordance with procedures approved by state and federal officials within fifteen (15) days after the removal of tuberculosis affected or exposed animals. State and federal officials may extend the time for disinfection to thirty (30) days upon a request received prior to the expiration date of the original fifteen (15)-day period.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-49. Identification

(a) All animals tested shall be officially identified at the time of injection.

(b) Identification eligible animals moved in channels of trade shall be officially identified and recorded as to origin and destination at the first point of concentration including, but not limited to, dealers, livestock auction markets and stockyards.

(c) Animals over two (2) years of age that are returned to farms or ranches shall be identified by official identification.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-49.1. Dairy cattle change of ownership

(a) All dairy cattle shall be individually identified with an official identification prior to change of ownership.

(b) Sexually intact dairy cattle six (6) months of age or older and weighing four hundred fifty (450) pound or more shall:

(1) Test negative for tuberculosis no more than sixty (60) days prior to a change in ownership;

(2) Be quarantined and test negative for tuberculosis within ten (10) days after the change of ownership date; or

(3) Originate from an accredited tuberculosis free herd.

(c) Any dairy cattle that do not meet the testing requirements in subsection (b) shall be tagged as slaughter only and sent either directly to slaughter or to an approved feedlot.

(d) For purposes of this section, dairy cattle shall include typical dairy framed animals and dairy crossbred animals as determined by the inspecting veterinarian.

[Source: Added at 21 Ok Reg 1959, eff 5-11-04 (emergency); Added at 22 Ok Reg 688, eff 5-12-05 ; Amended at 23 Ok Reg 866, eff 5-11-06 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-40-49.2. Mexican and rodeo or event cattle intrastate regulations

(a) Mexican origin steers, spayed heifers, and any commingled cattle shall not be diverted from or separated from the main group within the stocker, feeder, slaughter channel.

(b) Mexican origin steers and spayed heifers shall not be commingled with any cattle other than stocker, feeder, slaughter cattle. Any commingled cattle assume the same status as the Mexican cattle.

(c) Mexican stocker, feeder, slaughter steers, and spayed heifers which are separated from their imported group shall:

- (1) Be accompanied by evidence of a negative tuberculosis test no more than sixty (60) days prior to change of ownership;
- (2) Be quarantined and tested for tuberculosis within seven (7) days after the change of ownership date;
- (3) Be consigned to an approved feedlot; or
- (4) Be tagged for slaughter only and transported directly to a slaughter facility or to an approved feedlot.

(d) Mexican origin steers, spayed heifers, and non-Mexican cattle utilized as rodeo stock moving within the state shall meet the following requirements:

- (1) Be accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous 365 days;
- (2) Be identified with an official identification; and
- (3) There is no change of ownership since the date of the last official test.

(e) The official in charge of an event shall be responsible for verifying that all Mexican origin cattle utilized as rodeo stock entering any exhibition meet all testing requirements.

- (1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.
- (2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(f) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

(g) For the purposes of this section and OAC 35:15-40-49.3, "stocker, feeder, slaughter" means the steps of beef production in which cattle are grazed, finished at an approved feedlot, and sent to a slaughter establishment.

[Source: Added at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-40-49.3. Diversion or separation of Mexican origin cattle

If Mexican origin steers, spayed heifers, or any commingled cattle are diverted from or separated from the main group within the stocker, feeder, slaughter channel in violation of OAC 35:15-40-49.2(b), the diverted or separated cattle shall:

- (1) Have a negative tuberculosis test performed within ten (10) days after the change of ownership date; or
- (2) Be tagged as slaughter only and sent either directly to slaughter or to an approved feedlot.

[Source: Added at 35 Ok Reg 751, eff 9-14-18]

35:15-40-49.4. Rodeo bulls

(a) Rodeo bulls moving within the state shall meet the following requirements:

- (1) Be accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous three hundred sixty-five (365) days and the test was performed in the name of the current owner; and
- (2) Be identified with an official Radio Frequency Identification Device (RFID) identification tag.

(b) The official in charge of an event shall be responsible for verifying that all rodeo bulls entering any exhibition meet all testing requirements.

- (1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.
- (2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(c) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

[Source: Added at 35 Ok Reg 751, eff 9-14-18 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-40-50. Record keeping

All dealers, auction markets, commission firms, and private individuals shall keep sufficient records for a minimum of five (5) years of all animals sold to enable any authorized agent to trace the animals satisfactorily to their herd of origin and to their disposition at the time of sale. These records shall be made available to any authorized agent for the purpose of inspection or photocopying during normal business hours. Failure to maintain or provide adequate records shall constitute a violation of rules adopted by the Board.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 32 Ok Reg 1521, eff 9-11-15]

PART 5. HERD STATUS REQUIREMENTS

35:15-40-71. Minimum standards for accreditation and reaccreditation of tuberculosis accredited cattle or bison herds

The minimum standards for accreditation and reaccreditation of tuberculosis accredited cattle and bison herds are as follows:

- (1) All test eligible cattle and bison shall pass two (2) consecutive negative official tuberculin tests not less than ten (10) months nor more than fourteen (14) months apart. Test eligible animals shall include all cattle or bison twenty-four (24) months of age and older.
- (2) All cattle and bison in the herd shall be individually identified by official identification.
- (3) Any cattle or bison added to an accredited herd shall either:
 - (A) Test negative to an official tuberculin test sixty (60) days prior to entering the premises, be kept in isolation, and test negative sixty (60) days following entry, or
 - (B) Be from one of the following:
 - (i) An accredited herd,
 - (ii) A herd from an accredited free state, or
 - (iii) A herd in a modified accredited area that passed a herd test of all cattle and bison over twenty-four (24) months of age within the previous twelve (12) months and the added cattle and bison test negative to an official tuberculin test within sixty (60) days of entering the herd.
- (4) Any cattle or bison added to an accredited herd that did not originate from an accredited herd shall not receive new herd status for sale purposes until they have been a herd member for at least sixty (60) days and are included in a complete herd test.
- (5) All additions, both purchased and natural, shall be identified as herd members for the herd retest.
- (6) The owner shall keep records individually identifying each animal, including all natural or other additions, and shall also keep records of the death or other disposition of each animal.
- (7) Accreditation is valid for a twenty-four (24) month period. The original date of accreditation shall be the herd's official accreditation date.
- (8) Reaccreditation shall require a negative test of all test eligible herd members not less than twenty-two (22) nor more than twenty-six (26) months from the official accreditation date. All cattle or bison shall be bona fide members of the herd.
- (9) Any evidence of bovine tuberculosis in a herd shall result in a denial of accreditation or reaccreditation.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 23 Ok Reg 3119, eff 7-6-06 (emergency); Amended at 24 Ok Reg 1754, eff 6-25-07 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

35:15-40-72. Minimum standards for accreditation and reaccreditation of tuberculosis accredited goat herds

Minimum standards for accreditation and reaccreditation of tuberculosis accredited goat herds are as follows:

- (1) Testing of herds for accreditation or reaccreditation shall include all goats over six (6) months of age and any animals other than natural additions under six (6) months of age. All natural additions shall be individually identified and recorded on the test report as members of the herd at the time of the annual test.
- (2) Herd additions shall originate directly from one of the following:
 - (A) Accredited herd, or
 - (B) Herd in an accredited free state, or
 - (C) Herd in a modified accredited area that has passed a herd test of all animals over six (6) months of age within twelve (12) months, and the individual animals for addition were negative to the official tuberculin test conducted within sixty (60) days, or
 - (D) Herd in a modified accredited area not meeting requirements of 35:15-40-72(2)(A)(B) or (C). Individual animals for addition shall pass a negative test within sixty (60) days prior to entering the premises of the accredited herd and shall be kept in isolation from all members of the accredited herd until negative to a test conducted after sixty (60) days of date of entry.
- (3) Animals added under 35:15-40-72(2)(B)(C) and (D) shall not receive accredited herd status for sale purposes until they have been members of the herd at least sixty (60) days and are included in a herd retest.
- (4) Reaccreditation shall require a negative test of all test eligible herd members not less than ten (10) nor more than fourteen (14) months from the official accreditation date. All animals shall be bona fide members of the herd.
- (5) No evidence of bovine tuberculosis may be disclosed in the herd for the purposes of accreditation or reaccreditation.

[Source: Added at 12 Ok Reg 481, eff 12-12-94 (emergency); Added at 12 Ok Reg 2997, eff 7-27-95 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10]

PART 7. IMPORT REQUIREMENTS

35:15-40-90. Requirements for cattle entering Oklahoma from a tuberculosis free state or zone

- (a) Cattle that test positive for tuberculosis shall not enter Oklahoma.

(b) Cattle from herds quarantined for tuberculosis shall not enter Oklahoma.

(c) All dairy cattle shall be individually identified by official identification and accompanied by a certificate of veterinary inspection.

(1) Originate from a tuberculosis free herd;

(2) Test negative no more than sixty (60) days prior to entry with the results recorded on the certificate of veterinary inspection; or

(3) Be sent directly to slaughter or to an approved feedlot.

[Source: Added at 21 Ok Reg 1959, eff 5-11-04 (emergency); Added at 22 Ok Reg 688, eff 5-12-05 ¹; Added at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 26 Ok Reg 165, eff 9-15-08 (emergency); Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 34 Ok Reg 799, eff 9-11-17]

Editor's Note: ¹*A new permanent rule was promulgated in error by the agency at this number (35:15-40-90) at 22 Ok Reg 688, with a scheduled effective date of 5-12-05, after having been withdrawn earlier by the agency from the rulemaking process [see Notice of Withdrawn Rules published at 22 Ok Reg 683]. Because the proposed rule was withdrawn prior to the end of the Legislature's 30-legislative-day review period, the rule should not have been filed by the agency for promulgation in the Register. However, a second permanent rulemaking action adding a new rule at this Section number was NOT withdrawn by the agency, and became effective 7-11-05. [See also Editor's Notice published at 22 Ok Reg 2668]*

35:15-40-90.1. Requirements for cattle entering Oklahoma from a modified accredited advanced state or zone

(a) Cattle that test positive for tuberculosis shall not enter Oklahoma.

(b) Cattle from herds quarantined for tuberculosis shall not enter Oklahoma.

(c) All cattle shall be accompanied by a permit number and a certificate of veterinary inspection that was approved by the Oklahoma State Veterinarian prior to entry into Oklahoma.

(d) Cattle or bison may move directly to slaughter at an approved slaughtering facility.

(e) Sexually intact heifers may move to an approved feedlot.

(f) Steers or spayed heifers may move into Oklahoma so long as they meet one of the following:

(1) Cattle or bison are individually identified by an official identification and the cattle or bison:

(A) Are accompanied by the original certificate of veterinary inspection at all times;

(B) Are placed at a single location for grazing; and

(C) Are only removed from the single location directly to an approved feedlot or directly to slaughter;

(2) Cattle or bison enter on a state or federal identification number for the premise of origin and premise of destination with an approved Group Lot Number and the group lot:

(A) Is accompanied by the original certificate of veterinary inspection at all times;

- (B) Is placed at a single location for grazing;
 - (C) Remains as a group lot;
 - (D) Does not commingle with other cattle or bison; and
 - (E) Is only removed from the single location directly to an approved feedlot or directly to slaughter; or
- (3) Cattle or bison are individually identified by an official identification and test negative to an official tuberculosis test conducted within sixty (60) days prior to movement into Oklahoma.
- (g) Cattle or bison from an accredited herd may enter Oklahoma with a certificate of veterinary inspection that includes complete herd tuberculosis negative test results within one (1) year prior to entry.
- (h) Sexually intact cattle or bison, not from an accredited herd, shall be individually identified and accompanied by a certificate of veterinary inspection stating the cattle or bison tested negative to an official tuberculin test conducted within sixty (60) days prior to the date of movement.
- (i) The state veterinarian may grant a variance to this section so long as the variance is consistent with federal law.

[Source: Added at 26 Ok Reg 165, eff 9-15-08 (emergency); Added at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-40-91. International importation of sexually intact cattle or bison

- (a) All sexually intact cattle and bison from any foreign country or part thereof with a status less than Modified Accredited Advanced as compared to the UM&R standards of the U.S. Bovine Tuberculosis Eradication program and imported for reasons other than immediate slaughter or feeding for slaughter shall meet the following criteria:
- (1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry; and
 - (2) Be quarantined to the premise approved in the entry permit pending two (2) consecutive negative tuberculosis tests, with the first test conducted not less than ninety (90) days nor more than 120 days after arrival and the second test conducted not less than 210 days nor more than 240 days after arrival in the state.
- (b) All sexually intact cattle and bison from any foreign country or part thereof with no recognized tuberculosis status comparable to the UM&R standards of the U.S. Bovine Tuberculosis Eradication program of Modified Accredited Advanced or above and imported for immediate slaughter or feeding for slaughter shall meet the following criteria:
- (1) Obtain a permit issued by the Oklahoma Department of Agriculture, Food, and Forestry prior to entry; and
 - (2) Be consigned direct to an approved slaughter establishment or an approved feedlot with no diversion from the permitted destination.

[Source: Added at 13 Ok Reg 1099, eff 1-31-96 through 7-14-96 (emergency); Added at 13 Ok Reg 3951, eff 10-11-96 ; Amended at 21 Ok Reg 1959, eff 5-11-04 (emergency); Amended at 22 Ok Reg 688, eff 5-12-05 ¹; Amended at 22 Ok Reg 2299, eff 7-11-05 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended

Editor's Note: *¹Permanent amendments to this Section number (35:15-40-91) promulgated at 22 Ok Reg 688, with a scheduled effective date of 5-12-05, had been withdrawn earlier by the agency from the rulemaking process [see Notice of Withdrawn Rules published at 22 Ok Reg 683]. Because the proposed amendments were withdrawn prior to the end of the Legislature's 30-legislative-day review period, the amended rule should not have been filed for promulgation in the Register. However, a second permanent rulemaking action adding a new rule at this Section number was NOT withdrawn by the agency, and became effective 7-11-05. [See also Editor's Notice published at 22 Ok Reg 2668]*

35:15-40-92. Mexican origin cattle

(a) Mexican origin steers and spayed heifers imported as stocker, feeder, slaughter animals may enter Oklahoma provided they test negative for tuberculosis in accordance with the Norma Oficial Mexicana (NOM) within sixty (60) days prior to entry into Oklahoma and a telephone entry permit providing the following information has been obtained prior to entering Oklahoma:

- (1) A certificate of veterinary inspection containing the individual identification and all tag numbers, tuberculosis testing information, statement that the animals are "Mexican Origin Cattle," and complete consignor or consignee information including telephone numbers; and
- (2) A VS 17-30 form.

(b) Mexican origin steers and spayed heifers and U.S. origin Corriente cattle utilized as rodeo stock prior to entry into Oklahoma shall obtain an entry permit, provide individual identification and all tag numbers, and be accompanied by a negative tuberculosis test that meets one of the following:

- (1) Performed by a U.S. accredited veterinarian within the previous 365 days; or
- (2) Performed in accordance with the Norma Oficial Mexicana (NOM), the animal is accompanied by a VS 17-30 form, and the animal is quarantined upon entry into Oklahoma until retested by a U.S. accredited veterinarian within sixty (60) to one hundred twenty (120) days of the original tuberculosis test.

(c) No sexually intact Mexican origin rodeo stock shall enter Oklahoma unless the animal is accompanied by documentation establishing that USDA requirements for entry of sexually intact Mexican cattle have been completed.

(d) For the purposes of this section and OAC 35:15-40-92.1, "stocker, feeder, slaughter" means the steps of beef production in which cattle are grazed, finished at an approved feedlot, and sent to a slaughter establishment.

17 ; Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-40-92.1. Diversion or separation of Mexican origin cattle

If Mexican origin steers, spayed heifers, or any commingled cattle are diverted from or separated from the main group within the stocker, feeder, slaughter channel in violation of OAC 35:15-40-49.2(b), the diverted or separated cattle shall:

- (1) Have a negative tuberculosis test performed within ten (10) days after the change of ownership date; or
- (2) Be tagged as slaughter only and sent either directly to slaughter or to an approved feedlot.

[Source: Added at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18]

35:15-40-93. Rodeo bulls

(a) Rodeo bulls may move into the State of Oklahoma provided:

- (1) The rodeo bull is accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous three hundred sixty-five (365) days and the test was performed in the name of the current owner;
- (2) The bull is identified with an official Radio Frequency Identification Device (RFID) identification tag;
- (3) A certificate of veterinary inspection accompanies each interstate movement of the bull; and
- (4) A permit for entry is issued for each interstate movement of the bull.

(b) The official in charge of an event shall be responsible for verifying that all rodeo bulls entering any exhibition meet all testing requirements.

- (1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.
- (2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(c) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

[Source: Amended at 24 Ok Reg 2495, eff 5-25-08 (emergency); Amended at 25 Ok Reg 1039, eff 7-1-08 ; Amended at 26 Ok Reg 1809, eff 7-1-09 ; Amended at 27 Ok Reg 2433, eff 7-25-10 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

SUBCHAPTER 41. EXOTIC LIVESTOCK AND EXOTIC LIVESTOCK PRODUCTS [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:15-41-1. Purpose [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-2. Statutory citations [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-3. Statutory definitions [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-4. Additional definitions [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 3. APPLICATION OF INSPECTION LAWS AND
OTHER REQUIREMENTS [REVOKED]**

35:15-41-8. Establishments requiring inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-9. [RESERVED]

[Source: Reserved at 9 Ok Reg 1767, eff 5-26-92]

**35:15-41-10. Exotic livestock and products entering official
establishments [REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 5. EXEMPTIONS [REVOKED]

35:15-41-14. Exemptions [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 7. APPLICATION FOR INSPECTION: GRANT OR
REFUSAL [REVOKED]**

**35:15-41-18. Application for inspection; tenants, subsidiaries and
construction standards for establishments [REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-19. Drawings and information to be furnished; grant or refusal of inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 9. OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATIONS [REVOKED]

35:15-41-23. Official numbers, and fees [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-24. Separation of official establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-25. Sanitation and adequate facilities [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-26. Inauguration of inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-27. Withdrawal of inspection; statement of policy [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-28. Reports of violations [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 11. ASSIGNMENT AND AUTHORITY OF DIVISION EMPLOYEES [REVOKED]

35:15-41-32. Designation of inspection personnel [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-41-33. Division employees to have access to establishments
[REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-34. Identification of inspectors [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-35. Assignment of division employees where members of family employed; soliciting employment; procuring product from official establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-36. Appeals [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 13. SPECIAL FACILITIES REQUIREMENTS
[REVOKED]**

35:15-41-40. Additional requirements for mobile slaughtering establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 15. TIME OF INSPECTION OF OFFICIAL
ESTABLISHMENTS [REVOKED]**

**35:15-41-50. Hours of operation of official establishments
[REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-51. Designation of days and hours of operation by director [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-52. Overtime work of inspectors [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 17. SANITATION [REVOKED]

35:15-41-56. Examination and specifications for equipment and sanitation prior to granting inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-57. Establishments; requirements for sanitary conditions [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-58. Sanitary facilities and accommodations; specific requirements [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-59. Equipment must be easily cleaned and that used for inedible products must be so marked [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-60. Sanitation of knife scabbards [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-61. Sanitation of rooms, compartments, etc. [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-62. Sanitation requirements of slaughtering and processing operations, condensation and chilling requirements [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-63. Protective handling of products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-64. Sanitation requirements for inedible areas, storage rooms, and outside premises [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-65. Employment of diseased persons [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-66. Tagging insanitary equipment, utensils, rooms or compartments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 19. ANTEMORTEM INSPECTION [REVOKED]

35:15-41-70. Antemortem inspection in pens of official establishment [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-71. Antemortem field inspection at mobile slaughtering establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-72. Exotic livestock suspected of being diseased or affected with certain conditions; identifying suspects and the disposition thereof [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-73. Dead, dying, disabled, or diseased exotic livestock [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-74. Exotic livestock suspected of having biological residues [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-75. Exotic livestock used for research [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-76. Disposition of condemned exotic livestock [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-77. Official marks and devices for purposes of antemortem inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 21. POSTMORTEM INSPECTION [REVOKED]

35:15-41-81. Extent and time of postmortem inspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-82. Identification of carcass with certain severed parts thereof and with animal from which derived [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-83. Retention of carcasses and parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-84. Tagging of carcasses and parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-85. Condemned carcasses and parts to be so marked; tanking, separation [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-86. Marking carcasses and parts passed for cooking [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-87. Passing and marking of carcasses and parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-88. Sternum to be split; abdominal and thoracic viscera to be removed [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-89. Handling of bruised parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-90. Disposition of lungs [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-91. Contamination of carcasses, organs, or other parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-92. Inspection of kidneys [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-93. Postmortem inspection procedures [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 23. DISPOSAL OF DISEASED OR OTHERWISE ADULTERATED CARCASSES AND PARTS [REVOKED]

35:15-41-98. General requirements for disposal of diseased or otherwise adulterated carcasses and parts [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-99. Arthritis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-100. Bovidae carcasses affected with anasarca or generalized edema [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-101. Actinomycosis and actinobacillosis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-102. Neoplasms [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-103. Pigmentary conditions; melanosis, xanthosis, ochronosis, etc. [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-104. Abrasions, bruises, abscesses, pus, etc. [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-105. Brucellosis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-106. Carcasses so infected that consumption of the meat may cause food poisoning [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-107. Necrobacillosis, pyemia, and septicemia [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-108. Caseous lymphadenitis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-109. Icterus [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-110. Mange or scab [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-111. Tapeworm cysts in bovidae [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-112. Parasites not transmissible to man; tapeworm cysts in cervidae; hydatid cysts; flukes; gid bladder worms [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-113. Emaciation [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-114. Injured animals slaughtered at unusual hour [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-115. Carcasses of immature exotic livestock [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-116. Unborn and stillborn animals [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-117. Livers affected with carotenosis; livers designated as "telangiectatic", "sawdust", or "spotted" [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-118. Vesicular diseases [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-119. Listeriosis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-120. Anemia [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-121. Muscular inflammation, degeneration, or infiltration [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-122. Coccidioidal granuloma [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-123. Odors, foreign and urine [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-124. Biological residues [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-125. Tuberculosis [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-126. [RESERVED]

[Source: Reserved at 9 Ok Reg 1767, eff 5-26-92]

35:15-41-127. [RESERVED]

[Source: Reserved at 9 Ok Reg 1767, eff 5-26-92]

35:15-41-128. [RESERVED]

[Source: Reserved at 9 Ok Reg 1767, eff 5-26-92]

PART 25. OFFICIAL MARKS AND DEVICES [REVOKED]

35:15-41-138. General [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-139. Official marks and devices to identify inspected and passed carcasses and products of exotic livestock [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Amended at 19 Ok Reg 1936, eff 6-27-02 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-140. Official antemortem inspection marks and devices [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-141. Official seals for transportation of products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-142. Official marks and devices in connection with postmortem inspection and identification of adulterated products and insanitary equipment and facilities [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-143. Official detention marks and devices [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 27. HUMANE SLAUGHTER AND HANDLING OF EXOTIC LIVESTOCK [REVOKED]

35:15-41-147. Humane slaughter requirements for mobile slaughter establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-41-148. Pens, driveways, and ramps for exotic livestock
[REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-149. Handling of exotic livestock [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-150. Acceptable methods of stunning [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-41-151. Tagging of equipment, alleyways, pens, or
compartments to prevent inhumane slaughter or handling in
connections with slaughter [REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 29. HANDLING AND DISPOSAL OF CONDEMNED
CARCASSES AND PARTS OR OTHER INEDIBLE
PRODUCTS [REVOKED]**

**35:15-41-155. Carcasses of livestock condemned on antemortem
inspection not to pass through edible product areas [REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-156. Dead animal carcasses [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-41-157. Disposal of condemned carcasses and parts
[REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**35:15-41-158. Specimens for education, research, or othe nonfood
purposes [REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-159. Livers condemned because of parasitic infestation and for other causes [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 31. DISPOSAL OF CARCASSES AND PARTS PASSED FOR COOKING [REVOKED]

35:15-41-163. Carcasses and parts passed for cooking; utilization for food purposes after cooking [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-164. Disposal of products passed for cooking if not handled according to this part [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 3-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 33. MARKING PRODUCTS AND THEIR CONTAINERS [REVOKED]

35:15-41-168. Authorization required to make devices bearing official marks [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-169. Approval required for official marks [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-170. Use of official marks prohibited except under supervision of authorized inspection employee; removal of official marks, when required [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-171. Marking devices [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-172. Branding ink; to be furnished by official establishment; approval by the Director; color [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-173. Products not to be removed from official establishments unless marked in accordance with the rules [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-174. Marking devices not to be false or misleading; style and size of lettering; approval required [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-175. Products to be marked with official marks [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-176. Marking of outside containers [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-177. Custom prepared products to be marked "not for sale" [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 35. LABELING [REVOKED]

35:15-41-181. Labels required; supervision by inspector [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-182. Labels; required features [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-183. Preparation of marking devices bearing inspection legend without advanced approval prohibited [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-184. Labels to be approved by director [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-185. Inspector in charge may permit modifications of approved labels [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-186. Approved labels to be used only on products to which they are applicable [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-187. False or misleading labeling or practices [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-188. Reuse of official inspection marks, reuse of containers bearing official marks, labels, etc. [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-189. Labeling, filling of containers, handling of labeled products to be only on compliance with rules [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-190. Relabeling products; requirements [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-191. Storage and distribution of labels and containers bearing official marks [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-192. Reporting of obsolete labels [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-193. Labeling and containers of custom prepared products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 3-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**PART 37. ENTRY INTO OFFICIAL ESTABLISHMENT;
REINSPECTIONS AND PREPARATION OF PRODUCTS
[REVOKED]**

35:15-41-197. Products and other articles entering official establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-198. Reinspection, retention, and disposal of exotic livestock products at official establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-199. Designation of places of receipt of products and other articles for reinspection [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-200. Preparation of products to be officially supervised; responsibilities of official establishments [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-201. Requirements concerning procedures [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-202. Requirements concerning ingredients and other articles used in preparation of products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-203. Approval of substances for use in the preparation of products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-204. Samples of products, water, dyes, chemicals, etc., to be taken for examination [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-205. Manufacture of dog food or similar uninspected article at official establishment [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-206. Adulteration of products by flood water, etc.; procedures for handling [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-207. Tagging chemicals, preservatives, cereals, spices, etc., "Oklahoma retained" [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-208. Pesticide chemicals and other residues in products [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-209. Animal drug residues [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 39. STANDARDS OF IDENTITY OR COMPOSITION OF EXOTIC LIVESTOCK PRODUCTS [REVOKED]

35:15-41-213. General requirements [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 41. CANNING [RESERVED]

PART 43. RECORDS, REGISTRATION, AND REPORTS [REVOKED]

35:15-41-237. Records, registration and reports [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 45. TRANSPORTATION [REVOKED]

35:15-41-241. General requirements [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 47. DETENTION, SEIZURE AND CONDEMNATION [REVOKED]

35:15-41-245. Exotic livestock and products subject to administrative detention [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-246. Method of detention; form, or detention tag [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-247. Notification of detention to the owner of the article or exotic livestock detained, or his agent, or person having custody [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-248. Notification of governmental authorities having jurisdiction over article or exotic livestock detained; form or written notification [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-249. Movement of article or exotic livestock detained; removal of official marks [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-250. Articles or exotic livestock subject to judicial seizure and condemnation [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-251. Procedure for seizure, condemnation, and disposition [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

35:15-41-252. Authority for condemnation or seizure under other provisions of law [REVOKED]

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

PART 49. PLANTS IDENTIFIED AS INSANITARY; STOP SALE ORDER [REVOKED]

**35:15-41-256. Action taken when plant is identified as insanitary
[REVOKED]**

[Source: Added at 9 Ok Reg 1767, eff 5-26-92 ; Revoked at 21 Ok Reg 745, eff 5-27-04]

**SUBCHAPTER 42. TUBERCULOSIS ERADICATION IN
CERVIDAE**

PART 1. DEFINITIONS [REVOKED]

35:15-42-1. Definitions [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 16 Ok Reg 2109, eff 6-25-99 ; Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

**PART 3. RULES ADOPTED FROM USDA UNIFORM
METHODS AND RULES FOR TUBERCULOSIS
ERADICATION IN CERVIDAE [REVOKED]**

35:15-42-31. Authority to require test [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

**35:15-42-32. Personnel authorized to apply tuberculin tests
[REVOKED]**

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-33. Presumptive diagnostic test [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96]

35:15-42-34. Supplemental diagnostic tests [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-35. Primary/diagnostic tests [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-36. Tuberculin test interpretation [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-37. Classification of Cervidae tested [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-38. Intrastate movement [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-39. Reporting of tests [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-40. Procedures in affected herds [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-41. Disposition of tuberculin responding Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-42. Identification of reactor Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 15 Ok Reg 2495, eff 6-25-98 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-43. Quarantine procedures for Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 15 Ok Reg 2495, eff 6-25-98 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-44. Retest schedules for high risk cervid herds [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-45. Cleaning and disinfection of premises, conveyances, and materials [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-46. Identification of Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

PART 5. HERD STATUS REQUIREMENTS [REVOKED]

35:15-42-51. Minimum standards for accreditation and reaccreditation for Cervidae herds [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 15 Ok Reg 2496, eff 6-25-98 ; Amended at 16 Ok Reg 2109, eff 6-25-99 ; Amended at 24 Ok Reg 7, eff 8-7-06 (emergency); Amended at 24 Ok Reg 1755, eff 6-25-07 ; Amended at 29 Ok Reg 1691, eff 8-1-12 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-52. Minimum standards for monitored herd status for Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

35:15-42-53. Minimum requirements for qualified herd status for Cervidae [REVOKED]

[Source: Added at 12 Ok Reg 3400, eff 7-11-95 (emergency); Added at 13 Ok Reg 1857, eff 6-14-96 ; Amended at 15 Ok Reg 2496, eff 6-25-98 ; Revoked at 30 Ok Reg 788, eff 7-1-13]

PART 7. INCORPORATIONS BY REFERENCE

35:15-42-54. Incorporation by reference of federal regulations

Title 9, sections 77.20 through 77.41 of the Code of Federal Regulations (2014 Revision) and the requirements contained therein pertaining to the eradication of tuberculosis in cervidae, unless otherwise specified, adopted and incorporated by reference in their entirety.

[Source: Added at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15]

SUBCHAPTER 43. CONCENTRATED ANIMAL FEEDING OPERATIONS [REVOKED]

35:15-43-1. Purpose [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-2. Definitions [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-3. Citation (Statute Title) [RESERVED]

[Source: Reserved at 14 Ok Reg 2447, eff 6-26-97]

35:15-43-4. Advisors [RESERVED]

[Source: Reserved at 14 Ok Reg 2447, eff 6-26-97]

35:15-43-5. License required [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-6. License application for new facilities or expanding operations [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-7. Application for license renewal [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-8. Issuance, expansion or transfer of license [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-9. Discharge limitations [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-10. Prohibition on unauthorized substances [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-11. Pollution Prevention Plan (PPP) [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-12. Documentation of no hydrologic connection [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-13. Criteria for liners [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-14. Animal Waste Management Plans (AWMPs) [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-15. Responsibilities of operators and employees [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-16. Best Management Practices [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-17. Other statutory authority [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-18. Suspension or revocation of license [RESERVED]

[Source: Reserved at 14 Ok Reg 2447, eff 6-26-97]

35:15-43-19. Receipt and resolution of complaint against license [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-20. Bio-Security [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-21. Penalties [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-22. Closure of animal waste retention structures [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-23. Amendments not applicable to existing facilities [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

35:15-43-24. Severability [RESERVED]

[Source: Reserved at 14 Ok Reg 2447, eff 6-26-97]

35:15-43-25. Codification [RESERVED]

[Source: Reserved at 14 Ok Reg 2447, eff 6-26-97]

35:15-43-26. Repealer [REVOKED]

[Source: Added at 14 Ok Reg 2447, eff 6-26-97 ; Revoked at 15 Ok Reg 91, eff 10-13-97 (emergency); Revoked at 15 Ok Reg 2497, eff 6-25-98]

SUBCHAPTER 44. FARMED CERVIDAE

35:15-44-1. Purpose

The purpose of these rules is to establish procedures and requirements for the licensing of farmed cervidae facilities. These rules shall not apply to any cervidae facilities owned or operated for the purpose of commercial hunting of farmed or captive bred cervidae regulated by the Oklahoma Department of Wildlife Conservation or cervidae facilities owned or operated for the purpose of exhibition of farmed or captive bred cervidae regulated by the United State Department of Agriculture's Animal Care Division.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 30 Ok Reg 788, eff 7-1-13]

35:15-44-2. Definitions [REVOKED]

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Revoked at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-3. Application for license

(a) An application for a farmed cervidae facility shall contain the following complete, accurate, and legible information, in addition to the information required by the Farmed Cervidae Act:

- (1) Email addresses, if available, of the applicant.
- (2) Name, address, telephone number, and email addresses, if available, of the operator, if different from the applicant.
- (3) A list of all names the farmed cervidae facility operates pursuant to, and the address and facility telephone number of each, including but not limited to the Doing Business As (D/B/A), corporate name, or other name. If a corporation, submit the certificate of good standing from the Secretary of State.

(b) The Department shall not issue a license if the applicant had any equivalent license denied, revoked, or suspended by any authority, except in accordance with the provisions of 2 O.S. § 6-514.

(c) The Department may refuse to issue a license for a premises where a previous herd of animals has been infected with a reportable or other disease regulated by the Department.

(d) Using information from the application and from the State's files, the Department shall determine if the proposed facility is adequate and complies with all legal requirements and would not result in harm to native wildlife.

(e) If an applicant is denied a farmed cervidae license, the Department shall notify the applicant in writing by certified mail, return receipt requested, of the denial. The denial shall include the following:

- (1) Reasons for the denial;
- (2) Steps necessary to meet the requirements for a license, if applicable; and
- (3) The opportunity to request an administrative hearing on the denial.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 37 Ok Reg 947, eff 9-14-20]

35:15-44-4. Renewals

(a) Any licensee obtaining a new license issued after January 1 in any calendar year, but prior to June 30, shall be issued a license for the next licensing year.

(b) All inventory information shall be submitted with the renewal application.

- (1) The Department may, on a case by case basis, approve a different date for submission of the renewal application.
- (2) A licensee may request a different date in writing from the Department no later than March 15, and shall provide justification for using a date other than April 1.

(c) Any renewal application postmarked after the renewal date shall be subject to an administrative penalty in addition to the renewal fee, and the late application shall be deemed a violation of the Oklahoma Farmed Cervidae Act.

(d) If an applicant is denied a farmed cervidae license, the Department shall notify the applicant in writing by certified mail, return receipt requested, of the denial. The denial shall include the following:

- (1) Reasons for the denial;
- (2) Steps necessary to meet the requirements for a license, if applicable; and
- (3) The opportunity to request an administrative hearing on the denial.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 29 Ok Reg 1691, eff 8-1-12]

35:15-44-5. Transfers

If an applicant is denied a transfer of a license to a new applicant, the Department shall notify the applicant in writing by certified mail, return receipt requested, of the denial. The denial shall include the following:

- (1) Reasons for the denial;
- (2) Steps necessary to meet the requirements for a transfer of a license, if applicable; and
denial
- (3) The opportunity to request an administrative hearing on the denial.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-6. Record keeping

The following records shall be maintained at the facility:

- (1) Records of all cervidae bought, sold, killed, given away, transported, or shipped, and shall include but not be limited to all natural additions and natural losses.
- (2) The name, telephone numbers and address of any recipient or consignee and the date of any transaction. For intrastate transactions, the licensee shall confirm that the recipient or consignee holds either a valid Oklahoma farmed cervidae license or valid commercial hunting area license, and the animals are identified prior to the transaction.
- (3) Official sales reports shall be made available upon request by an authorized agent of the Board.
- (4) Proof that the purchased cervidae are from a currently licensed farmed cervidae facility or other legal source and are identified prior to addition to the herd.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 29 Ok Reg 1691, eff 8-1-12]

35:15-44-7. Limit on facility size

- (a) Facility size shall be limited to the largest practicable area to ensure no native or wild cervidae are within the confines of the facility. Limitations on facility size may include but not be limited to geography, topography, timber density, and visibility of the property. The Department has the authority to approve, disapprove, or request modifications to the facility.
- (b) No farmed cervidae facility shall share a common fence with any Wildlife Management Area operated by the Oklahoma Department of Wildlife Conservation.
- (c) Each separate location of a farmed cervidae facility that does not share a common fence shall be licensed separately.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10]

35:15-44-8. Fencing and facility requirements

The perimeter of each new farmed cervidae facility shall be an eight (8) foot game or high tensile fence designed in a manner to prevent ingress and egress of cervidae.

- (1) Facilities in operation prior to the effective date of the Oklahoma Farmed Cervidae Act shall maintain fencing sufficient to prevent ingress and egress of cervidae.
- (2) The owner or operator shall install eight (8) foot game or high tensile fence for any new perimeter fencing at a new or existing facility.
- (3) All cervidae shall be provided adequate food, water, and space.
- (4) All cervidae shall be provided adequate natural or manmade shelter to provide shade at all times.
- (5) Pens shall not have excessive standing water, mud, or other pen conditions which negatively impact animal well-being.
- (6) Any licensee that is non-compliant with the aforementioned rules, shall be subject to a review by a committee comprised of a producer from each Oklahoma farmed cervidae organization, the state veterinarian, and the Department farmed cervidae coordinator. The committee's decision shall be implemented by the Department.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 31 Ok Reg 717, eff 9-12-14]

35:15-44-9. Flushing procedures

- (a) Prior to the final enclosure of the farmed cervidae facility, the applicant or licensee shall undertake a flushing procedure to ensure that any native or wild cervidae are not present in the area.
- (b) The flushing procedure shall be performed pursuant to the recommendations of the Oklahoma Department of Wildlife Conservation.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-10. Slaughter requirements

(a) Licensees may slaughter their own farmed cervidae for personal or noncommercial consumption, but in no case shall someone other than the licensee be allowed to kill the farmed cervidae.

(b) Any person holding meat or antlers with attached skull plates from a farmed cervidae facility that obtained it through noncommercial methods shall hold a receipt from the licensee of the farmed cervidae facility for so long as they hold the meat or antlers with attached skull plates.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 31 Ok Reg 717, eff 9-12-14]

35:15-44-11. Transportation permit

A sales report shall be provided to any purchaser or transporter of live cervidae, meat, or antlers with attached skull plates and it shall be kept with the live cervidae, meat, or antlers with attached skull plates at all times.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10]

35:15-44-12. Sale or disposal of hides and antlers

(a) Any licensee of a farmed cervidae facility may sell or dispose of hides and antlers not attached to skull plates at any time.

(b) A licensee shall only sell or dispose of antlers with attached skull plates in the following circumstances:

(1) Each set of antlers with attached skull plate shall be officially identified with sufficient documentation linking it to the farmed cervidae facility or license, including, but not limited to, photographs of the animal, lock on identification tags, DNA testing, or other proof of ownership;

(2) In no case shall any person sell or dispose of antlers with attached skull plates without appropriate documentation.

(3) The licensee shall provide a copy of all appropriate documentation to the purchaser or recipient at the time of sale or disposal.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10]

35:15-44-13. Carcass disposal

(a) Carcass disposal areas shall be located a minimum of thirty (30) feet from any live farmed cervidae.

(b) The owner or operator shall comply with Title 2, Section 2-18.1, Title 21, Sections 1222, 1223, and 1224, and OAC 35:100-13-1 et seq. at all times.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-14. Inspections [REVOKED]

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Revoked at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-15. Complaint and compliance investigations [REVOKED]

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Revoked at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-16. Modify, suspend, cancel, deny, or revoke licenses [REVOKED]

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Revoked at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-17. Closure of the facility [REVOKED]

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Revoked at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-18. Fees

(a) The initial application fee for a farmed cervidae facility shall be Two Hundred Dollars (\$200.00).

(b) The renewal and transfer application fee shall be One Hundred Dollars (\$100.00).

(c) The follow up inspection fee shall be One Hundred Dollars (\$100.00) per inspection. The fee shall be due prior to the Department's follow up inspection.

(d) There shall be no fee for closure inspections unless a follow up closure inspection is required.

(e) Fees shall not be refundable.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11]

35:15-44-19. Entry and export requirements

(a) Import of Cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department. A Cervidae Import Permit shall be valid for

thirty (30) days from approval.

(b) Cervidae susceptible to chronic wasting disease shall only be imported to a premises with a current license.

(c) Cervidae shall have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.

(d) The State Veterinarian or designee may require a brucellosis test of any Cervidae subject to the provisions of this subchapter.

(e) All Cervidae shall meet the tuberculosis testing provisions found at 9 CFR Part 77 (2021 Revision).

(f) All Cervidae susceptible to chronic wasting disease, within the genera *Odocoileus*, *Cervus*, and *Alces* and their hybrids, shall originate from a chronic wasting disease certified herd that is more than twenty-five (25) miles from the nearest case of confirmed chronic wasting disease in native Cervidae populations.

(g) For the purposes of this section, all Cervidae that have not been tested and found to be resistant to chronic wasting disease through natural exposure in research projects shall be considered Cervidae susceptible to chronic wasting disease.

[Source: Added at 24 Ok Reg 373, eff 11-29-06 (emergency); Added at 24 Ok Reg 1759, eff 6-25-07 ; Amended at 27 Ok Reg 1108, eff 7-1-10 ; Amended at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 36 Ok Reg 1357, eff 9-14-19 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Amended at 40 Ok Reg 1501, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-44-20. Animal identification requirements

(a) All cervids twelve (12) months or older shall be individually identified by at least one form of identification approved by the Department. There shall be no duplicate tags containing the same number and color within a breeding herd. Non-breeding male harvest animals that are natural additions and do not participate in any disease monitoring programs shall be exempt from this identification requirement.

(b) All cervids of any age shall be individually identified by at least one form of identification approved by the Department prior to movement from the original herd premises unless being moved directly to a licensed commercial harvest facility.

(c) The removal of an official identification device is prohibited except at the time of slaughter, at any other location upon death of the animal, or as otherwise approved by the State Veterinarian.

(d) An unofficial identification device may be removed prior to release of an animal in a harvest facility.

[Source: Reserved at 24 Ok Reg 373, eff 11-29-06 (emergency); Reserved at 24 Ok Reg 1759, eff 6-25-07 ; Added at 28 Ok Reg 2177, eff 7-25-11 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 40 Ok Reg 1501, eff 9-11-23]

35:15-44-21. Registration of Exotic Cervidae Species

Any person owning, maintaining, or possessing any species in the cervidae family, other than whitetail deer, mule deer, elk, and red deer shall submit a registration form to the Department. This form shall contain the owner's contact information, species owned, and location of

the animals. Facility licensing shall not be required of these species. Any person or facility already licensed by the Department, the Oklahoma Department of Wildlife Conservation, or Animal Care Division of the United States Department of Agriculture shall be exempt from registration.

[Source: Added at 31 Ok Reg 717, eff 9-12-14]

SUBCHAPTER 45. BRUCELLOSIS IN CERVIDAE

PART 1. DEFINITIONS

35:15-45-1. Definitions

The following words or terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Accredited veterinarian" means a veterinarian licensed by the Oklahoma Board of Veterinary Medical Samplers and approved by the Deputy Administrator of Veterinary Services (VS), Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), in accordance with provisions of Title 9, Code of Federal Regulations (CFR), Part 161, to perform certain functions of Federal and cooperative State-Federal animal disease control programs.

"Adjacent herd" means a herd of Cervidae, cattle, bison, and/or other hoofed livestock susceptible to *Brucella* occupying a premises that borders or is within at least one (1) mile of an affected herd, including herds separated by roads or streams, prominent geographical features, or occupying a premises that was previously occupied by an affected herd within a period of time determined by the designated brucellosis epidemiologist.

"Affected herd" means a herd in which any animal has been classified as a brucellosis reactor and which has not completed the required tests prescribed by this Subchapter for release from quarantine.

"Animals" means Cervidae, cattle, bison or other hoofed livestock that are susceptible to *Brucella*.

"Approved laboratory" means a State or Federal veterinary diagnostic laboratory for brucellosis testing that must be approved by USDA, APHIS, VS, and the State animal health official.

"Approved quarantine facility" means a confined facility that is designated to control the movement of free-roaming cattle, bison, or Cervidae until such time as each animal held in the facility has been determined by the designated brucellosis epidemiologist to be free of brucellosis or has been moved to slaughter.

"Area Veterinarian in Charge (AVIC)" means the official of VS, APHIS, USDA, who is assigned by the VS Deputy Administrator to supervise and perform the official animal health work of APHIS in the State.

"Authorized agent" means the State animal health official or any person designated as an authorized agent by the Oklahoma Board of Agriculture.

"Brucellosis" means an infectious disease of animals and humans caused by bacteria of the genus *Brucella*.

"Brucellosis-exposed animals" means animals, other than reactors, that are either part of an affected herd, or for which an epidemiological investigation indicates contact with brucellosis reactors.

"Brucellosis-Monitored cervid herd" means a herd raised under range conditions in which sufficient numbers of sexually intact animals of test-eligible age and older have been tested to provide a 95-percent probability of detecting a 2-percent brucellosis prevalence in the herd.

"Brucellosis-negative animal" means an animal for which laboratory test results fail to disclose evidence of *Brucella* infection.

"Brucellosis reactor" means an animal diagnosed as infected with *Brucella* based on laboratory results, clinical signs, and/or epidemiological investigation.

"Brucellosis suspect" means an animal for which laboratory test results are inconclusive but suggest *Brucella* infection.

"Certificate" means an official document issued by a State or Federal animal health official or an accredited veterinarian at the point of origin of an animal movement. It provides information on the individual identification of the animals, the number of animals covered by the document, test results, the purpose of the movement, the points of origin and destination, the consignor and the consignee.

"Certified Brucellosis-Free cervid herd" means a herd of Cervidae that has qualified for and has been issued a Certified Brucellosis-Free cervid herd certificate signed by both the State animal health official and the APHIS AVIC.

"Cervidae" means deer, elk, moose, caribou and related species in the Cervidae family, raised under confinement or agricultural conditions for the production of meat, agricultural products, for sport or exhibition, and free-ranging Cervidae when captured for any purpose.

"Cervid herd" means a herd that contains one or more animals of any cervid species.

"Cervid surveillance identification (CSI) program" means a brucellosis surveillance program requiring proper identification and blood testing of test-eligible animals moving intrastate, to auction markets, or to slaughter.

"Chief Staff Veterinarian, National Animal Health Programs" means the veterinarian in VS, APHIS, USDA, who is responsible for staff and field support of Federal activities associated with the Cooperative State-Federal Cervid Brucellosis Program.

"Cooperative State-Federal cervid brucellosis program" means the Brucellosis Program or simply the Program, administered under a memorandum of understanding between the Oklahoma Department of Agriculture (ODA) and USDA. This Program includes all of the activities associated with detecting, controlling and eliminating brucellosis from Cervidae in the United States. The minimum standards for operating a Cooperative State-Federal Cervidae Brucellosis Eradication Program within Oklahoma are contained in this Subchapter and the APHIS publication (91-45-12), "Brucellosis in Cervidae: Uniform Methods and Rules" (UM&R), as amended.

"Designated brucellosis epidemiologist" means a State or Federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under this Subchapter and the UM&R and who has been selected by the State animal health official and the APHIS AVIC. The VS regional brucellosis epidemiologist and the VS national brucellosis epidemiologist of the National Animal Health Programs staff must also concur with the selection before the individual is approved.

"Deputy Administrator" means the Deputy Administrator of VS, APHIS, USDA, or any other VS official to whom appropriate authority has been delegated.

"Herd" means a group of animals maintained on common ground or a group of animals geographically separated but under common ownership or supervision. It will be assumed that contact between animals has occurred unless the owner establishes otherwise and the results of the epidemiological investigation are consistent with the lack of contact between premises.

"Herd test" means an official brucellosis blood test of all test-eligible animals in a herd.

"Herd of origin" means a herd, or any farm or other premises, where an animal was born or kept for at least four (4) months before shipping. For the purposes of this Subchapter, herd of origin has the same meaning as place of origin, premises of origin and farm of origin.

"Individual herd plan" means a herd-management and testing agreement designed by the herd owner, the owner's veterinarian if requested, and a State or Federal veterinarian, to identify and eradicate brucellosis from an affected, adjacent or epidemiologically traced herd.

"Natural additions" means animals born and raised in a herd.

"Official cervid identification" means a VS-approved eartag or other VS-approved identification device that conforms to the alphanumeric National Uniform Eartagging System and uniquely and permanently identifies the animal. All official identification is to be placed in the right ear unless otherwise specified by the State animal health official.

"Official test" means any serologic or bacteriologic test, which is recognized by and listed in the USDA Uniform Methods and Rules of Brucellosis in Cervidae and/or the Code of Federal Regulations (CFR). All tests must be confirmed in an official State-Federal laboratory to support the classification of Cervidae as brucellosis-negative, suspect or reactor.

"Onsite test" means blood testing under field conditions to provisionally classify animals as brucellosis-negative, suspect or reactor. It may serve as a supplement to approved tests in classifying brucellosis suspects and reactors.

"Permit" means an official document issued by a State or Federal animal health official or an accredited veterinarian for movement of reactor, suspect and exposed animals (does not include entry permits).

"Quarantine" means a written notice or order issued by an authorized agent of the Oklahoma Board of Agriculture showing the boundaries of the area or premise affected, the animals restricted, and the conditions. No animals' held under quarantine may be moved or released until a written permit or quarantine release signed by an

authorized agent has been executed.

"State" means any State of the United States, the District of Columbia, Puerto Rico, The U.S. Virgin Islands or Guam.

"State animal health official" means the State official responsible for animal disease control and eradication programs.

"Test-eligible animal" means those animals meeting the age requirements for testing as described in the Brucellosis in Cervidae: Uniform Methods and Rules, as amended.

"Traceback" means the process of identifying the herd of origin of CSI reactors, including herds that were sold for slaughter.

"Veterinary Services (VS)" means the division of USDA's Animal and Plant Health Inspection Service that directs Federal animal health programs within the United States.

"VS Regional Epidemiologist" means a Federal veterinarian with USDA, APHIS, VS, who is assigned to supervise the Program in all States within a VS region.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 3. RULES ADOPTED FROM USDA UNIFORM METHODS AND RULES FOR BRUCELLOSIS IN CERVIDAE

35:15-45-31. Supervision of the cervid brucellosis program

Full-time animal health veterinarians employed by the State or Federal Government will provide routine supervision.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-32. Entering premises

Any authorized agent of the Oklahoma Board of Agriculture may enter any premise to carry out Program activities. While on those premises, they must use appropriate sanitary procedures to minimize the risk of disease transmission to other premises.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-33. Providing services to herd owners

Program services may be rendered without expense to the herd owner; however, owners are responsible for assembling, handling and restraining animals.

35:15-45-34. Reporting brucellosis activities

All brucellosis activities that are conducted privately, or under agreements with Program officials—such as performing vaccinations or serologic tests for brucellosis—must be reported immediately to cooperating agencies and to the herd owner.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-35. Notifying the community about affected herds

Program officials will notify animal owners within a radius determined by the designated brucellosis epidemiologist when any herd is placed under quarantine for brucellosis. Owners shall be notified by letter within 30 days of the quarantine date.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-36. Appointing designated brucellosis epidemiologists

A designated brucellosis epidemiologist will be selected by the State animal health official and the APHIS AVIC and approved by the VS regional epidemiologist and the VS national brucellosis epidemiologist of the National Animal Health Programs staff. Only persons with the prerequisite brucellosis epidemiology training, experience and interest will be approved.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

**35:15-45-37. Testing requirements for change of ownership
[REVOKED]**

[Source: Added at 16 Ok Reg 2112, eff 6-25-99 ; Revoked at 29 Ok Reg 1691, eff 8-1-12]

35:15-45-38. Intrastate movement

No Cervidae with a response to an official brucellosis test is eligible for intrastate movement unless said Cervidae are subsequently classified "negative for brucellosis" based on an official supplemental test or meet the requirements for movement in 35:15-45-113.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-39. Identifying tested animals

All animals tested must be officially identified at the time of blood collection.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99 ; Amended at 29 Ok Reg 1691, eff 8-1-12]

35:15-45-40. Test records

Brucellosis test records must be completed on each animal blood-sampled for brucellosis and sent with the sample to the approved laboratory. The records must individually identify each animal, its location, the name and address of the owner and its sex, age and vaccination status.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 5. DIAGNOSTIC PROCEDURES

35:15-45-51. Diagnostic reagents

Brucella antigens used for diagnosing or detecting brucellosis will be distributed only to State and Federal animal health officials or to accredited veterinarians who have been approved by State and Federal Program officials to conduct brucellosis testing.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-52. Laboratories

Test results must be reported to State and Federal animal health officials. Those tests which are listed in the UM&R and/or the CFR as official tests for Cervidae will be designated as the official brucellosis laboratory tests in Cervidae. Laboratories must be able to isolate *Brucella* from milk, blood and tissues, or have procedures in place for forwarding these samples to another approved laboratory for *Brucella* isolation.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-53. Onsite testing

- (a) Persons authorized to conduct approved laboratory tests may test samples for brucellosis outside of approved laboratories.
- (b) A cervid will be provisionally classified as negative, suspect or reactor based on the results of onsite testing. However, all samples must be promptly submitted to the official State or Regional brucellosis laboratory for confirmation.
- (c) Animals that have been provisionally classified as brucellosis reactors or suspects or that have been exposed to those animals must not be moved until test confirmation is received. All herds in which reactor animals are disclosed shall be quarantined.
- (d) Authorized persons conducting onsite tests will be continually monitored by the confirming approved laboratory and formally evaluated annually by the designated brucellosis epidemiologist.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-54. Serological classification

- (a) Animals are classified as negative, suspect or reactor based in part on their serologic test results, using the criteria listed in the UM&R for Brucellosis in Cervidae and the CFR for evaluation of titer response.
- (b) The designated brucellosis epidemiologist must evaluate titer responses for all animals. The designated brucellosis epidemiologist must take into consideration the animal and herd history and other epidemiological factors. The epidemiologist has the authority to deviate from the reactor criteria but must document the reasons for doing so. Animals that test positive for brucellosis during tests for intrastate

movement, change of ownership or at auctions will be quarantined until confirmation is received.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-55. Other diagnostic tests

Infection with Brucella may also be identified or confirmed in an approved laboratory by bacteriologic cultivation and isolation of Brucella from tissues, secretions or excretions.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-56. Other supplemental tests

Supplemental tests are other tests that have been developed to aid in determining the presence of Brucella. These tests may be added as USDA, APHIS validates them for use in Cervidae.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 7. EPIDEMIOLOGIC PROCEDURES

35:15-45-71. Responsibilities of a designated brucellosis epidemiologist

(a) The designated brucellosis epidemiologist is responsible for test interpretation and classification. To evaluate the titer responses for all Cervidae, taking into consideration the animal and herd history and other epidemiological factors affecting the classification. The epidemiologist has the authority to deviate from standard classifications when epidemiological investigation supports such action. To determine the final classification of Cervidae that were initially classified as reactors, following a complete epidemiological investigation of the herd. To evaluate test results on CSI suspects that were returned to the herd of origin under quarantine.

(b) The designated brucellosis epidemiologist is responsible for epidemiological investigation and evaluation to determine appropriate activities in adjacent herds and other herds having contact or exchanges with an affected herd.

(c) The designated brucellosis epidemiologist is responsible for the approval of individual herd plans.

(d) The designated brucellosis epidemiologist is responsible for the continued surveillance of suspicious herds where an initial herd blood test was negative but further evaluation is indicated.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-72. Traceback of CSI test reactors

All CSI reactors and exposed animals will be traced back to the herd(s) of origin. A traceback can be considered successful when all

possible herds of origin are located and the herds are tested when necessary. All sales of herds and animals to slaughter must be verified.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-73. Investigation following CSI traceback

(a) All herds of origin will be investigated. If investigation suggests infection, the herd will be quarantined, and a negative herd test will be required before the quarantine can be released. If herd testing results in classification as an affected herd by the designated brucellosis epidemiologist, the provisions of 35:15-45-92 will apply. When a herd blood test is not performed, a State or Federal animal health representative will prepare a statement indicating that the findings of the epidemiological investigation were discussed with the owner or the owner's representative and will include a list of the reasons the herd was not tested.

(b) All adjacent herds and other herds having contact or exchanges with an affected herd will be identified and investigated. Herd testing will take place and individual herd plans developed as required by the designated brucellosis epidemiologist.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 9. AFFECTED HERD PROCEDURES

35:15-45-91. Quarantine

All sexually intact animals in an affected herd are considered brucellosis exposed and must be confined under quarantine until they meet the requirements for quarantine release. Quarantined exposed animals may only move directly to slaughter or to an approved quarantine facility. Such movement must be made under permit in a sealed vehicle, as described in 35:15-45-113, or a vehicle accompanied by a State or Federal animal health official. Attempts will be made to collect tissues from slaughtered animals for *Brucella* culturing.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-92. Testing and quarantine release

(a) Retesting of all sexually intact test-eligible animals must begin 30 days after all reactors have been removed from the herd or as specified in the herd plan. When reactors are discovered, testing must be conducted at 30-day intervals or at intervals specified in the individual herd plan.

(b) A minimum of two consecutive negative herd tests is required for release from quarantine. The first negative test must occur not less than 30 days after the last reactor has been removed. The second negative test must occur not less than 180 days after the last reactor has been removed.

(c) A post-quarantine test must take place not less than 6 nor more than 12 months after release from quarantine.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-93. Calves or fawns from affected herds

- (a) All calves and fawns in an affected herd are included under the herd quarantine restrictions.
- (b) Females removed from the adult herd must remain under quarantine and be held apart from the adult herd, separated by at least two fences, until negative results are obtained on an approved test following parturition.
- (c) Female calves remaining in the adult herd during the time the herd was affected must have given birth; thereafter, the entire herd must test negative for brucellosis after the last such female has calved before the quarantine can be released.
- (d) Males must test negative after reaching one (1) year of age.
- (e) Neutered calves are not subject to any quarantine restrictions.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-94. Individual herd plan

- (a) The herd owner, the owner's veterinarian if requested, and a veterinarian of the Cooperative State-Federal Cervid Brucellosis Program will develop a plan to eradicate and monitor brucellosis in each affected herd. The plan must be finalized within 30 days of determination that the herd is affected.
- (b) The herd plan must address herd management, testing and isolation of females during calving. The plan must be formalized as a memorandum of agreement between the owner and Program officials and must be approved by the designated brucellosis epidemiologist. A critical review and evaluation of the plan will occur at periodic intervals established by the epidemiologist.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-95. Retesting reactors

The owner may request an additional blood test of reactors, at his or her expense, within three (3) days after being notified of the initial blood test results. Samples must be collected and submitted to the original testing laboratory by a Program official. All sexually intact animals must remain under herd quarantine until test results are classified.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-96. Herd depopulation

Herd depopulation will be utilized in affected herds when and if funds are available for indemnity.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-97. Cleaning and disinfection

Premises must be cleaned and disinfected under State or Federal supervision within 15 days after reactors have been removed for slaughter.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 11. ANIMAL MOVEMENT

35:15-45-111. Interstate movement

(a) Intrastate and interstate movement may only occur from herds not under quarantine for brucellosis or herds not known to be affected with brucellosis.

(b) A certificate shall accompany all animals moving interstate.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99 ; Amended at 28 Ok Reg 2191, eff 7-25-11 ; Amended at 36 Ok Reg 1357, eff 9-14-19]

35:15-45-112. Movement to slaughter

All sexually intact animals 6 months of age or older must be tested for brucellosis when slaughtered in State or USDA-approved slaughter establishments.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-113. Movement from a quarantined herd or premises

- (a) Reactors, suspects and exposed animals may move from a quarantined herd or premises under permit directly to slaughter or to an official quarantine facility.
- (b) Reactors must remain on the premises where they are found until they have been identified by hot iron branding with the letter "B" (at least 2 × 2 inches) on the left hip and an official reactor tag has been placed in the left ear.
- (c) Suspects must remain on the premises where they are found until they have been identified by hot iron branding with the letter "S" (at least 2 × 2 inches) on the left hip and an official eartag has been placed in the right ear.
- (d) Exposed animals must remain on the premises where they are found until they have been identified by hot iron branding with the letter "S" (at least 2 × 2 inches) on the left hip and an official eartag has been placed in the right ear.
- (e) In lieu of tagging and branding, reactor, suspect and exposed animals may move directly to slaughter in a sealed vehicle, accompanied by a State or Federal animal health official.
- (f) Calves or fawns may move from a quarantined herd or premises only after neutering or "S" branding, or directly to slaughter under seal.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-114. Permits

- (a) Reactors, suspects and exposed animals can move only as described in 35:15-45-113. A State or Federal animal health official or accredited veterinarian must prepare official documentation permitting the movement. A copy of the permit must be immediately sent to the State animal health official in the State of destination.
- (b) The permit must include the owner's name and address, the point(s) of origin and destination, the number and type of animals moved, the purpose for which the animals are to be moved, the individual animal's identification and the official seal numbers.
- (c) Official seals must be placed on transport vehicles moving unbranded suspects or exposed animals. Seals will be applied at the point of origin and broken at destination by State or Federal animal health officials or an accredited veterinarian.
- (d) Prior to movement, authorization must be obtained from the State animal health official in the State of destination. The permit number must be recorded on the health certificate, and the permit will state the conditions under which the movement may be made. These conditions may be in addition to the requirements in the UM&R and the Code of Federal Regulations.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

PART 13. CERTIFIED BRUCELLOSIS-FREE CERVID HERDS

35:15-45-131. Qualifying methods

(a) Certified Brucellosis-Free cervid herd status shall include all test-eligible animals in the herd. A certified herd may be purchased or a herd may qualify for Certified Brucellosis-Free cervid herd status by complete herd testing.

(b) For initial certification, all sexually intact test-eligible cervids in the herd shall have two consecutive negative tests for brucellosis not less than nine (9) nor more than fifteen (15) months apart.

(c) A herd test is not required if the purchased animals remain on the same premises. Upon request and with proof of purchase, a new certificate may be issued in the new owner's name. The anniversary date and the herd number remain the same.

(d) If part or all of the purchased herd is moved directly to premises that have no other animals, the herd may retain Certified Brucellosis-Free cervid herd status without a test. The anniversary date of the new herd is the test date of the most recent complete herd test.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99 ; Amended at 24 Ok Reg 809, eff 3-15-07 (emergency); Amended at 25 Ok Reg 1039, eff 7-1-08]

35:15-45-132. Conditions

(a) A herd is certified for thirty-six (36) months from the date of the initial certification or recertification by the Department.

(b) For recertification, all animals twelve (12) months of age or older in the herd shall have a negative test for brucellosis between dates specified by the Department. If suspects or reactors are found on recertification testing, certification status shall be terminated and a herd investigation initiated.

(c) Animals purchased from cervid herds not Certified Brucellosis-Free shall not be considered part of the certified herd until two (2) blood tests have been conducted. The first test shall occur within thirty (30) days prior to movement from the herd of origin and the second test between sixty (60) and one hundred eighty (180) days after addition to the Certified Brucellosis-Free cervid herd.

(d) If a herd consists of both cattle and Cervidae, the requirements for herd certification shall be consistent with those for cattle as described in 35:15-17-64 through 35:15-17-66.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99 ; Amended at 24 Ok Reg 809, eff 3-15-07 (emergency); Amended at 25 Ok Reg 1039, eff 7-1-08 ; Amended at 29 Ok Reg 1691, eff 8-1-12]

PART 15. BRUCELLOSIS MONITORED CERVID HERD

35:15-45-151. Qualifying methods

(a) The cooperating State and Federal animal health officials will approve monitored herd status.

(b) For initial testing, a percentage of the sexually intact test-eligible animals in the herd shall be tested for brucellosis at an approved laboratory. This sample must be of sufficient size to detect a 2-percent

prevalence of brucellosis in the herd at a 95-percent confidence level. Samples may be collected on the premises or at slaughter. The number of animals sampled for a given herd size are listed below:

- (1) For a herd size of 50, sample 48 animals.
- (2) For a herd size of 100, sample 77 animals.
- (3) For a herd size of 150, sample 94 animals.
- (4) For a herd size of 200, sample 105 animals.
- (5) For a herd size of 300, sample 117 animals.
- (6) For a herd size of 400, sample 124 animals.
- (7) For a herd size of 500, sample 128 animals.
- (8) For a herd size of 600, sample 131 animals.
- (9) For a herd size of 800, sample 135 animals.
- (10) For a herd size of 1000, sample 138 animals.
- (11) For a herd size of 1200, sample 139 animals.
- (12) For a herd size of 1400, sample 141 animals.
- (13) For a herd size of 1600, sample 142 animals.
- (14) For a herd size of 1800, sample 142 animals.
- (15) For a herd size of 2000, sample 145 animals.
- (16) For a herd size of 2500, sample 144 animals.
- (17) For a herd size of 3000, sample 145 animals.
- (18) For a herd size of 4000, sample 146 animals.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

35:15-45-152. Conditions

- (a) Monitored status will be official for a 12-month period.
- (b) A sample of the sexually intact test-eligible animals that is equal to not less than 25-percent of the initial sample size must be tested annually. During any 3-year period, the number of animals tested must equal 100-percent of the initial sample tested to qualify for monitored status.
- (c) Animals originating from a Certified Brucellosis-Free cervid herd may be added to a Monitored herd without testing restrictions.
- (d) Animals originating from other Monitored herds must test negative to an official brucellosis test within 90 days prior to movement into a new Monitored herd.
- (e) Animals originating from sources other than Certified or Monitored herds must have three (3) negative tests. All additions must test negative for brucellosis on two (2) tests at least 90 days apart. The second test must be within 90 days prior to movement from the herd of origin. A third test must be conducted at least 90 days following movement into the Monitored herd.
- (f) The State animal health official and the APHIS AVIC will issue a Brucellosis-Monitored cervid herd certificate when the herd first qualifies. For recertification, the State animal health official will issue a renewal form, which must also be approved by the APHIS AVIC.

[Source: Added at 16 Ok Reg 2112, eff 6-25-99]

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS

PART 1. GENERAL

35:15-47-1. Purpose

35:15-47-1.¹ Purpose

The chronic wasting disease (CWD) herd certification program for cervidae provides a surveillance and certification system for cervidae breeders. The program allows for the continued marketing and movement of cervidae while maintaining a mechanism that assures breeders, buyers, and sellers that cervidae are monitored in a manner consistent with national program standards.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03]

Editor's Note: ¹*On 4-13-01, the agency promulgated an emergency action reserving another rule at this number (35:15-47-1), creating a duplication in numbering. [See 18 Ok Reg 2305] The number was later changed to an unused Section number (35:15-48-1) in the permanent action that superseded the emergency action on 5-13-02. [See 19 Ok Reg 948]*

35:15-47-2. Definitions

35:15-47-2.¹ Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Affected herd" means a herd of cervidae that contains or has contained one or more animals infected with chronic wasting disease.

"Certified CWD sample collector" means an individual who has completed appropriate training recognized by the Department on the collection and preservation of samples for CWD testing and on proper record keeping, and who has been certified to perform these activities by the Department.

"Cervidae" means, for the purposes of this Subchapter only, white-tail deer, black-tail deer, mule deer, red deer (European elk), and elk but does not include members of the cervidae family that are not susceptible to CWD.

"Herd" means one or more cervidae maintained on common ground and includes all cervidae under single or multiple ownership or supervision that are geographically separated but can have an interchange of cervidae between the groups.

"Herd plan" means a herd management and testing agreement developed by state and federal animal health officials in conjunction with the herd owner. A herd plan shall be valid only upon approval by the State Veterinarian.

"Suspect animal" means a cervid that displays clinical signs suggestive of CWD, including but not limited to, weight loss, poor condition, drooling, behavioral abnormalities, incoordination, weakness, or recumbency.

[Source: Reserved at 18 Ok Reg 635, eff 1-24-01 (emergency); Reserved at 18 Ok Reg 1020, eff 5-11-01 ; Added at 20 Ok Reg 797, eff 5-12-03 ; Amended at 23 Ok Reg 2144, eff 6-25-06 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

Editor's Note: ¹On 4-13-01, the agency promulgated an emergency action reserving another rule at this number (35:15-47-2), creating a duplication in numbering. [See 18 Ok Reg 2305] The number was later changed to an unused Section number (35:15-48-2) in the permanent action that superseded the emergency action on 5-13-02. [See 19 Ok Reg 948]

35:15-47-3. Commercial feed prohibition [SUPERSEDED]
35:15-47-3.¹ Commercial feed prohibition [SUPERSEDED]

[Source: Added at 18 Ok Reg 2305, eff 4-13-01 (emergency)¹]

Editor's Note: ¹On 5-13-02, this emergency rule was superseded by a permanent rule numbered at 35:15-48-3.

PART 3. HERD CERTIFICATION STANDARDS

35:15-47-6. Minimum requirements for herd certification

- (a) Regulations of the United States Department of Agriculture concerning the control of CWD found at 9 CFR Part 55 (2017 Revision) are adopted by reference.
- (b) The Board shall issue a quarantine on any herd that contained a CWD positive cervid. The quarantined herd shall not participate in the herd certification program until all herd plan requirements are completed.
- (c) All deaths of cervids twelve (12) months of age or older, regardless of cause of death, shall have the obex and medial retropharyngeal lymph nodes sampled and submitted to an approved laboratory by a certified CWD sample collector. CWD sample collectors shall submit written test results to the Department within seven (7) days after receiving said test results from the laboratory.
- (d) If eligible animal deaths are not tested due to a missed sample, improper sample, or untestable sample, status shall be suspended. Status may be maintained by:
- (1) An additional live animal over twelve (12) months of age may be sacrificed for sampling; or
 - (2) Antemortem tests as described in USDA's CWD Program Standards may be conducted.
- (e) Freezing animal heads or other acts that delay or inhibit quality sampling and testing may result in the suspension, decrease, or loss of

CWD status.

(f) The State Veterinarian may relax the minimum requirements for herd certification for extraordinary circumstances.

(g) Herd owners shall report any animals displaying clinical signs of CWD, which may include but are not limited to, weight loss, behavioral changes, excessive salivation, increased drinking and urination, and depression.

(h) Herd owners shall complete an annual herd inventory with an approved veterinarian during the dates assigned by the Department.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04 ; Amended at 23 Ok Reg 105, eff 10-3-05 (emergency); Amended at 23 Ok Reg 2164, eff 6-25-06 ; Amended at 29 Ok Reg 1691, eff 8-1-12 ; Amended at 30 Ok Reg 788, eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 33 Ok Reg 1150, eff 9-11-16 ; Amended at 34 Ok Reg 799, eff 9-11-17 ; Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

PART 5. DISPOSITION OF POSITIVE AND TRACE HERDS

35:15-47-10. Herd plans

State and federal animal health officials and the herd owner shall develop a herd plan approved by the State Veterinarian.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03]

35:15-47-11. Disposition of positive herds

(a) A CWD positive herd shall be depopulated.

(b) After depopulation of a CWD positive herd, the herd owner may repopulate the premise with new cervidae only pursuant to herd plan requirements.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 38 Ok Reg 1638, eff 9-11-21]

35:15-47-12. Types of trace herds

(a) A trace-forward herd is any herd that received cervidae from an affected herd up to sixty (60) months prior to the death of the affected cervid.

(b) A trace-back herd is any herd where an affected cervid resided up to sixty (60) months prior to death.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04]

35:15-47-13. Herd plans for trace-forward herds

(a) In trace-forward herds, the trace-forward cervid shall be removed and tested for CWD.

- (b) If the cervid tests positive, the trace-forward herd is deemed positive and shall be depopulated.
- (c) If the cervid tests negative, the herd owner shall either enter the trace-forward herd in the CWD herd certification program for a minimum of three (3) years or shall complete the following requirements:
- (1) A state or federal animal health official shall inspect the trace-forward herd, and all suspect and high risk cervidae shall be removed and tested for CWD;
 - (2) The trace-forward herd shall be quarantined for at least five (5) years from the date the trace-forward cervid was removed from the herd; and
 - (3) The herd owner shall report and CWD test all cervidae that die during the quarantine.
- (d) The requirements of (a) and (c) may be altered by the State Veterinarian if epidemiology supports the decision.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04]

35:15-47-14. Herd plans for trace-back herds

- (a) A state or federal animal health official shall inspect the trace-back herd, and all suspect and high risk cervidae shall be removed and tested for CWD.
- (b) A state, federal, or accredited veterinarian shall perform a herd inventory for the trace-back herd. The inventory shall identify each cervid on the premises and shall be verified annually.
- (c) The trace-back herd shall be quarantined for at least five (5) years from the date the trace-back cervid was removed from the herd. The term of the quarantine may be altered by the State Veterinarian if epidemiology indicates that the CWD in the trace-back cervid did not originate in the trace-back herd.
- (d) Herd owners shall report and CWD test all cervidae that die during the quarantine.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04]

PART 7. INTERSTATE MOVEMENT REQUIREMENTS

35:15-47-18. Minimum CWD requirements for interstate movement of cervids

- (a) Regulations of the United States Department of Agriculture concerning the interstate movement of cervidae found at 9 CFR Part 81 are adopted by reference.
- (b) Caribou and Reindeer shall meet all interstate movement regulations that apply to cervidae found at 9 CFR Part 81.

[Source: Added at 18 Ok Reg 635, eff 1-24-01 (emergency); Added at 18 Ok Reg 1020, eff 5-11-01 ; Amended at 20 Ok Reg 797, eff 5-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04 ; Amended at 23 Ok Reg 105, eff 10-3-05 (emergency); Amended at 23 Ok Reg 2164, eff 6-25-06 ; Amended at 30 Ok Reg 788,

eff 7-1-13 ; Amended at 31 Ok Reg 717, eff 9-12-14 ; Amended at 32 Ok Reg 1521, eff 9-11-15 ; Amended at 37 Ok Reg 947, eff 9-14-20 ; Amended at 38 Ok Reg 1638, eff 9-11-21 ; Amended at 39 Ok Reg 788, eff 9-12-22 ; Amended at 40 Ok Reg 1501, eff 9-11-23]

35:15-47-19. Disposition of cervidae unlawfully imported into the state

(a) Any person importing cervidae into the state in violation of any importation requirements may be subject to a penalty and shall quarantine or remove the cervidae in one of the following manners:

(1) The person may return the cervidae to the state of origin. If the unlawfully imported cervidae came into contact with other captive cervidae, then the owner of the legal captive cervidae shall enroll the herd in the state CWD program for a minimum of five (5) years at their own expense.

(2) The person's premises and all cervidae on the premises may be placed under a state quarantine issued by the state veterinarian for five (5) years with mandatory participation in the state's CWD surveillance program at the person's expense. In the event CWD is detected, the person shall depopulate the herd through approved USDA standards and methods and shall not be eligible to receive indemnification from the state.

(3) The person may destroy the unlawfully imported cervidae on the premises by approved USDA standards and methods with CWD surveillance and testing of the imported cervidae and enroll any remaining cervidae that had contact with the destroyed cervidae in the state CWD program for a minimum of five (5) years at the person's own expense.

(4) The above conditions can be altered by the State Veterinarian if it is determined the cervidae entered Oklahoma on a Certificate of Veterinary Inspection issued by a veterinarian accredited in the state of origin and if epidemiology supports the decision.

(b) In the event the unlawfully imported cervidae or any cervidae exposed to the unlawfully imported cervidae are destroyed or disposed by the state for any reason, the person responsible for the unlawful importation of the cervidae shall be responsible for full reimbursement to the state for all costs and expenses and in no case shall the person be eligible to receive indemnification from the state.

[Source: Added at 20 Ok Reg 373, eff 1-2-03 (emergency); Added at 20 Ok Reg 1532, eff 6-12-03 ; Amended at 21 Ok Reg 746, eff 4-26-04]

SUBCHAPTER 48. COMMERCIAL FEED PROHIBITION

Editor's Note: ¹*In an emergency action that became effective 4-13-01, this Subchapter was numbered as Subchapter 47, and Sections 35:15-48-1 through 35:15-48-3 were numbered as 35:15-47-1 through 35:15-47-3, creating a duplication in numbering [see 18 Ok Reg 2305]. In the permanent action that superseded the emergency action on 5-13-02, the Subchapter 47 numbers were changed to unused numbers in a new Subchapter 48.*

35:15-48-1. [RESERVED]

[Source: Reserved as 35:15-47-1 at 18 Ok Reg 2305, eff 4-13-01 (emergency); Reserved at 19 Ok Reg 948, eff 5-13-02]

35:15-48-2. [RESERVED]

[Source: Reserved as 35:15-47-2 at 18 Ok Reg 2305, eff 4-13-01 (emergency); Reserved at 19 Ok Reg 948, eff 5-13-02]

35:15-48-3. Commercial feed prohibition

Only products labeled as intended for cattle or other ruminants shall be fed to cattle or other ruminants. Any commercial feeds, as defined by Title 2 O.S. § 8-41.3 of the Oklahoma Commercial Feed Law, which are fed to cattle or other ruminants shall be in compliance with the provisions of 21 C.F.R. § 589.2000 of the Code of Federal Regulations relating to prohibited ingredients. This provision shall prohibit the feeding of commercial feeds, including pet foods, intended for other species to cattle or other ruminants.

[Source: Added as 35:15-47-3 at 18 Ok Reg 2305, eff 4-13-01 (emergency); Added at 19 Ok Reg 948, eff 5-13-02]

SUBCHAPTER 49. MISCELLANEOUS ANIMAL DISEASES

35:15-49-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Exotic Swine" means swine of the family Suidae, not including swine in the genus sus.

"Malignant catarrhal fever" means alcelaphine herpesvirus-1 (AHV-1), carried asymptotically by wildebeest.

"Movement" or **"move"** means any transfer of wildebeest from one location to another, and shall include interstate transfer, intrastate transfer, and export.

"Wildebeest" means the animals known as genus Connochaetes, including both blue and black wildebeest.

[Source: Added at 25 Ok Reg 2613, eff 6-10-08 (emergency); Added at 26 Ok Reg 1383, eff 7-1-09 ; Amended at 34 Ok Reg 591, eff 7-3-17 (emergency); Amended at 35 Ok Reg 751, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:15-49-2. Movement of wildebeest

(a) No person shall move any wildebeest into Oklahoma without first obtaining an entry permit from the Department.

(b) No person shall move any wildebeest within Oklahoma without obtaining a permit prior to movement that identifies the following:

- (1) Name, mailing address, and telephone number of the current owner;
 - (2) Name, mailing address, and telephone number of the purchaser;
 - (3) Name, mailing address, and telephone number of the transporter;
 - (3) Specific legal description of the property where the wildebeest currently are located or premise identification number;
 - (4) Specific legal description of the destination property or premise identification number;
 - (5) Identification of the mode of transportation, including any license tag information and business information; and
 - (6) Any other information the State Veterinarian may request.
- (c) No person shall move any wildebeest for export from Oklahoma without obtaining a permit prior to movement.

[Source: Added at 25 Ok Reg 2613, eff 6-10-08 (emergency); Added at 26 Ok Reg 1383, eff 7-1-09]

35:15-49-3. Separation requirements

- (a) Any person holding female wildebeest within Oklahoma shall maintain 0.5 miles separation, or another safe distance as determined by the State Veterinarian, of all wildebeest, including male and female, from cervidae, bovidae, giraffidae, and antilocapridae.
- (b) If wildebeest were legally occupants of a premises prior to another owner locating other livestock within the 0.5 mile radius, the new livestock owner shall maintain the livestock at his own risk.
- (c) No person holding wildebeest shall allow any of the above listed species to be held in any enclosure sharing a common fence with wildebeest.
- (d) The requirements of this rule shall not be applicable to any zoological park licensed by USDA APHIS Animal Care.

[Source: Added at 25 Ok Reg 2613, eff 6-10-08 (emergency); Added at 26 Ok Reg 1383, eff 7-1-09 ; Amended at 34 Ok Reg 799, eff 9-11-17]

35:15-49-4. Notification requirements

- (a) Any person who owns or possesses wildebeest in Oklahoma shall notify the Department of the following:
 - (1) Location, including specific legal description, where the wildebeest are held or premise identification number;
 - (2) Number of head of female wildebeest and number of head of male wildebeest;
 - (3) Name, mailing address, and telephone number of the owner;
 - (4) Any other information the State Veterinarian may request.
- (b) Any person owning or possessing female wildebeest shall provide biannual notice to the landowner of record for all property adjacent to any location female wildebeest are or may be held.
 - (1) Notice shall include the following information:
 - (A) A statement that female wildebeest are or will be held on adjacent property;

- (B) The specific legal description where the female wildebeest are or will be held;
- (C) A statement that female wildebeest are carriers of malignant catarrhal fever and malignant catarrhal fever is fatal to cattle, but does not spread between cattle;
- (D) Contact information, including telephone number and email address, of the office of the State Veterinarian; and
- (E) The name, mailing address, and telephone number of the owner of the wildebeest.

(2) Notice shall be sent by certified mail return receipt requested, and the person owning or possessing the wildebeest shall keep records of the certified mailing for three years from the date of mailing.

(c) Any person owning or possessing female wildebeest shall provide publication notice in a newspaper of general circulation in the county where the wildebeest are held on an annual basis, and the notice shall contain the following:

- (1) A statement that female wildebeest are or will be held in the county;
- (2) The specific legal description of the property where the female wildebeest are or will be held;
- (3) A statement that female wildebeest are carriers of malignant catarrhal fever and malignant catarrhal fever is fatal to cattle, but does not spread between cattle;
- (4) Contact information, including telephone number and email address, of the office of the State Veterinarian; and
- (5) The name, mailing address, and telephone number of the owner of the wildebeest.

(d) Notice to adjacent property and notice by publication shall be given by the owner or possessor of female wildebeest prior to placing wildebeest on the property.

[Source: Added at 25 Ok Reg 2613, eff 6-10-08 (emergency); Added at 26 Ok Reg 1383, eff 7-1-09]

35:15-49-5. Violations

(a) Any person violating any of the provisions of these rules may be subject to administrative, civil, or criminal penalties.

(b) Each day of continuing violation and each wildebeest shall be a separate violation.

[Source: Added at 25 Ok Reg 2613, eff 6-10-08 (emergency); Added at 26 Ok Reg 1383, eff 7-1-09]

35:15-49-6. Exotic swine

(a) No person shall import or possess exotic swine.

(b) The State Veterinarian may grant exceptions for importation and possession by a zoo accredited by the Association of Zoos and Aquariums.

[Source: Added at 34 Ok Reg 591, eff 7-3-17 (emergency); Added at 35 Ok Reg 751, eff 9-14-18]

35:15-49-7. Equine herpes virus

(a) The State Veterinarian or any state or federal veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Equine Herpes Virus.

(b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

(c) Cases and outbreaks shall be managed according to the Equine Herpes Virus Myeloencephalopathy Incident Guidelines for State Animal Health Officials (January 2018 Revision).

[Source: Added at 37 Ok Reg 947, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

APPENDIX A. TRACEBACK CAPABILITY CHART

Figure 1

		Percent Reactors Traced									
		50	55	60	65	70	75	80	85	90	95
Percent Sampled	50	25	27	30	32	35	37	40	42	45	48
	55	27	30	33	36	38	41	44	47	49	52
	60	30	33	36	39	42	45	48	51	54	57
	65	32	36	39	42	45	49	52	55	58	62
	70	35	38	42	45	49	52	56	59	63	67
	75	37	41	45	49	52	56	60	64	67	71
	80	40	44	48	52	56	60	64	68	72	76
	85	42	47	51	55	59	64	68	72	76	81
	90	45	49	54	58	63	67	72	76	81	86
	95	48	52	57	62	67	71	76	81	86	90

The point of intersection of the "traced" and "sampled" columns indicate traceback capability.
 Example: A sampling rate of 80 percent with 70 percent of the reactors traced would provide a
 traceback capability of 56.

**APPENDIX B. PRESCRIBED TREATMENT OF PORK
AND PRODUCTS CONTAINING PORK TO DESTROY
TRICHINAE [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX C. COOKING REQUIREMENTS FOR
COOKED BEEF, ROAST BEEF, AND COOKED CORNED
BEEF [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX D. PROTEIN FAT FREE (PFF)
REQUIREMENTS [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX E. CERTIFICATES FOR TRANSPORTATION
OR MOVEMENT OF PRODUCT [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX F. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR MEAT AND MEAT
PRODUCTS [REVOKED]**

[Source: Revoked at 23 Ok Reg 867, eff 5-11-06]

**APPENDIX G. APPROVED SUBSTANCES FOR USE IN
MEAT AND MEAT PRODUCTS [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

APPENDIX H. MOISTURE ABSORPTION AND RETENTION [REVOKED]

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX I. NAME OF PRODUCT IN RESPECT TO
LIGHT AND DARK MEAT CONTENT (POULTRY)
[REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX J. APPROVED SUBSTANCES FOR USE IN
POULTRY AND POULTRY PRODUCTS [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX K. STANDARDS FOR CONTENTS
(POULTRY) [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX L. STANDARDS OF IDENTITY FOR
POULTRY ENTRES/SPECIALTY ITEMS [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX M. STANDARDS OF IDENTITY FOR
CERTAIN POULTRY PRODUCTS [REVOKED]**

[Source: Revoked at 15 Ok Reg 451, eff 12-11-97]

**APPENDIX N. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR POULTRY AND
POULTRY PRODUCTS [REVOKED]**

[Source: Revoked at 23 Ok Reg 867, eff 5-11-06]

**APPENDIX O. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR RABBITS AND RABBIT
PRODUCTS [REVOKED]**

[Source: Revoked at 23 Ok Reg 867, eff 5-11-06]

**APPENDIX P. OFFICIAL MARKS OF IDENTIFICATION
FOR SPAYED HEIFERS**

Figure 1

(Reference: 35:15-17-52)



CHAPTER 17. WATER QUALITY

[**Authority:** OKLA. CONST. art VI; 2 O.S., §§ 2-4(2), (7), and (16), 10-9 et seq., 10-9.16 et seq., and 20-1 et seq.; 27A O.S., §§ 1-1-202(2) and 1-3-101(D)]
[**Source:** Codified 6-25-98]

SUBCHAPTER 3. SWINE FEEDING OPERATIONS

35:17-3-1. Purpose

These rules are for regulating swine feeding operations, especially Licensed Managed Feeding Operations (LMFOs), pursuant to Section 20-1 et seq. of Title 2 of the Oklahoma Statutes and known as the Oklahoma Swine Feeding Operations Act. These rules provide that all swine feeding operations be conducted so as to protect the waters of the State of Oklahoma from contamination. The rules applicable to the licensing process are designed to provide harmony within agricultural production while providing protection to the waters of the State of Oklahoma and to establish procedures for obtaining a swine feeding operation license by establishing a consistent application process, insuring public participation opportunities, providing for uniform notice requirements, and establishing other relevant requirements.

[**Source:** Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-2. Definitions

In addition to terms defined in the Oklahoma Swine Feeding Operations Act, the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Oklahoma Swine Feeding Operations Act beginning at Section 20-1 of Title 2 of the Oklahoma Statutes.

"ALJ" means Administrative Law Judge.

"ASTM" means the most current version of the American Society of Testing Materials standards.

"APA" means the Oklahoma Administrative Procedures Act, beginning at Section 301 of Title 75 of the Oklahoma Statutes.

"Application" means a set of documents filed with the Oklahoma Department of Agriculture, Food, and Forestry for the purpose of obtaining an Oklahoma swine feeding operation license from the State Board of Agriculture.

"Building permit" means an approval from the State Board of Agriculture to commence construction of a new or expanding LMFO.

"Discharge" means any release by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or other means of release of wastes or wastewater except as otherwise provided in Section 20-6 of Title 2 of the Oklahoma Statutes. The term discharge shall not include a distribution of waste water into an irrigation system for the purpose of land application of waste to property, provided the

waste does not leave the land application area.

"Hearing" means an individual proceeding conducted pursuant to the provisions of the Oklahoma Administrative Procedures Act.

"Licensing process" means the procedures where permission to engage in certain activities pursuant to the provisions of the Oklahoma Swine Feeding Operations Act is granted by the Board. Procedures include but are not limited to application, notice to affected property owners, Department review, publication of notice of application, hearings, and issuance of a building permit and license.

"LMFO" means a Licensed Managed Feeding Operation as defined by Section 20-3 of Title 2 of the Oklahoma Statutes.

"Party" means a person or agency named and participating or properly seeking and entitled by these rules to participate in hearings.

"Person" means any individual, association, partnership, firm, company, public trust, corporation, joint-stock company, limited liability company, limited liability partnership, trust, estate, state or federal government agency, municipality, other governmental entity, or any other legal entity or their agent, employee, representative, assignee, or successor.

"Spill" means the release from a swine feeding operation of any process wastewater or manure that does not reach waters of the state.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service. **"25-year, 24-hour rainfall event"** means the maximum twenty-four (24) hour precipitation event with a probable recurrence interval of once in twenty-five (25) years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 1055, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 24 Ok Reg 1763, eff 6-25-07 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-3. Citation [RESERVED]

[Source: Reserved at 15 Ok Reg 102, eff 10-13-97 (emergency); Reserved at 15 Ok Reg 2508, eff 6-25-98]

35:17-3-4. Advisors [RESERVED]

[Source: Reserved at 15 Ok Reg 102, eff 10-13-97 (emergency); Reserved at 15 Ok Reg 2508, eff 6-25-98]

35:17-3-5. License required [REVOKED]

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Revoked at 38 Ok Reg 1653, eff 9-11-21]

35:17-3-5.1. Expanding operations

(a) A facility shall only be deemed an expanding operation if an increase in swine animal unit capacity involves construction of facilities, including waste retention structures or barns.

(b) The swine animal unit capacity or licensed capacity of a facility shall be based on the maximum one time capacity of the existing or new facility.

[Source: Added at 15 Ok Reg 4247, eff 9-2-98 (emergency); Added at 16 Ok Reg 1717, eff 6-1-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-6. License application for new facilities or expanding operations

(a) In addition to the items required by the Oklahoma Swine Feeding Operations Act, the application for a swine feeding operation license of a new facility or an expanding operation shall contain, as a minimum, the following information:

(1) Name and address of the owner of the facility.

(2) Name and address of the swine feeding operation, including driving directions from the nearest municipality and legal description of the facility.

(3) Name and address of the operator if other than the owner.

(4) Capacity in swine animal units and number and type of swine housed or confined.

(5) If owner is a firm, partnership, corporation, or other legal entity, the name and address of each member with an ownership interest of ten percent (10%) or more.

(6) If owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation.

(7) Environmental history of the past three (3) years of any swine feeding operation or CAFO established or operated by the owner or any other operation with common ownership in Oklahoma or any other state, including all citations, administrative orders or penalties, civil injunctions or other civil actions, and 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 in conjunction with the operation of a swine feeding operation.

(8) List of all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the owner.

(9) Copy of deed, contract to purchase, or option to purchase the proposed site of the facility, waste retention structures, and land application sites. If land application sites are not owned by the applicant, provide a notarized signed copy of spreading or effluent agreement.

(10) A map of all property owners within one (1) mile of the facility and waste retention structures and a corresponding mailing list. Applications for LMFOs with more than two thousand (2,000) swine animal units shall include a map of all property owners within two (2) miles of the facility and waste retention

structures and a corresponding mailing list.

(11) A plat showing:

(A) Location of the facility, waste retention structures, and all land application sites.

(B) Location and distance of all occupied residences within one (1) mile of the facility and waste retention structures. The distances shall be measured from the nearest point of the waste retention structure to the nearest point of the occupied residence. Applications for LMFOs with more than two thousand (2,000) swine animal units shall include the location and distance of all occupied residences within two (2) miles of the facility and waste retention structures.

(C) Location and distance of all occupied residences within six-hundred (600) feet of any land application site. The distances shall be measured from the nearest point of the land application site to the nearest point of the occupied residence.

(D) Location and distance of all existing public or private drinking water wells within four-hundred (400) feet of any land application site. The distance shall be measured from the nearest point of the land application site to the nearest point of the drinking water well.

(E) All open roads surrounding the facility and all land application sites.

(12) All LMFOs shall submit an affidavit certifying compliance with applicable setbacks found in Sections 20-19 and 20-21 of Title 2 of the Oklahoma Statutes.

(13) If applicable, a copy of the written waiver by a property owner, municipality, or governing body releasing specified setback requirements as provided by the Act.

(14) To assist the Department, applications for LMFOs shall include an introductory narrative summary describing the facility and operation. The description shall include the following general information:

(A) Both narrative and legal location of the facility, including driving directions.

(B) The type of operation, including whether a BGF, nursery, finisher, or other type.

(C) The type and number of swine planned for the facility.

(D) The planned swine waste management system and structures.

(E) A general narrative description of planned swine growth and movement activities.

(F) Other general information the owner believes to be helpful to the Department in beginning review of the application.

(15) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(A) Description of topography using a current USGS 7.5 minute topographic map highlighting the location of waters of the state within three (3) miles of the facility,

waste retention structures and all land application sites, an outline of the watershed drainage area, and arrows indicating general direction of surface water drainage from the facility, waste retention sites, and land application sites. Applications for LMFOs shall indicate all manmade terracing and other changes to the topography of the site.

(B) Soil map showing soil types at the facility, waste retention structure, and all land application sites.

Applications for LMFOs shall provide a description of soil resources including soil survey information of the licensed area containing the following:

- (i) A map delineating different soil types on a scaled aerial photograph.
- (ii) Location of all soil sampling sites.
- (iii) Soil description of all soils used for land application pursuant to USDA description.
- (iv) An assessment of suitability of the soil for land application purposes. The assessment shall be certified by a Professional Engineer registered in the State of Oklahoma.

(C) 100 year flood plain map, if applicable. In no event shall a waste storage structure be located within the 100 year flood plain as established by the Federal Emergency Management Agency (FEMA).

(D) Applications for LMFOs shall provide a description of existing land uses and land use classification pursuant to local law or ordinance, if any, of the proposed license area and adjacent areas. The burden shall be upon the owner to comply with local and use law and ordinances.

(E) Applications for LMFOs shall provide a description of geologic information, including at a minimum:

- (i) The geology of the proposed license area down to and including the first aquifer, but not more than one hundred (100) feet below the bottom of the waste retention structure.
- (ii) Geological information based on published geological literature and subsurface investigation otherwise required for the license application, including lithology from water wells on site and seismicity information. Geologic information may be provided by an agency review of the project performed by the Oklahoma Geological Survey and provided to the Department with the license application.

(F) Applications for LMFOs shall include a description of water resources, including the following:

- (i) Quality of surface water resources.
 - (I) Identification of all surface waters of the state within a three (3) mile distance of the waste retention structure as identified on a

current USGS 7.5 minute topographic map.

(II) Location, name, and description of all surface water bodies identified in (I) including streams, lakes, discharges, and impoundments within the three (3) mile radius.

(III) Beneficial uses, limitations, and remarks of all listed streams in the drainage area of the facility as listed in Appendix A of Chapter 45 of Title 785 of the Oklahoma Administrative Code.

(ii) Quality of groundwater resources.

(I) An inventory of all existing and abandoned wells, springs, and known or reasonably discoverable test holes.

(II) Groundwater description shall include a measurement of seasonal static water levels, direction of flow, and delineation of recharge areas pursuant to the Oklahoma Water Resources Board or other agency's data.

(III) Baseline sampling for ground waters accessible at the facility shall include electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.

(G) Applications for LMFOs shall include a description of the climatological factors that are representative of the proposed license area and adjacent areas as available from published sources, including average seasonal precipitation, average direction and velocity of prevailing winds, seasonal temperature changes, average evaporation rate, and other information requested by the Department.

(H) Applications for LMFOs shall include a map delineating existing vegetation types and a description of the plant communities within the proposed permit area and adjacent areas pursuant to information available from the Oklahoma Biological Survey.

(I) Applications for LMFOs shall include a description of fish and wildlife resources information for the license area and adjacent areas. The scope and level of detail to be provided may be expanded by the Department in consultation with State and Federal agencies with responsibility for fish and wildlife propagation. Site specific information necessary to address the respective species shall be required when the license area or adjacent areas are likely to include endangered or threatened species of plants or animals or their critical habitat.

(J) Applications for LMFOs shall include an identification and description of cultural and historical resources listed on the National Register and known archeological features as found in the Oklahoma Archeological Survey and Oklahoma State Historic Preservation Society of those located within the proposed license area.

(16) Report from an independent soil testing laboratory containing the following:

(A) Site map showing the location of all soil borings in relation to the facility and waste retention structure.

(i) The test boring shall be in the immediate vicinity of the proposed waste retention structure.

(ii) Bore holes shall be left open for a minimum of 48 hours for the groundwater to recover.

(iii) All bore holes shall be plugged according to Oklahoma Water Resources Board requirements.

(B) Soil tests per ASTM standards on all soils to be used in construction of the liner, with the following procedures and results reported:

(i) Grain size particle distribution analysis according to ASTM standards.

(ii) A standard Proctor compaction test based on ASTM D 698 procedure.

(iii) Perform Atterberg limits test per ASTM standards (ASTM D 4318).

(iv) Permeability tests on remolded samples compacted at ninety-five percent (95%) of standard Proctor maximum dry density at optimum moisture content conducted in accordance with ASTM D 5084 for the measurement of Hydraulic Conductivity of Saturated Porous Materials using a Flexible Wall Permeameter.

(v) Laboratory tests of representative samples presented in summary tables and on boring logs.

(vi) Applications for LMFOs shall include the basis for estimating available volume of soil (ft³) to be used in the soil liner. Estimated values shall be verified in the field during construction.

(C) Provide a soil boring log showing lithology, the above test results, and the classification of soils based on the Unified Soil Classification system.

(D) USDA Natural Resources Conservation Service (NRCS) soil testing standards and procedures shall only be substituted if the retention structure is designed by USDA NRCS Engineers.

(E) Where required by the Oklahoma Water Resources Board, all applications for LMFOs shall include a copy of a properly prepared Multi-Purpose Completion Form as submitted to the Oklahoma Water Resources Board for all soils investigation.

(17) All applications for LMFOs shall provide documentation relating to and verifying that a minimum ten (10) foot separation exists between the bottom of each waste retention structure and the highest annual or seasonal level of groundwater elevation at the waste retention structure site based on all data available, including the perched water table and regional water table or aquifer. The perched water table shall include all local zones of saturation above the regional water table.

(A) Documentation of a ten (10) foot separation shall be established by submission of a soil log from a soil boring extending a minimum of ten (10) feet below the bottom of all waste retention structures to ascertain the presence of groundwater or bedrock.

(B) Documentation containing a statement from a Professional Engineer registered in the state of Oklahoma certifying existence of the ten (10) foot separation distance.

(18) Laboratory test reports showing the amount of Nitrogen as Nitrate and total Phosphorous contained in the following:

(A) Groundwater from all existing water wells located at the facility and land application sites.

(B) All surface water impoundments located at the facility and land application sites.

(C) Composite soil samples from each land application site. Applications for LMFOs shall, at a minimum, include analysis of soils for electrical conductivity, pH, nitrate-nitrogen, ammonium-nitrogen, organic matter, sodium, potassium, calcium, magnesium, available phosphorus, and total nitrogen. Additional parameters may be required upon request of the Department. A map showing the location of each soil sample shall be provided. All soil sampling at LMFOs shall be performed pursuant to one of the following procedures:

(i) Soil sampling shall be conducted using Oklahoma State University Fact Sheet #PT 97-37 and F-2207, or current equivalents.

(ii) A total of thirteen (13) soil samples shall be collected from each forty (40) acre land application area, one sample from each corner of a six hundred and sixty (660) foot or ten (10) acre grid, with one sample from the center of each grid. One single composite soil sample may be prepared for analysis if the proposed land application area is dominated by one soil type. Where land application is achieved by center pivot irrigation, only those grid points within the application area shall be sampled.

(19) A Pollution Prevention Plan (PPP) which contains a Swine Waste Management Plan, a carcass disposal plan, an erosion control plan, and Best Management Practices (BMPs). Applications for LMFOs shall also include an Odor Abatement Plan (OAP), a Pest Management Plan (PMP), and any other plan

required by the Department.

(20) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the swine feeding operation.

(21) All applications for LMFOs shall include a closure plan pursuant to OAR 35:17-3-25.

(22) A financial statement declaring the financial ability of an owner to operate a swine feeding operation with a liquid waste management system in order to comply with the surety requirements of the Act. The financial statement shall be confidential and shall not be opened to public inspection.

(23) A notarized certification signed by the person applying for a license, which states: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(24) All documentation deemed necessary and requested by the Oklahoma Department of Agriculture, Food, and Forestry to assure the quality of waters of the state are not compromised, including waste retention structure liner specifications and design plans providing a minimum of a ten (10) foot separation between the bottom of each liquid waste retention structure and the highest annual or seasonal elevation of groundwater for LMFOs and any other information required by the Department directly related to the construction, installation, or future modification or operation of a swine feeding operation.

(b) All items listed in subpart (a) of this section shall be received by the Department before the application is considered complete. At the Department's discretion, no action will be taken on the application until all items have been received by the Department, including but not limited to presite inspections.

(c) All supporting documentation regarding methods used for preparing the license application for an LMFO, including calculation of waste retention structure capacity and land application rates, shall be based on published methods approved by the Department. Any other methods shall be used only upon approval by the Department prior to submission of the license application.

(d) A change in location of a waste retention structure for an LMFO after the initial application date shall result in a new application date assigned to that application and all requirements in effect at the new application date shall apply, including setbacks. A reconfiguration of barns or waste retention structures shall not be considered a change, but a new presite approval shall be obtained prior to the change. If the change in location is required by the Department, the initial application date continues to

apply.

(e) Adjacent areas for purposes of the LMFO application review shall include all property within one (1) mile of the facility, or two (2) miles if the facility is an LMFO with a capacity of more than two thousand (2,000) animal units.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 903, eff 7-1-12 ; Amended at 35 Ok Reg 761, eff 9-14-18]

35:17-3-7. Notice requirements

(a) Individual notice to all affected property owners shall be documented. Proof of notice shall include a sample letter and a certificate of mailing corresponding to the names on the mailing list provided with the swine feeding operation license application. The certificate of mailing shall be verified by the owner and include a U.S. Post Office certified mailing number and the name and address of each affected property owner. U.S. Post Office stamped certified mail receipts, letters returned as undeliverable or refused, and domestic return receipts evidencing receipt of the notice shall be kept on file by the owner and provided to the Department upon request. Notice shall provide the following information:

- (1) An application for a swine feeding operation has been submitted to the Department.
- (2) The legal location and name of the proposed or expanding facility.
- (3) The opportunity to send written comments to the Oklahoma Department of Agriculture, Food, and Forestry, P.O. Box 528804, Oklahoma City, OK 73152-8804.
- (4) A twenty (20) working day public review period shall begin no earlier than the day following the certified mailing of all required individual notices. In the event a hearing is requested, the application shall be available for public review until the date of the hearing.
- (5) The opportunity to request a hearing within twenty (20) working days from the date the application is first available for public viewing. Notice as required by this rule shall include the following language: "A hearing must be requested, in writing, within twenty (20) working days of the availability of this application for public review, or your right to the hearing is waived. Do not rely on the request of another party to insure a hearing. A hearing requested by another party may be dismissed without your permission if you have not personally filed a request for a hearing with the Department of Agriculture."
- (6) Individual notice shall occur to all affected property owners, regardless of state residency or property location.
- (7) Notice shall be given to the applicable tribal chairperson, where ascertainable, and to the United States Bureau of Indian Affairs (USBIA) when tribally owned land or former reservation land is within one (1) mile of the facility, or within two (2) miles of

an LMFO with more than two thousand (2,000) animal units.
(b) In addition to the individual notice, proof of publication notice of a new or expanding application for a swine feeding operation license shall be given by the owner which complies with the provisions of the Act.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-8. Application for license renewal

(a) An application for renewal shall be submitted prior to July 1 of each year the license is to be renewed.

(b) Any license for which a renewal application is received prior to the renewal date established by statute is considered to be valid until a final determination is made. The determination shall be made after a review by the Department.

(1) Renewals meeting the requirements shall be reissued a license unless sufficient cause to terminate or revoke the license is shown. If corrections of the renewal application are required, the owner shall have twenty (20) working days from the date of notification to make all necessary revisions.

(2) If corrections are not made within twenty (20) working days, the license may be referred to the Board for denial. Applications shall be considered to meet the requirements for renewal if:

(A) The application is filled out completely and accurately.

(B) The correct renewal fee is paid within the time specified.

(C) All plans and amended plans for the swine feeding operation are being followed.

(D) The Department determines that there have been no significant changes in the operation since the last renewal which would require that the license be denied due to failure of the facility to meet the requirements of the Act.

(3) In addition to the renewal fee established by Section 20-16(B) of Title 2 of the Oklahoma Statutes, each owner of an LMFO shall also be required to pay eighty cents (\$0.80) per licensed swine animal unit.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-9. Issuance or expansion of license; hearings

(a) For new, previously unlicensed, or expansion applications for a swine feeding operation license, a maximum of sixty (60) working days from the date the application is received by the Department is allocated for investigation, evaluation, and review for completeness of application. For good cause, the Department may take an additional thirty (30) working days to review the application. Good cause shall include but not be limited to a heavier than normal receipt of applications by the Department. The Department shall:

(1) Evaluate applications for administrative and technical completeness and when necessary, request changes, revisions, corrections, or supplemental submissions. Any request made by the Department shall cause a new sixty (60) working day period to begin following receipt of the requested additional information.

(2) Evaluate individual and public notices related to new applications for accuracy and completeness of content, compliance with procedural requirements, and require that omissions or inaccuracies be cured.

(b) Requests for a hearing received after the prescribed twenty (20) working day time frame shall not be valid. The ALJ shall, within seven (7) working days of setting a scheduling conference, notify the parties seeking a hearing and the owner of the time and place of the scheduling conference by certified mail, return receipt requested. All further dates and time periods shall be set at the scheduling conference.

(c) The public comment period shall automatically be extended to the close of the hearing. The ALJ shall, within thirty (30) working days following the comment period, make a full written report and a recommendation to the Department and the Board regarding the application.

(d) If all persons who requested a hearing provide a written waiver of the hearing, the Department shall dismiss the hearing, and at the next regularly scheduled meeting of the Board, present the application for consideration.

(e) If the Board does not issue a license, the Department shall provide the owner written notification within twenty (20) working days following date of denial. The notification shall set forth the reasons for the denial and what steps are necessary to meet the requirements for issuance of a license.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-10. Transfer of license

In addition to the provisions of the Act, transfer of a license to a new owner or lessee shall meet the following conditions:

(1) Upon approval of the transfer of a license, the transferee shall provide to the Department within thirty (30) calendar days, a notarized statement and other proof of transfer of ownership or occupancy as the Department requires.

(2) All required transfer application documents shall be completed and submitted to the Department within ninety (90) calendar days of approval by the Department of transfer of a license or actual transfer of a licensed operation, whichever is sooner.

(3) If a transfer is denied by the Department, the transferee may, within thirty (30) calendar days after receiving notification of the denial, request in writing a hearing to review the denial of the transfer. In addition to the items which are considered at the hearing, the ALJ may also hear evidence and witnesses on the

issue of whether a substantial change of condition has occurred since the issuance of the original license and whether the changes should result in a denial of the transfer of the license.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-3-11. Pollution Prevention Plan (PPP)

(a) Prior to the submission of a CAFO license application or modification, each facility shall develop or update a Pollution Prevention Plan (PPP) according to the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant to the Act.

(b) The PPP shall include provisions for documentation of structural controls, documentation of operating Best Management Practices (BMPs), a Swine Waste Management Plan, a carcass disposal plan for normal and emergency disposal of carcasses, and record keeping provisions.

(c) The following forms and records shall be maintained by the CAFO for each PPP:

- (1) wastewater measurements;
- (2) precipitation measurements;
- (3) spill reporting forms;
- (4) discharge reporting forms;
- (5) inspection and maintenance records;
- (6) annual inspection records;
- (7) preventive maintenance records;
- (8) employee annual education records (for LMFO's);
- (9) records of manure or wastewater sold or transferred (if applicable);
- (10) records of land application of solid manure (if applicable);
- (11) records of land application of liquid manure (if applicable);
- (12) records of land application of compost from mortalities (if applicable)
- (13) mortality management records; and
- (14) other site specific information requested by the Department.

(d) The Plan shall identify an individual who is responsible for implementing, maintaining, and revising the PPP.

(e) The PPP for an LMFO shall also include an Odor Abatement Plan (OAP) and a Pest Management Plan (PMP).

(f) Equivalent measures contained in a site specific swine waste management plan prepared by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) may be substituted for the appropriate PPP requirements. An AWMP developed by USDA NRCS can be substituted for the documentation of land application rate calculations.

(g) With Department approval, the owner shall amend the PPP prior to any change in design, construction, operation, or maintenance, which has significant effect on the potential for the discharge of pollutants to the surface or groundwaters of the State.

(h) The owner shall implement appropriate changes to the Plan within ninety (90) calendar days of notification that the plan does not meet one or more specified minimum requirements unless otherwise provided by the Department. If notice of changes is not received by the Department within the prescribed ninety (90) calendar days, the application shall be denied.

(i) In addition to the requirements of the Act, the PPP shall include:

(1) A list of materials that are used, stored, or disposed of at the facility which may cause pollution. A contingency plan for releases of potential pollutants shall also be included. The PPP shall contain a log of any pollutant releases and clean up of those materials. Documentation of releases shall include any corrective action taken to prevent recurrence.

(2) Testing of groundwater, Nitrogen as Nitrate, total Phosphorous, and fecal coliform bacteria levels shall be performed by an Oklahoma Department of Environmental Quality certified independent testing laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner. Owners of LMFOs shall sample groundwater annually for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.

(3) Soil tests from land application sites shall be performed by an Oklahoma Department of Environmental Quality certified testing laboratory or State operated laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner. Owners of LMFOs shall perform soil tests for electrical conductivity, pH, nitrate-nitrogen, ammonium-nitrogen, organic matter, sodium, potassium, calcium, magnesium, available phosphorus, and total nitrogen. Soil test results shall be maintained at the site for as long as the facility is in operation.

(4) Sufficient testing of wastewater in waste storage facilities shall be required at least every three (3) years and performed by a qualified independent testing laboratory. Testing may be required more frequently at an individual facility at the Department's request. All owners of LMFOs shall sample waste retention structure contents annually prior to the first land application of the calendar year. Owners of LMFOs shall sample waste retention structure contents for ammonium-nitrogen, nitrate-nitrogen, total phosphorus, electrical conductivity, pH, sodium, potassium, calcium, magnesium, total nitrogen, and total solids. Additional parameters may be required upon request of the Department.

(5) A description of management controls appropriate for the facility. The owner initiates these controls. The appropriateness and priorities of any controls shall reflect the identified sources of pollutants at the facility and conform to criteria established by the Act and the Department.

(A) The location and a description of existing surface water controls. Structural controls shall be inspected at least quarterly each year for structural integrity and maintenance.

(B) Documentation of new or rebuilt retention structure capacity shall be submitted to the Department and shall be based upon input parameters, the assumptions and actual calculations, showing volumes for all intermediate steps, used in determining the appropriate volume capacity. All waste retention structures for LMFOs shall be designed for the maximum number of swine that are or will be licensed at the facility. Retention structure capacity shall be based upon the following, at a minimum:

- (i) The runoff volume from open lot surfaces.
- (ii) The runoff volume from areas between open lot surfaces and the retention structure.
- (iii) The rainfall multiplied by the area of the retention structure.
- (iv) The volume of rainfall from any roofed area that is directed into the retention structure.
- (v) All waste and process generated wastewater produced during a period of time not less than one-hundred-eighty (180) calendar days, including: volume of wet manure that enters a pond; plus volume of water used for manure or waste removal; plus volume of wash or cleanup water; plus other water, including drinking water that enters the retention structure.
- (vi) Volume of a 25-year, 24-hour rainfall event.
- (vii) One (1) foot of freeboard below spillway or outlet.
- (viii) A water budget analysis shall be performed on all liquid waste retention structures based on the average monthly precipitation taken from a National Weather Service current publication of the previous fifteen (15) years of data, at a minimum.

(C) A description of the design standards for the retention facility embankments. The following minimum design standards are required for construction or modification of a retention structure embankment:

- (i) Soils used in the embankment shall be free of foreign material, including trash, brush, and fallen trees.
- (ii) The embankment shall be constructed in lifts no more than six (6) inches thick after compaction and compacted to a minimum of 95% of the maximum dry density and 2% of optimum moisture content as determined by ASTM D 698 standard proctor test.
- (iii) Each lift of the embankment of the retention structures shall be checked to ensure proper compaction and moisture content; all readings shall be recorded and properly documented with minimum information required for documentation to include:

(I) project name,
(II) date,
(III) test method used,
(IV) site name,
(V) technician name,
(VI) location of reading, including sketch, if necessary,
(VII) percent compaction,
(VIII) wet density, pcf,
(IX) dry density, pcf,
(X) moisture content,
(XI) lift number, and
(XII) soils lab name, report number and proctor test results used to obtain field measurements.

(iv) If retention structures are constructed with an emergency spillway, a minimum of one (1) foot of freeboard shall be maintained between the top of the 25-year, 24-hour storm volume and the bottom of the emergency spillway.

(v) An erosion control plan shall be developed and approved by the Department detailing how the owner immediately stabilizes the embankment walls to prevent erosion and deterioration. The plan shall include a preventive maintenance section. Each plan shall be approved on a case by case basis and may include the use of vegetative cover, geomembrane liners, sod, or other Department approved methods for controlling erosion.

(vi) A permanent measuring device shall be maintained in the wastewater retention structure to show the volume required to contain a 25-year, 24-hour rainfall event. The device shall be visible from the top of the levee and a separate mark shall be placed on the measuring device clearly identifying the 25-year, 24-hour rainfall event. Installation of the measuring device shall be performed in a manner to protect the integrity of liner at all times.

(vii) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP.

(viii) Documentation of method used to ensure liner of the waste retention structure is protected at or below the inlet.

(6) All owners of LMFOs shall install a leak detection system or monitoring wells in accordance with criteria approved by the Department.

(A) Samples of groundwater shall be collected by the Oklahoma Department of Agriculture, Food, and Forestry

at least annually. The analysis of the water samples shall be performed by a qualified environmental laboratory approved by the Oklahoma Department of Environmental Quality or the relevant certification agency for the state in which the laboratory is located and approved by the Oklahoma Department of Agriculture, Food, and Forestry. All costs of analysis shall be the responsibility of the owner of the LMFO.

(i) The frequency of sampling may be reduced to once every three (3) years for those monitoring wells which have been sampled for at least three (3) consecutive years and have always been found to be dry.

(ii) If any subsequent sampling event indicates the monitoring well is no longer dry, that monitoring well shall be sampled pursuant to this subsection.

(B) All waste retention structures shall have sufficient numbers of groundwater monitoring wells upgradient and downgradient in the direction of groundwater flow. All monitoring well locations shall be approved by the Department on a case by case basis.

(C) No monitoring well shall be installed more than one hundred and fifty (150) feet from the crown of the outer berm.

(D) All new monitoring wells shall be drilled through the first aquifer encountered, but need not extend more than fifty (50) feet below the bottom of the waste retention structure. One downgradient monitoring well shall be drilled to the first aquifer encountered or the first impermeable layer, but need not extend more than one hundred (100) feet below the bottom of the waste retention structure.

(E) All monitoring wells shall be drilled and completed by an Oklahoma Water Resources Board licensed monitoring well driller.

(F) If no groundwater is encountered during the drilling operation, the bore hole shall be left open for at least forty eight (48) hours but not over thirty (30) days for the aquifer to recharge the bore hole. Thereafter, the bore hole shall be either developed into a monitoring well or plugged according to Oklahoma Water Resources Board requirements.

(G) All new monitoring wells shall meet the following minimum requirements:

(i) A minimum of two (2) inch diameter PVC casing shall be used with a sealing cap on the bottom.

(ii) The casing shall consist of minimum SDR-21 rated casing with a minimum SDR-21 rated factory screen in the saturated zone, or the bottom ten (10) feet if no groundwater is encountered.

(iii) Perforated zone shall be gravel or sand packed originating at the bottom of the screen and extending to two (2) feet above the top of the screen, and otherwise as appropriate for the installation.

(iv) Bentonite shall be placed in the annular space of the well above the gravel or sand pack for an interval of at least two (2) feet to form an impermeable seal.

(v) A cement grout or a mixture of bentonite and cement shall be placed above the bentonite seal to prevent seepage from entering behind the pipe and causing hydrologic connection.

(vi) At least the top ten (10) feet of the annular space shall be filled with type A cement.

(vii) A concrete apron, minimum of four (4) inch thickness and two (2) feet from the casing shall be installed at the surface to prevent seepage of rain water into the bore hole. The apron shall be sloping away from the casing to avoid percolation of rain water.

(viii) A lockable protective cap shall be placed on top of the casing, which shall be a metal protective casing extending two (2) feet above the concrete apron and one (1) foot into the apron. The well shall remain securely capped and locked at all times, except during sampling events.

(ix) Within thirty (30) days of installation, a copy of the Oklahoma Water Resources Board approved Multi-Purpose Completion Form shall be submitted to the Department.

(x) Existing monitoring wells shall be evaluated on a case by case basis by the Department to determine equivalency. Monitoring wells previously required and approved by the Department shall be considered equivalent.

(H) Groundwater monitoring wells shall be sampled at least annually for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus, and fecal coliform bacteria.

(I) Owners of LMFOs may install a leak detection system instead of monitoring wells. The system shall be approved by the Department on a case by case basis.

(7) The following records, in addition to those required by the Act, shall be maintained at the site for a minimum of three (3) years:

(A) Weekly measure of water level in the retention facility;

(B) Quarterly inspection and maintenance reports;

(C) Copies of waste retention structure liner specifications and design plans and any other information required by the Department directly related to the construction, installation, or future modification or operation of the

swine feeding operation;

(D) Copies of groundwater sample laboratory analyses;

(E) Waste retention structure(s) contents sample laboratory analyses;

(F) Dates of inspections of the retention structure and a log of the findings of the inspections;

(G) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP;

(H) If swine wastes are sold or given to other persons for disposal, the owner of the LMFO shall maintain a log of the following:

(i) Date of removal from the swine feeding operation,

(ii) Name of hauler, and

(iii) Amount in wet tons, dry tons, gallons, or cubic yards of waste removed from the swine feeding operation;

(I) A log of employee training and education shall be maintained at the site;

(J) A complete inspection of the site shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared and retained which includes the operative status of the check valves system on applicable wells;

(K) Records of incidents including spills, discharges, and other information describing the pollution potential and quantity of the discharge shall be included in the records. Inspections and maintenance activities shall be documented and recorded; and

(L) Records documenting significant observation made during the site inspection shall be retained as part of the PPP.

(8) The following records, in addition to those required by the Act, shall be maintained at the site as long as the facility is in operation:

(A) Documentation of no significant impact, if applicable,

(B) Copy of Notice of Intent (NOI) or Notice of Termination (NOT), if applicable,

(C) Copy of AgPDES General Permit, if applicable,

(D) Copies of soil samples/test/laboratory results from land application fields, and

(E) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the swine feeding operation.

(9) Within twenty-four (24) hours of identifying a discharge, a licensee shall be required to report the discharge to the Department. The licensee shall be required to submit an additional, final report to the Department upon clean-up and receipt of discharge analysis.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 24 Ok Reg 1763, eff 6-25-07 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 903, eff 7-1-12 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 35 Ok Reg 761, eff 9-14-18 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-3-12. Documentation of no hydrologic connection [REVOKED]

[Source: Added at 15 Ok Reg 102, eff 10-13-97 through 7-14-98 (emergency); Added at 15 Ok Reg 4247, eff 9-2-98 (emergency); Added at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Revoked at 38 Ok Reg 1653, eff 9-11-21]

35:17-3-13. Criteria for liners

(a) Soil liners shall be constructed to meet the following minimum requirements:

(1) Constructed in lifts or layers no more than six (6) inches thick when compacted.

(A) Soils used in the liner shall be free of foreign material, including trash, brush, and fallen trees.

(B) All side slopes and the floor of the retention structures shall be checked after each lift to ensure proper compaction and moisture content. All readings shall be recorded and properly documented. Minimum information required for documentation shall include:

(i) Project name.

(ii) Date.

(iii) Test method used per ASTM specification.

(iv) Site name.

(v) Technician name.

(vi) Location of reading, include sketch.

(vii) Percent compaction.

(viii) Wet density in pounds per cubic foot (pcf).

(ix) Dry density in pounds per cubic foot (pcf).

(x) Moisture content, percent.

(xi) Lift number.

(xii) Soils lab name, report number, and Proctor Test results used to obtain field measurements.

(2) Compaction to a minimum of ninety-five percent (95%) of Standard Proctor (ASTM D 698) at optimum or wetter moisture content.

(3) Hydraulic conductivities of no greater than 1×10^{-7} cm/sec. The field permeability of the liner shall be verified by using one of the following methods:

(A) If a sealed Double Ring Infiltrometer is used to determine the field permeability of the liner, at least one representative location on each corner and one location in the center of the waste retention structure bottom shall be selected for Double Ring Infiltrometer determination.

(B) At least four (4) representative undisturbed core samples, one from each corner of the waste retention

structure bottom shall be retrieved for permeability determination in the laboratory. The permeability shall be determined using a Flexible Wall Permeameter (ASTM D 5084).

(4) Minimum thickness of one and one half (1.5) feet.

(5) Maximum hydrostatic head of ten and one half (10.5) feet.

(6) Hydrostatic head or water depth may be increased above ten and one half (10.5) feet in one of the following circumstances:

(A) Liner thickness above the minimum shall be increased by an amount needed to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity.

(B) Soils with permeabilities less than 1×10^{-7} cm/sec are used to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity. Soils which do not meet the maximum criteria of 1×10^{-7} cm/sec can be mixed with a sufficient amount of bentonite clay to achieve the desired standard.

(C) Any combination of (A) or (B). In no case shall hydraulic conductivity be used to reduce the minimum thickness of one and one half (1.5) feet or shall thickness be used to increase the maximum hydraulic conductivity of 1×10^{-7} cm/sec.

(b) The owner shall maintain the liner to inhibit infiltration of wastewaters. Liners shall be protected from burrowing and other animals by fences or other protective devices. Liners shall also be protected from the potential root zone of all trees.

(c) Any mechanical or structural damage to the liner shall be evaluated by an environmental, agricultural, or other Department approved professional engineer registered in the state of Oklahoma within thirty (30) calendar days of the damage. Documentation of liner maintenance shall be kept with the Pollution Prevention Plan.

(d) Flexible membrane or synthetic liners may be used in connection with a soil liner or as a substitute for a soil liner. Geosynthetic liners and flexible membrane liners shall be installed so as to protect waters of the State from contamination.

(1) The subgrade soil shall be prepared according to the design standards. A subgrade verification form shall be submitted with liner documentation.

(2) The surface to be lined shall be rolled and compacted and free of irregularities, undulations, protrusions, vegetation, excessive moisture, loose soil, or abrupt changes in slope.

(3) The subgrade surface shall be free of foreign material including stones, cobbles, broken pieces of wood, plastic, or glass.

(4) The owner shall provide a copy of a completed Surface Acceptance Form indicating acceptable locations. In no case shall the installer deploy any geomembrane or flexible membrane liner in areas not acceptable within these rules.

(5) If at any time during the installation the subgrade surface deteriorates or is damaged, or in any way deemed unacceptable by the regulatory authority, all work shall stop until proper repair is performed.

(6) The anchor trench shall be constructed according to the standard industry practices. The trench shall be adequately drained to prevent ponding or softening of the side walls. After installation of the liner, the trench shall be back filled, compacted, and anchored according to the standards.

(7) The liner placement plan shall take into consideration the site drainage, low lying areas, temperature, and prevailing wind velocity and direction. Field panels shall be deployed one at a time and seamed as soon as possible to minimize the risk of wind or water damage.

(8) Field panel deployment shall not proceed at an ambient temperature below forty degrees (40°) F, unless Low Temperature Welding Procedures are used. All deployed panels should be amply ballasted or sand bagged at all times to avoid wind damage.

(9) Personnel responsible for placement of the liner shall not smoke, wear damaging shoes, or engage in other activities which may cause damage to the liner. The method of deployment shall not cause scratches, crimps, or tear the liner or damage the subgrade. Adequate sand bags shall be placed on the edges of the liner to avoid wind uplifting.

(10) The installer shall visually inspect the panels as soon as possible after deployment for damage or distressed surfaces.

(11) A seam is considered a separate entity if it joins two panels. Repairs are not considered seams in this context. Seams shall be generally oriented parallel to the line of maximum slope, or along instead of across the slope. In corners and odd shaped geometric locations the number of seams should be minimized.

(12) The Extrusion Process shall be used only for repairs and patching and shall not be used for the overall operation. The Fusion Process shall be used for seaming panels together using hot-wedge type or solid wedge type automated self-propelled apparatus equipped with temperature gauges.

(13) The nondestructive seam continuity test shall be performed during daylight hours and certified by the owner.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-1-99 ; Amended at 29 Ok Reg 903, eff 7-1-12 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-3-14. Swine Waste Management Plans

(a) A swine waste management plan or its equivalent shall be prepared, according to Departmental policy, for each facility prior to the submission of a CAFO license application. A swine waste management plan or its equivalent may include, but is not limited to, a Comprehensive Nutrient Management Plan per NRCS guidance, or a Nutrient Management Plan per EPA guidance.

(b) The swine waste management plan shall include:

(1) A plan with a proposed schedule for liquid and solid swine waste removal, including sludge.

(2) A date log indicating weekly inspection of wastewater level in the retention structure, including specific measurement of wastewater level. Facilities using pits, ponds, or other waste retention structures for storage and treatment of storm water, manure, and process generated wastewater, including flush water waste handling systems, shall maintain in their wastewater retention structure sufficient capacity to contain rainfall and rainfall runoff from a 25-year, 24-hour rainfall event. The owner shall immediately restore sufficient capacity to contain a 25-year, 24-hour rainfall event after any rainfall event or accumulation of wastes or process generated wastewater which reduces capacity, weather permitting. The 25-year, 24-hour rainfall event capacity shall be in addition to the one (1) foot of freeboard required.

(3) All calculations and all factors and assumptions used in determining land application rates, acreage, and crops for both solid and liquid swine wastes. Land application rates shall take into account the plant available nutrient contribution of any land applied swine wastes. The following requirements shall apply to land application of swine waste on land owned or leased by the owner:

(A) Runoff from swine waste is prohibited where it results in a discharge to surface or groundwaters of the State. The owner shall provide controls for runoff and erosion as appropriate for site conditions.

(B) Swine wastes shall not be applied when the ground is frozen or saturated or during rainfall events.

(C) It shall be considered acceptable emergency procedures for a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the State.

(D) Land application practices shall be managed so as to reduce or minimize the following:

(i) Ponding or puddling of wastewater on the site.

(ii) Adverse conditions that invite pests including flies and rodents.

(E) Facilities including waste retention structures, waste storage sites, land application sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to insure the ability to fully comply with the terms of these rules and the Pollution Prevention Plan.

(F) Adequate equipment and land application area shall be available for removal of waste and wastewater as required to maintain the proper operating volume of the retention structure. A list of proposed or actual equipment shall be included.

(G) If swine wastes are sold or given to other persons for disposal, the owner of the LMFO shall maintain a log of the following:

(i) Date of removal from the operation.

(ii) Name of hauler.

(iii) Amount in wet tons, dry tons, gallons, or cubic yards of waste removed from the operation.

(H) Surface disposal of swine wastes in the 100-year flood plain, as established by the Federal Emergency Management Agency (FEMA), or near water courses is prohibited unless protected from inundation and damage that may occur during that flood event by adequate berms or other structures. The land application of swine wastes at agronomic rates shall not be considered surface disposal and is not prohibited.

(I) Runoff from swine waste storage piles shall be retained on site.

(J) Accumulation of water in swine waste storage areas shall be avoided.

(K) Timing and rate of applications shall be in response to crop needs, assuming usual nutrient losses, expected precipitation, and soil conditions. Timing and rate of land application of swine waste shall be based on published materials approved by the Department.

(L) Land application shall not occur in areas defined as do not apply areas in the waste application criteria of the USDA NRCS Waste Utilization Standard Conservation Practice Standard Code 633, Nutrient Management Conservation Practice Standard Code 590, or their current replacement.

(M) The swine waste management plan shall identify areas which due to topography, activities, or other factors have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to surface or groundwaters of the State, the Pollution Prevention Plan shall identify measures used to limit erosion and pollutant runoff. Land subject to excessive erosion shall be avoided.

(4) LMFO nutrient loading.

(A) Liquid manure and bottom sludge of a waste retention structure shall be applied to land in accordance with the swine waste management plan as approved by the Department.

(B) Liquid contents of the waste retention structure shall be applied at agronomic rates and shall not exceed the nitrogen uptake of the crop. Where local water quality is threatened by phosphorus, in no case shall the owner exceed the application rates of phosphorus in the most current USDA NRCS Waste Utilization Standard.

Watersheds that are nutrient limited and groundwaters that are nutrient vulnerable shall be deemed to be

threatened by phosphorus.

(C) Calculation of loading rates shall be based upon the existing nitrogen content of the receiving soil and the optimum nitrogen requirement of a particular crop.

(D) All soil and waste sampling shall occur on an annual basis.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 903, eff 7-1-12 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 32 Ok Reg 1524, eff 9-11-15]

35:17-3-15. Odor Abatement Plans (OAPs)

(a) An Odor Abatement Plan (OAP) shall be prepared for each LMFO and submitted as a part of the license application. Odor reducing facilities shall be designed, constructed; and managed so as to minimize adverse impacts on neighboring citizens.

(b) The OAP shall include specific methods of odor reduction which shall be tailored to each LMFO and created to address each cause of odor listed in (c).

(c) The OAP shall address all methods used for reducing odors in relationship to swine maintenance, waste storage, land application, and carcass disposal.

(d) The owner shall examine the OAP at least annually to evaluate the effectiveness of the plan, modify for changed conditions at the facility, and determine if economically feasible technological advances are available and appropriate for the LMFO.

(e) The Department shall approve the OAP on a case by case basis taking into account site specific conditions which may impact the plan. The Department shall document reasons for disapproval of an OAP.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-1-99 ; Amended at 19 Ok Reg 185, eff 10-8-01 through 7-14-02 (emergency)^{1 2}; Amended at 25 Ok Reg 1795, eff 7-1-08]

Editor's Note: ¹*On 1-25-02, amendments to subsections (c) and (d) in this 10-8-01 emergency action, as well as new language in subsection (g) [which was renumbered editorially to (e) before being published in the Register, to avoid a gap in numbering] were declared "void, unenforceable and of no force or effect" by the Oklahoma County District Court. [See Oklahoma Pork Council, Inc. v. Oklahoma Department of Agriculture, Case No. CJ-2001-8605, 1-25-02, Judge Bryan C. Dixon, District Court of Oklahoma County]*

Editor's Note: ²*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last effective permanent text is reinstated. Therefore, on 7-15-02 (after the 7-14-02 expiration of the emergency action), the text of 35:17-3-15 reverted back to the permanent text that became effective 6-1-99, as was last published in the 2001 Edition of the OAC, and remained as such until amended again by permanent action on*

7-1-08.

35:17-3-16. Pest Management Plans (PMPs)

- (a) A Pest Management Plan (PMP) shall be prepared for each LMFO and submitted as a part of the CAFO license application.
- (b) The PMP shall provide specific methods for preventing pests, including but not limited to flies, rodents, and coyotes.
- (c) The owner shall examine the PMP at least annually to evaluate the effectiveness of the plan, modify for changed conditions at the facility, and determine if economically feasible technological advances are available and appropriate for the LMFO.
- (d) The Department shall approve the PMP on a case by case basis taking into account site specific conditions which may impact the plan. The Department shall document reasons for disapproval of a PMP.
- (e) The PMP shall include physical, structural, and chemical controls to minimize the population of flies, insects, rodents, and other pests.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99]

35:17-3-17. Carcass disposal

- (a) Dead swine shall be disposed of in accordance with a carcass disposal plan developed by the owner and approved by the Department which shall decrease the possibility of the spread of disease, reduce odors, and preclude contamination of ground and surface waters of the state. Dead swine shall be disposed of properly and in an environmentally safe manner in accordance with Federal, State, and local requirements. At all times the facility shall comply with the provisions of an approved carcass disposal plan.
- (b) The plan shall include provisions for the disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates.
- (c) Accepted methods of carcass disposal include the following:
 - (1) Rendering.
 - (A) The owner shall obtain a contract with a rendering service that insures disposal of all carcasses within a reasonable period of time. The name, address, and telephone number of the rendering service shall be provided. In addition, the frequency and schedule of carcass pickup shall be included.
 - (B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors in accordance with a Department approved OAP and PMP.
 - (C) Sealed storage facilities shall not be required for animals weighing 300 pounds or more, but the prevention of pests and odors shall be addressed by a Department approved OAP and PMP.
 - (2) Burial.

(A) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and the disposal plan contains specific measures and practices which are utilized to protect the ground and surface waters of the state.

(B) In no event shall burial be used by an LMFO unless the burial area meets the requirements of a Swine Waste Management System, including but not limited to the use of liners.

(C) Prior approval by the Department is required of any carcass disposal plan listing burial as the method of disposal.

(3) Composting.

(A) Prior approval by the Department is required of any carcass disposal plan listing composting as the method of disposal.

(B) The Department may require another method of carcass disposal other than composting if the Department determines that a more feasible and effective method of carcass disposal exists.

(4) Incineration shall only be used as method of carcass disposal if the swine feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-3-18. Employee education and training

(a) Employees responsible for work activities which relate to compliance shall be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Employee training shall inform personnel at all levels of the general components and goals of the Pollution Prevention Plan. A log of employee training shall be maintained at the site. Training shall include but not be limited to the following topics:

(1) Proper operation and maintenance of waste retention structures, including proper water level maintenance.

(2) Land application of wastes, proper operation, and maintenance of the facility.

(3) Good housekeeping and material management practices.

(4) Necessary record keeping requirements.

(5) Spill response and clean up.

(b) The owner is responsible for determining the appropriate training frequency for different levels of personnel and the PPP shall identify periodic dates for training.

(c) All LMFOs with employees whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education and training in the areas of waste management and odor control. Proof of certification of a minimum

of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.

(d) ODAFF shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include the treatment, storage, or application of swine waste.

(e) After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.

(f) Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.

(g) Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 30 Ok Reg 813, eff 7-1-13]

35:17-3-19. Owner inspections

(a) The owner or the person named in the PPP as the individual responsible for drafting or implementing the plan shall be responsible for inspections and record keeping.

(b) Incidents including spills, discharges, and other information describing the pollution potential and quantity of the discharge shall be included in the records. Inspections and maintenance activities shall be documented and recorded.

(c) The authorized person named in the PPP shall require inspection of designated equipment and facility areas. Material handling areas shall be inspected for evidence of or the potential for pollutants entering the drainage system. A follow-up procedure shall be used to insure that appropriate action has been taken in response to the inspection.

(d) In addition to the Department annual inspection, a complete inspection of the facility shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared, which includes the operative status of the check valves system on applicable wells. The inspection shall be conducted by the authorized person named in the PPP to verify that the description of potential pollutant sources is accurate, the drainage map has been updated or otherwise modified to reflect current conditions and the controls outlined in the PPP to reduce pollutants are being implemented and are adequate.

(e) The Department may sample wells on or near the site.

(f) Records documenting significant observation made during the site inspection shall be retained as part of the Pollution Prevention Plan. Records of all inspections shall be maintained for a period of three (3) years.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 30 Ok Reg 813, eff 7-1-13]

35:17-3-20. Best Management Practices (BMPs)

(a) The owner shall document all Best Management Practices (BMPs) used to comply with the required effluent limitations. Equivalent measures contained in a site-specific swine waste management plan prepared by NRCS may be substituted for the BMPs.

(b) The criteria for BMPs shall be established in writing by the Department and shall include but not be limited to the following:

(1) There shall be no water quality impairment to public and neighboring private drinking water wells due to waste handling at the facility. Wastewater retention structures or land application of wastewater shall not be located within three hundred (300) feet of an existing public or private drinking water well.

(2) Swine waste handling, treatment, and management shall not knowingly or reasonably result in the destruction of endangered or threatened species or contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor shall disposal knowingly interfere with or cause harm to migratory birds. The owner shall notify the appropriate fish and wildlife agency in the event of any significant fish, wildlife, or migratory bird or endangered species kill or die-off on or near retention ponds or in fields where waste has been applied and which could reasonably have resulted from waste management at the facility.

(3) Solids, sludges, manure, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner designed to prevent pollutants from being discharged to surface or groundwaters of the State.

(4) The owner shall prevent the discharge of pesticide contaminated waters into surface or groundwaters of the State. All wastes from dipping vats, pest, and parasite control units and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner which prevents pollutants from entering the surface or groundwaters of the State.

(5) Fresh water entering into contaminated areas shall be managed to prevent contamination. Preventing the drainage of fresh surface waters into or onto waste contaminated areas shall be accomplished by one of the following:

(A) Terracing and the construction of other diversion structures to redirect fresh water drainage from entering waste contaminated areas.

(B) Rainwaters falling directly on waste contaminated areas of the facility shall be collected and dispersed as a waste.

(6) Actions as deemed necessary shall be taken to retain all swine waste on the premises until proper waste utilization is accomplished.

(c) The owner shall describe how each BMP shall be implemented and complied with at the facility.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-21. Other statutory authority

No condition of this Subchapter shall release the owner from any responsibility or requirements under other Federal, State, or Local statutes or rules. The burden shall be upon the owner to determine compliance.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99]

35:17-3-22. Violation points system

The following violation points system shall be utilized by the Department to assess points prior to suspension, revocation, or nonrenewal of a swine feeding operation license. This system shall operate in addition to penalties provided for in the Oklahoma Swine Feeding Operations Act, and shall not alter the authority to the Board to revoke a license under other sections of the Act.

(1) When any swine feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, the license of the swine feeding operation shall be suspended, revoked, or not renewed by the Board.

(2) Points shall accrue based on violations of the Oklahoma Swine Feeding Operations Act and rules.

(A) Failure of any concentrated swine feeding operation to apply for a license when required by the provisions of the Oklahoma Swine Feeding Operations Act shall accrue three (3) to five (5) points.

(B) Failure to obtain a building permit prior to construction of an LMFO shall be a significant violation and accrue four (4) to five (5) points.

(C) Failure to obtain a license prior to operation of an LMFO shall accrue four (4) to five (5) points.

(D) Failure to obtain or renew education requirements for all employees of an LMFO whose duties include treatment, storage, or application of swine waste shall accrue two (2) to three (3) points.

(E) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for a license, or notice relating to the determination of affected property owners shall be a significant violation and accrue four (4) to five (5) points.

(F) Failure to follow the Pollution Prevention Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(G) Failure to follow the Pollution Prevention Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(H) Failure to provide full closure of a facility pursuant to a closure plan shall accrue three (3) to five (5) points.

(I) Failure by a swine feeding operation to utilize or comply with Best Management Practices and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(J) Failure by a swine feeding operation to utilize or comply with Best Management Practices and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(K) Failure by a swine feeding operation to report a discharge shall accrue two (2) to four (4) points.

(L) Failure by a swine feeding operation to utilize or comply with a Swine Waste Management Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(M) Failure by a swine feeding operation to utilize or comply with a Swine Waste Management Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(N) Failure by a swine feeding operation to follow a carcass disposal plan shall accrue one (1) to three (3) points.

(O) Failure by a swine feeding operation to follow an erosion control plan shall accrue one (1) to two (2) points.

(P) Failure by an LMFO to utilize and comply with an Odor Abatement Plan shall accrue one (1) to four (4) points.

(Q) Failure by an LMFO to establish or maintain groundwater monitoring wells or a leak detection system shall accrue four (4) to five (5) points.

(R) Failure of any LMFO to annually evaluate a site for liner integrity shall accrue two (2) to three (3) points.

(S) Failure of any LMFO to pay swine animal unit fees in a timely fashion shall accrue three (3) to five (5) points.

(T) Failure to take such actions as are reasonable and necessary to avoid pollution of any stream, lake, river or creek or violate any rule to prevent water pollution shall be a significant violation and accrue five (5) points.

(U) Knowingly making false statements, representation, or certification in any water pollution form, notice, or report shall be a significant violation and accrue five (5) points.

(V) Knowingly rendering inaccurate any monitoring device or method required to be maintained by any water pollution rules shall be a significant violation and accrue five (5) points.

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Agricultural Environmental Management Services Division of the Department. Assessment of points by the Agricultural Environmental Management Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate revocation, nonrenewal, or suspension of the license.

(5) Any owner whose license is suspended, revoked, or not renewed shall remain without the license for a minimum of one (1) year. At the Department's discretion, the license may be renewed so long as the owner complies with all conditions which the Department imposes on the swine feeding operation.

(6) Conditions for renewal shall at a minimum include compliance during the entire period of revocation with all aspects of the Oklahoma Swine Feeding Operations Act and its rules, and correction of all conditions which caused the license nonrenewal, suspension, or revocation.

[Source: Reserved at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-23. Receipt and resolution of complaint against owner

Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, is notified within five (5) working days. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent possible by the Department. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99]

35:17-3-24. Biosecurity

If direct contact with swine or swine quarters becomes necessary, disease prevention measures outlined by the owner will be followed by

the inspector.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-25. Closure of swine waste retention structures

(a) If for any reason a waste retention structure is taken out of operation permanently or by action of the State Board of Agriculture is ordered to permanently cease operations, the owner is responsible for notifying the Department of owner's intention to close the waste retention structures for the handling of animal waste. The owner is responsible for the proper closure of all waste retention structures to be closed. If a facility temporarily ceases operations and remains in full compliance with its Pollution Prevention Plan, the facility shall not be considered to have permanently closed.

(b) The owner shall submit a closure plan as part of the permit application including at a minimum:

(1) The sequence of closing process including but not limited to handling of waste retention structure wastewater, solids, and handling and safe disposal of bottom sludge.

(2) Demonstrate the availability of sufficient land area for land application of the liquid, solid, and sludge component of the waste retention structure.

(3) Provide a copy of a written estimate, in current dollars, of the cost of hiring an independent third party to decommission each waste retention structure.

(c) All future changes or modifications to the closure plan shall be approved by the Department.

(d) A post closure monitoring program shall be conducted for a period of at least three (3) years.

(e) A certificate of post closure performance shall be submitted to the Department at the end of the post closure period. The certificate shall be signed by the owner and by a Professional Engineer registered in the State of Oklahoma, indicating that all waste retention structures were maintained and monitored in accordance with the approved closure plan.

(f) Closure requirements of waste retention structures shall be based on site specific conditions, as follows:

(1) The Department shall be notified in writing whenever a swine waste retention structure becomes permanently inactive, is abandoned, or operation of the structure ceases permanently for any reason. Any swine waste retention structure shall be considered by the Department to have become permanently inactive or to have ceased operations permanently in the following circumstances:

(A) The facility is closed by the Department because of repeated violations which result in the filing of a Board order to cease operations.

(B) The owner is unable to furnish documentation to show that there has been receipt of swine waste into the retention structure during the previous twenty-four (24)

months and the owner is not maintaining the retention structure in consistent compliance with the applicable rules and the Department approved plans.

(2) Upon the owner's determination that a swine waste retention structure has become permanently inactive or has permanently ceased operation the owner shall notify the Department in writing within ninety (90) calendar days thereafter of the intention to close swine waste retention structures. Closure of retention structures shall commence within six (6) months of the date of notice to the Department of the intention to close and be completed within two (2) subsequent growing seasons. Closure shall be in accordance with a closure plan approved by the Department. Any extension of time for closure shall be requested in writing by the owner and approved by the Department. A legal change other than a transfer of the owner of any swine waste retention structure shall not extend the time limit for closure.

(3) Liquid contents of a waste retention structure may be pumped out and land applied according to Department rules.

(4) Solids from the waste retention structure shall be removed and disposed of in an environmentally safe manner.

(5) Sludge from the bottom of the waste retention structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department rules.

(6) The owner shall grid sample soil from the bottom of the waste retention structure and, at the owner's election, shall either:

(A) have the samples analyzed in a State certified laboratory for nitrate-nitrogen and electrical conductance;
or

(B) analyze samples in the field for nitrate-nitrogen and electrical conductance using field leaching procedures and a test kit, with laboratory confirmation by sending one sample per every twenty (20) samples to a laboratory for analysis.

(7) Owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.

(8) If soil is to be removed from the bottom of a waste retention structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.

(9) The Department may require monitoring wells if evidence indicates that contamination has migrated to the groundwater based on site specific conditions.

(10) Exemption from closure and transfer of responsibility for any swine waste retention structure to any other party shall be requested in writing for approval by the Department.

35:17-3-26. Variances

Variances from these rules shall only be granted on a case by case basis and the granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98]

35:17-3-27. Licensed facilities not yet constructed

All structures and facilities licensed but not yet constructed shall be subject to all construction requirements of the Oklahoma Swine Feeding Operations Act in effect at the date of construction. Prior to commencement of construction, the Pollution Prevention Plan shall be updated, and the Department shall be notified of construction prior to commencement.

[Source: Reserved at 15 Ok Reg 102, eff 10-13-97 (emergency); Reserved at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08]

35:17-3-28. Codification [RESERVED]

[Source: Reserved at 15 Ok Reg 102, eff 10-13-97 (emergency); Reserved at 15 Ok Reg 2508, eff 6-25-98]

35:17-3-29. Repealer

All previous rules promulgated by the Board under the Oklahoma Feed Yards Act or the Oklahoma Concentrated Animal Feeding Operations Act are repealed.

[Source: Added at 15 Ok Reg 102, eff 10-13-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98]

35:17-3-30. Commencement of construction

(a) Upon the request of an affected property owner, construction of a new or expanding operation shall not commence until an administrative hearing has been completed. Completion of an administrative hearing shall occur when the Administrative Law Judge submits final recommendations to the Oklahoma Department of Agriculture, Food, and Forestry and the State Board of Agriculture has approved or denied a requested license.

(b) If an administrative hearing is not requested by an affected property owner, construction shall commence upon the approval of a requested license by the State Board of Agriculture.

[Source: Added at 15 Ok Reg 1055, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4247, eff 9-2-98 (emergency); Amended at 16 Ok Reg 1717, eff 6-11-99 ; Amended at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 37 Ok Reg 957, eff 9-14-20]

SUBCHAPTER 4. CONCENTRATED ANIMAL FEEDING OPERATIONS

35:17-4-1. Purpose

These rules are for regulating animal feeding operations pursuant to Section 20-40 et seq. of Title 2 of the Oklahoma Statutes and known as the Oklahoma Concentrated Animal Feeding Operations Act. These rules provide that all animal feeding operations be conducted so as to protect the waters of the State of Oklahoma from contamination. The rules applicable to the licensing process are designed to provide harmony within agricultural production while providing protection to the waters of the State of Oklahoma and to establish procedures for obtaining a Concentrated Animal Feeding Operations (CAFO) license by establishing a consistent application process, insuring public participation opportunities, providing for uniform notice requirements, and establishing other relevant requirements.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-2. Definitions

In addition to terms defined in the Oklahoma Concentrated Animal Feeding Operations Act, the following words or terms, when used in this Subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Act" means the Oklahoma Concentrated Animal Feeding Operations Act beginning at Section 20-40 of Title 2 of the Oklahoma Statutes.

"ALJ" means Administrative Law Judge.

"APA" means the Oklahoma Administrative Procedures Act, beginning at Section 301 of Title 75 of the Oklahoma Statutes.

"Application" means a set of documents filed with the Oklahoma Department of Agriculture, Food, and Forestry for the purpose of obtaining an Oklahoma CAFO License from the State Board of Agriculture.

"ASTM" means the most current version of the American Society of Testing Materials standards.

"CAFO" means Concentrated Animal Feeding Operation as defined in Section 20-41 of Title 2 of the Oklahoma Statutes.

"Discharge" means any release by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or other means of release of wastes or wastewater except as otherwise provided in Section 20-44 of Title 2 of the Oklahoma Statutes. The term discharge shall not include a distribution of waste water into an irrigation system for the purpose of land application of waste to property, provided the waste does not leave the land application area.

"Hearing" means an individual proceeding conducted pursuant to the provisions of the Oklahoma Administrative Procedures Act.

"Licensing process" means the procedures where permission to engage in certain activities pursuant to the provisions of the Oklahoma Concentrated Animal Feeding Operations Act is granted by the Board. Procedures include but are not limited to application, notice to affected property owners, Department review, publication of notice of application, hearings, and issuance of a building permit and license.

"Party" means a person or agency named and participating or properly seeking and entitled by these rules to participate in hearings.

"Person" means any individual, association, partnership, firm, company, public trust, corporation, joint-stock company, limited liability company, limited liability partnership, trust, estate, state or federal government agency, municipality, other governmental entity, or any other legal entity or their agent, employee, representative, assignee, or successor.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service. **"25-year, 24-hour rainfall event"** means the maximum twenty-four (24) hour precipitation event with a probable recurrence interval of once in twenty-five (25) years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-3. License required [REVOKED]

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Revoked at 38 Ok Reg 1653, eff 9-11-21]

35:17-4-4. License application for new facilities or operations

(a) In addition to the items required by the Oklahoma Concentrated Animal Feeding Operations Act, the application for a CAFO license of a new facility or an operation shall contain, as a minimum, the following information:

- (1) Name and address of the owner of the facility.
- (2) Name and address of the animal feeding operation, including driving directions from the nearest municipality and legal description of the facility.
- (3) Name and address of the operator if other than the owner.
- (4) Capacity in animal units and number and type of animals housed or confined.
- (5) If owner is a firm, partnership, corporation, or other legal entity, the name and address of each member with an ownership interest of ten percent (10%) or more.
- (6) If owner is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of the corporation.
- (7) Environmental history of the past three (3) years of any CAFO operation established or operated by the owner or any other operation with common ownership in Oklahoma or any other state, including all citations, administrative orders or penalties, civil injunctions or other civil actions, and 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 in conjunction with the operation of an animal feeding operation.

(8) List of all environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the owner.

(9) Copy of deed, contract to purchase, or option to purchase the proposed site of the facility, waste retention structures, and land application sites. If land application sites are not owned by the applicant, provide a notarized signed copy of spreading or effluent agreement.

(10) A map of all property owners within one (1) mile of the facility and waste retention structures and a corresponding mailing list.

(11) A plat showing:

(A) Location of the facility, waste retention structures, and all land application sites.

(B) Location and distance of all occupied residences within one (1) mile of the facility and waste retention structures. The distances shall be measured from the nearest point of the waste retention structure to the nearest point of the occupied residence.

(C) Location and distance of all occupied residences within six-hundred (600) feet of any land application site. The distances shall be measured from the nearest point of the land application site to the nearest point of the occupied residence.

(D) Location and distance of all existing public or private drinking water wells within four-hundred (400) feet of any land application site. The distance shall be measured from the nearest point of the land application site to the nearest point of the drinking water well.

(E) All open roads surrounding the facility and all land application sites.

(12) If applicable, a copy of the written waiver by a property owner, municipality, or governing body releasing specified setback requirements as provided by the Act.

(13) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(A) Description of topography using a current USGS 7.5 minute topographic map highlighting the location of waters of the state within three (3) miles of the facility, waste retention structures and all land application sites, an outline of the watershed drainage area, and arrows indicating general direction of surface water drainage from the facility, waste retention sites, and land application sites.

(B) Soil map showing soil types at the facility, waste retention structure, and all land application sites.

(C) 100 year flood plain map, if applicable. In no event shall a waste storage structure be located within the 100 year flood plain as established by the Federal Emergency Management Agency (FEMA).

(14) Report from an independent soil testing laboratory containing the following:

- (A) Site map showing the location of all soil borings in relation to the facility and waste retention structure.
 - (i) The test boring shall be in the immediate vicinity of the proposed waste retention structure.
 - (ii) Bore holes shall be left open for a minimum of 48 hours for the groundwater to recover.
 - (iii) All bore holes shall be plugged according to Oklahoma Water Resources Board requirements.
- (B) Soil tests per ASTM standards on all soils to be used in construction of the liner, with the following procedures and results reported:
 - (i) Grain size particle distribution analysis according to ASTM standards.
 - (ii) A standard Proctor compaction test based on ASTM D 698 procedure.
 - (iii) Perform Atterberg limits test per ASTM standards (ASTM D 4318).
 - (iv) Permeability tests on remolded samples compacted at ninety-five percent (95%) of standard Proctor maximum dry density at optimum moisture content conducted in accordance with ASTM D-5084 for the measurement of Hydraulic Conductivity of Saturated Porous Materials using a Flexible Wall Permeameter.
 - (v) Laboratory tests of representative samples presented in summary tables and on boring logs.
- (C) Provide a soil boring log showing lithology, the above test results, and the classification of soils based on the Unified Soil Classification system.
- (D) USDA Natural Resources Conservation Service (NRCS) soil testing standards and procedures shall only be substituted if the retention structure is designed by USDA NRCS Engineers.

(15) Laboratory test reports showing the amount of Nitrogen as Nitrate and total Phosphorous contained in the following:

- (A) Groundwater from all existing water wells located at the facility and land application sites.
- (B) All surface water impoundments located at the facility and land application sites.
- (C) Composite soil samples from each land application site.

(16) A Pollution Prevention Plan (PPP) which contains an Animal Waste Management Plan (AWMP), a carcass disposal plan, an erosion control plan, and Best Management Practices (BMPs).

(17) A notarized sworn statement signed by the owner accepting full responsibility for properly closing all waste retention structures upon termination of the CAFO operation.

(18) A financial statement declaring the financial ability of an owner to operate an animal feeding operation with a liquid waste

management system in order to comply with the surety requirements of the Act. The financial statement shall be confidential and shall not be opened to public inspection.

(19) A notarized certification signed by the person applying for a license, which states: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(20) All documentation deemed necessary and requested by the Oklahoma Department of Agriculture, Food, and Forestry to assure the quality of waters of the state are not compromised, including waste retention structure liner specifications and design plans and any other information required by the Department directly related to the construction, installation, or future modification or operation of a CAFO.

(b) All items listed in subpart (a) of this section shall be received by the Department before the application is considered complete. At the Department's discretion, no action will be taken on the application until all items have been received by the Department, including but not limited to presite inspections.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 912, eff 7-1-12 ; Amended at 35 Ok Reg 761, eff 9-14-18]

35:17-4-5. Notice requirements

(a) Individual notice to all affected property owners shall be documented. Proof of notice shall include a sample letter and a certificate of mailing corresponding to the names on the mailing list provided with the CAFO license application. The certificate of mailing shall be verified by the owner and include a U.S. Post Office certified mailing number and the name and address of each affected property owner. U.S. Post Office stamped certified mail receipts, letters returned as undeliverable or refused, and domestic return receipts evidencing receipt of the notice shall be kept on file by the owner and provided to the Department upon request. Notice shall provide the following information:

(1) An application for an animal feeding operation has been submitted to the Department.

(2) The legal location and name of the proposed facility.

(3) The opportunity to send written comments to the Oklahoma Department of Agriculture, Food, and Forestry, P.O. Box 528804, Oklahoma City, OK 73152-8804.

(4) A twenty (20) working day public review period shall begin no earlier than the day following the certified mailing of all required individual notices. In the event a hearing is requested, the

application shall be available for public review until the date of the hearing.

(5) The opportunity to request a hearing within twenty (20) working days from the date the application is first available for public viewing. Notice as required by this rule shall include the following language: "A hearing must be requested, in writing, within twenty (20) working days of the availability of this application for public review, or your right to the hearing is waived. Do not rely on the request of another party to insure a hearing. A hearing requested by another party may be dismissed without your permission if you have not personally filed a request for a hearing with the Department of Agriculture."

(6) Individual notice shall occur to all affected property owners, regardless of state residency or property location.

(7) Notice shall be given to the applicable tribal chairperson, where ascertainable, and to the United States Bureau of Indian Affairs (USBIA) when tribally owned land or former reservation land is within one (1) mile of the facility.

(b) In addition to the individual notice, proof of publication notice of a new or application for a CAFO license shall be given by the owner which complies with the provisions of the Act.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 30 Ok Reg 813, eff 7-1-13]

35:17-4-6. Application for license renewal

(a) An application for renewal shall be submitted prior to July 1 of each year the license is to be renewed.

(b) Any license for which a renewal application is received prior to the renewal date established by statute is considered to be valid until a final determination is made. The determination shall be made after a review by the Department.

(1) Renewals meeting the requirements shall be reissued a license unless sufficient cause to terminate or revoke the license is shown. If corrections of the renewal application are required, the owner shall have twenty (20) working days from the date of notification to make all necessary revisions.

(2) If corrections are not made within twenty (20) working days, the license may be referred to the Board for denial. Applications shall be considered to meet the requirements for renewal if:

(A) The application is filled out completely and accurately.

(B) The correct renewal fee is paid within the time specified.

(C) All plans and amended plans for the animal feeding operation are being followed.

(D) The Department determines that there have been no significant changes in the operation since the last renewal which would require that the license be denied due to failure of the facility to meet the requirements of the Act.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-7. Issuance or expansion of license; hearings

(a) For new, previously unlicensed, or expansion applications for a CAFO license, a maximum of sixty (60) working days from the date the application is received by the Department is allocated for investigation, evaluation, and review for completeness of application. For good cause, the Department may take an additional thirty (30) working days to review the application. Good cause shall include but not be limited to a heavier than normal receipt of applications by the Department. The Department shall:

- (1) Evaluate applications for administrative and technical completeness and when necessary, request changes, revisions, corrections, or supplemental submissions. Any request made by the Department shall cause a new sixty (60) working day period to begin following receipt of the requested additional information.
- (2) Evaluate individual and public notices related to new applications for accuracy and completeness of content, compliance with procedural requirements, and require that omissions or inaccuracies be cured.

(b) Requests for a hearing received after the prescribed twenty (20) working day time frame shall not be valid. The ALJ shall, within seven (7) working days of setting a scheduling conference, notify the parties seeking a hearing and the owner of the time and place of the scheduling conference by certified mail, return receipt requested. All further dates and time periods shall be set at the scheduling conference.

(c) The public comment period shall automatically be extended to the close of the hearing. The ALJ shall, within thirty (30) working days following the comment period, make a full written report and a recommendation to the Department and the Board regarding the application.

(d) If all persons who requested a hearing provide a written waiver of the hearing, the Department shall dismiss the hearing, and at the next regularly scheduled meeting of the Board, present the application for consideration.

(e) If the Board does not issue a license, the Department shall provide the owner written notification within twenty (20) working days following date of denial. The notification shall set forth the reasons for the denial and what steps are necessary to meet the requirements for issuance of a license.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-8. Transfer of license

In addition to the provisions of the Act, transfer of a license to a new owner or lessee shall meet the following conditions:

- (1) Upon approval of the transfer of a license, the transferee shall provide to the Department within thirty (30) calendar days, a notarized statement and other proof of transfer of ownership or occupancy as the Department requires;
- (2) All required transfer application documents shall be completed and submitted to the Department within ninety (90)

days of approval of transfer of a license or actual transfer of a licensed operation, whichever is sooner.

(3) If a transfer is denied by the Department, the transferee may, within thirty (30) calendar days after receiving notification of the denial, request in writing a hearing to review the denial of the transfer. In addition to the items which are considered at the hearing, the ALJ may also hear evidence and witnesses on the issue of whether a substantial change of condition has occurred since the issuance of the original license and whether the changes should result in a denial of the transfer of the license.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-4-9. Pollution Prevention Plan (PPP)

(a) Prior to the submission of a CAFO license application or modification, each facility shall develop or update a Pollution Prevention Plan (PPP) according to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant to the Act.

(b) The PPP shall include provisions for documentation of structural controls, documentation of operating Best Management Practices (BMPs), an Animal Waste Management Plan (AWMP), a carcass disposal plan for normal and emergency disposal of carcasses, and record keeping provisions.

(c) The following forms and records shall be maintained by the CAFO for each PPP:

- (1) wastewater measurements;
- (2) precipitation measurements;
- (3) spill reporting forms;
- (4) discharge reporting forms;
- (5) inspection and maintenance records;
- (6) annual inspection records;
- (7) preventive maintenance records;
- (8) records of manure or wastewater sold or transferred (if applicable);
- (9) records of land application of solid manure (if applicable);
- (10) records of land application of liquid manure (if applicable);
- (11) records of land application of compost from mortalities (if applicable)
- (12) mortality management records; and
- (13) other site specific information requested by the Department.

(d) The Plan shall identify an individual who is responsible for implementing, maintaining, and revising the PPP.

(e) Equivalent measures contained in a site specific AWMP prepared by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) may be substituted for the appropriate PPP requirements. An AWMP developed by USDA NRCS can be substituted for the documentation of land application rate calculations.

(f) With Department approval, the owner shall amend the PPP prior to any change in design, construction, operation, or maintenance, which has significant effect on the potential for the discharge of pollutants to the

surface or groundwaters of the State.

(g) The owner shall implement appropriate changes to the Plan within ninety (90) calendar days of notification that the plan does not meet one or more specified minimum requirements unless otherwise provided by the Department. If notice of changes is not received by the Department within the prescribed ninety (90) calendar days, the application shall be denied.

(h) In addition to the requirements of the Act, the PPP shall include:

(1) A list of materials that are used, stored, or disposed of at the facility which may cause pollution. A contingency plan for releases of potential pollutants shall also be included. The PPP shall contain a log of any pollutant releases and clean up of those materials. Documentation of releases shall include any corrective action taken to prevent recurrence.

(2) Testing of groundwater, Nitrogen as Nitrate, total Phosphorous, and fecal coliform bacteria levels shall be performed by an Oklahoma Department of Environmental Quality certified independent testing laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner.

(3) Soil tests from land application sites shall be performed by an Oklahoma Department of Environmental Quality certified testing laboratory or State operated laboratory at least annually. All testing shall establish a management record, with all costs paid by the owner.

(4) Sufficient testing of wastewater in waste storage facilities shall be required at least every three (3) years and performed by a qualified independent testing laboratory. Testing may be required more frequently at an individual facility at the Department's request. Additional parameters may be required upon request of the Department.

(5) A description of management controls appropriate for the facility. The owner initiates these controls. The appropriateness and priorities of any controls shall reflect the identified sources of pollutants at the facility and conform to criteria established by the Act and the Department.

(A) The location and a description of existing surface water controls. Structural controls shall be inspected at least quarterly each year for structural integrity and maintenance. Dates of inspections of the retention structure and a log of the findings of the inspections shall be maintained at the site.

(B) Documentation of retention structure capacity shall be submitted to the Department and shall be based upon input parameters, the assumptions and actual calculations, showing volumes for all intermediate steps, used in determining the appropriate volume capacity. Retention structure capacity shall be based upon the following, at a minimum:

(i) The runoff volume from open lot surfaces.

(ii) The runoff volume from areas between open lot surfaces and the retention structure.

(iii) The rainfall multiplied by the area of the retention structure.

(iv) The volume of rainfall from any roofed area that is directed into the retention structure.

(v) All waste and process generated wastewater produced during a period of time not less than twenty-one (21) calendar days, including: volume of wet manure that enters a pond; plus volume of water used for manure or waste removal; plus volume of wash or cleanup water; plus other water, including drinking water that enters the retention structure. The minimum twenty-one (21) day storage capacity is an absolute minimum. The minimum storage capacity may be increased depending on the number of acres available for land application, crops and crop water demands, climate conditions, operations and management.

(vi) Volume of a 25-year, 24-hour rainfall event.

(vii) One (1) foot of freeboard below spillway or outlet.

(viii) A water budget analysis shall be performed on all liquid waste retention structures based on the average monthly precipitation taken from a National Weather Service current publication of the previous fifteen (15) years of data, at a minimum.

(C) A description of the design standards for the retention facility embankments. The following minimum design standards are required for construction or modification of a retention structure embankment:

(i) Soils used in the embankment shall be free of foreign material, including trash, brush, and fallen trees.

(ii) The embankment shall be constructed in lifts no more than six (6) inches thick after compaction and compacted to a minimum of 95% of the maximum dry density and 2% of optimum moisture content as determined by ASTM D 698 standard proctor test.

(iii) Each lift of the embankment of the retention structures shall be checked to ensure proper compaction and moisture content; all

documentation to include:

(I) project name,

(II) date,

(III) test method used,

(IV) site name,

(V) technician name,

(VI) location of reading, including sketch, if necessary,

(VII) percent compaction,
(VIII) wet density, pcf,
(IX) dry density, pcf,
(X) moisture content,
(XI) lift number, and
(XII) soils lab name, report number and
proctor test results used to obtain field
measurements.

(iv) If retention structures are constructed with an emergency spillway, a minimum of one (1) foot of freeboard shall be maintained between the top of the 25-year, 24-hour storm volume and the bottom of the emergency spillway.

(v) An erosion control plan shall be developed and approved by the Department detailing how the owner immediately stabilizes the embankment walls to prevent erosion and deterioration. The plan shall include a preventive maintenance section. Each plan shall be approved on a case by case basis and may include the use of vegetative cover, geomembrane liners, sod, or other Department approved methods for controlling erosion.

(vi) A permanent measuring device shall be maintained in the wastewater retention structure to show the volume required to contain a 25-year, 24-hour rainfall event. The device shall be visible from the top of the levee and a separate mark shall be placed on the measuring device clearly identifying the 25-year, 24-hour rainfall event. Installation of the measuring device shall be performed in a manner to protect the integrity of liner at all times.

(vii) A rain gauge shall be kept on site and properly maintained. A log of all measurable precipitation events shall be kept with the PPP.

(viii) Documentation of method used to ensure liner of the waste retention structure is protected at or below the inlet.

(6) The following records, in addition to those required by the Act, shall be maintained at the site for a minimum of three (3) years.

- (A) Weekly measure of water level in the retention facility;
- (B) Quarterly inspection and maintenance reports;
- (C) Other specific information required by the Department.

(7) The following records, in addition to those required by the Act, shall be maintained at the site as long as the facility is in operation:

- (A) Documentation of no significant impact, if applicable.
- (B) Copy of Notice of Intent (NOI) or Notice of Termination (NOT), if applicable.

- (C) Other records as required by the Department.
- (8) Within twenty-four (24) hours of identifying a discharge, a licensee shall be required to report the discharge to the Department. The licensee shall be required to submit an additional, final report to the Department upon clean-up and receipt of discharge analysis.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 912, eff 7-1-12 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 35 Ok Reg 761, eff 9-14-18 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-4-10. Documentation of no hydrologic connection [REVOKED]

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Revoked at 38 Ok Reg 1653, eff 9-11-21]

35:17-4-11. Criteria for liners

(a) Soil liners shall be constructed to meet the following minimum requirements:

(1) Constructed in lifts or layers no more than six (6) inches thick when compacted.

(A) Soils used in the liner shall be free of foreign material, including trash, brush, and fallen trees.

(B) All side slopes and the floor of the retention structures shall be checked after each lift to ensure proper compaction and moisture content. All readings shall be recorded and properly documented. Minimum information required for documentation shall include:

- (i) Project name.
- (ii) Date.
- (iii) Test method used per ASTM specification.
- (iv) Site name.
- (v) Technician name.
- (vi) Location of reading, include sketch.
- (vii) Percent compaction
- (viii) Wet density in pounds per cubic foot (pcf).
- (ix) Dry density in pounds per cubic foot (pcf).
- (x) Moisture content, percent.
- (xi) Lift number.
- (xii) Soils lab name, report number, and Proctor Test results used to obtain field measurements.

(2) Compaction to a minimum of ninety-five percent (95%) of Standard Proctor (ASTM D 698) at optimum or wetter moisture content.

(3) Hydraulic conductivities of no greater than 1×10^{-7} cm/sec. The field permeability of the liner shall be verified by using one of the following methods:

(A) If a sealed Double Ring Infiltrometer is used to determine the field permeability of the liner, at least one representative location on each corner and one location in the center of the waste retention structure bottom shall be

selected for Double Ring Infiltrometer determination.

(B) At least four (4) representative undisturbed core samples, one from each corner of the waste retention structure bottom shall be retrieved for permeability determination in the laboratory. The permeability shall be determined using a Flexible Wall Permeameter (ASTM D 5084).

(4) Minimum thickness of one and one half (1.5) feet.

(5) Maximum hydrostatic head of ten and one half (10.5) feet.

(6) Hydrostatic head or water depth may be increased above ten and one half (10.5) feet in one of the following circumstances:

(A) Liner thickness above the minimum shall be increased by an amount needed to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity.

(B) Soils with permeabilities less than 1×10^{-7} cm/sec are used to maintain the allowable seepage rate, which shall not exceed eighty three one hundredths (0.83) feet per year pursuant to Darcy's Velocity. Soils which do not meet the maximum criteria of 1×10^{-7} cm/sec can be mixed with a sufficient amount of bentonite clay to achieve the desired standard.

(C) Any combination of (A) or (B). In no case shall hydraulic conductivity be used to reduce the minimum thickness of one and one half (1.5) feet or shall thickness be used to increase the maximum hydraulic conductivity of 1×10^{-7} cm/sec.

(b) The owner shall maintain the liner to inhibit infiltration of wastewaters. Liners shall be protected from burrowing and other animals by fences or other protective devices. Liners shall also be protected from the potential root zone of all trees.

(c) Any mechanical or structural damage to the liner shall be evaluated by an environmental, agricultural, or other Department approved professional engineer registered in the state of Oklahoma within thirty (30) calendar days of the damage. Documentation of liner maintenance shall be kept with the Pollution Prevention Plan.

(d) Flexible membrane or synthetic liners may be used in connection with a soil liner or as a substitute for a soil liner. Geosynthetic liners and flexible membrane liners shall be installed so as to protect waters of the State from contamination.

(1) The subgrade soil shall be prepared according to the design standards. A subgrade verification form shall be submitted with liner documentation.

(2) The surface to be lined shall be rolled and compacted and free of irregularities, undulations, protrusions, vegetation, excessive moisture, loose soil, or abrupt changes in slope.

(3) The subgrade surface shall be free of foreign material including stones, cobbles, broken pieces of wood, plastic, or glass.

(4) The owner shall provide a copy of a completed Surface Acceptance Form indicating acceptable locations. In no case shall

the installer deploy any geomembrane or flexible membrane liner in areas not acceptable within these rules.

(5) If at any time during the installation the subgrade surface deteriorates or is damaged, or in any way deemed unacceptable by the regulatory authority, all work shall stop until proper repair is performed.

(6) The anchor trench shall be constructed according to the standard industry practices. The trench shall be adequately drained to prevent ponding or softening of the side walls. After installation of the liner, the trench shall be back filled, compacted, and anchored according to the standards.

(7) The liner placement plan shall take into consideration the site drainage, low lying areas, temperature, and prevailing wind velocity and direction. Field panels shall be deployed one at a time and seamed as soon as possible to minimize the risk of wind or water damage.

(8) Field panel deployment shall not proceed at an ambient temperature below forty degrees (40°) F, unless Low Temperature Welding Procedures are used. All deployed panels should be amply ballasted or sand bagged at all times to avoid wind damage.

(9) Personnel responsible for placement of the liner shall not smoke, wear damaging shoes, or engage in other activities which may cause damage to the liner. The method of deployment shall not cause scratches, crimps, or tear the liner or damage the subgrade. Adequate sand bags shall be placed on the edges of the liner to avoid wind uplifting.

(10) The installer shall visually inspect the panels as soon as possible after deployment for damage or distressed surfaces.

(11) A seam is considered a separate entity if it joins two panels. Repairs are not considered seams in this context. Seams shall be generally oriented parallel to the line of maximum slope, or along instead of across the slope. In corners and odd shaped geometric locations the number of seams should be minimized.

(12) The Extrusion Process shall be used only for repairs and patching and shall not be used for the overall operation. The Fusion Process shall be used for seaming panels together using hot-wedge type or solid wedge type automated self-propelled apparatus equipped with temperature gauges.

(13) The nondestructive seam continuity test shall be performed during daylight hours and certified by the owner.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 912, eff 7-1-12 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-4-12. Animal Waste Management Plans (AWMPs)

(a) An AWMP or its equivalent shall be prepared, according to Departmental policy, for each facility prior to the submission of a CAFO license application. An AWMP or its equivalent may include, but is not limited to, a Comprehensive Nutrient Management Plan per NRCS guidance, or a Nutrient Management Plan per EPA guidance.

(b) The AWMP shall include:

(1) A plan with a proposed schedule for liquid and solid animal waste removal, including sludge.

(2) A date log indicating weekly inspection of wastewater level in the retention structure, including specific measurement of wastewater level. Facilities using pits, ponds, or other waste retention structures for storage and treatment of storm water, manure, and process generated wastewater, including flush water waste handling systems, shall maintain in their wastewater retention structure sufficient capacity to contain rainfall and rainfall runoff from a 25-year, 24-hour rainfall event. The owner shall immediately restore sufficient capacity to contain a 25-year, 24-hour rainfall event after any rainfall event or accumulation of wastes or process generated wastewater which reduces capacity, weather permitting. The 25-year, 24-hour rainfall event capacity shall be in addition to the one (1) foot of freeboard required.

(3) All calculations and all factors and assumptions used in determining land application rates, acreage, and crops for both solid and liquid animal wastes. Land application rates shall take into account the plant available nutrient contribution of any land applied animal wastes. The following requirements shall apply to land application of animal waste on land owned or leased by the owner:

(A) Runoff from animal waste is prohibited where it results in a discharge to surface or groundwaters of the State. The owner shall provide controls for runoff and erosion as appropriate for site conditions.

(B) Animal wastes shall not be applied when the ground is frozen or saturated or during rainfall events.

(C) It shall be considered acceptable emergency procedures for a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the State.

(D) Land application practices shall be managed so as to reduce or minimize the following:

(i) Ponding or puddling of wastewater on the site.

(ii) Adverse conditions that invite pests including flies and rodents.

(E) Facilities including waste retention structures, waste storage sites, land application sites, ponds, pipes, ditches, pumps, and diversion and irrigation equipment shall be maintained to insure the ability to fully comply with the terms of these rules and the Pollution Prevention Plan.

(F) Adequate equipment and land application area shall be available for removal of waste and wastewater as required to maintain the proper operating volume of the retention structure. A list of proposed or actual equipment shall be included.

(G) Surface disposal of animal wastes in the 100-year flood plain, as established by the Federal Emergency Management Agency (FEMA), or near water courses is prohibited unless protected from inundation and damage that may occur during that flood event by adequate berms or other structures. The land application of animal wastes at agronomic rates shall not be considered surface disposal and is not prohibited.

(H) Runoff from animal waste storage piles shall be retained on site.

(I) Accumulation of water in animal waste storage areas shall be avoided.

(J) Timing and rate of applications shall be in response to crop needs, assuming usual nutrient losses, expected precipitation, and soil conditions. Timing and rate of land application of animal waste shall be based on published materials approved by the Department.

(K) Land application shall not occur in areas defined as do not apply areas in the waste application criteria of the USDA NRCS Waste Utilization Standard Conservation Practice Standard 633 and Nutrient Management Conservation Practice Standard Code 590, or their current replacement.

(L) The AWMP shall identify areas which due to topography, activities, or other factors have a high potential for significant soil erosion. Where these areas have the potential to contribute pollutants to surface or groundwaters of the State, the Pollution Prevention Plan shall identify measures used to limit erosion and pollutant runoff. Land subject to excessive erosion shall be avoided.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 912, eff 7-1-12]

35:17-4-13. Carcass disposal

(a) Dead animals shall be disposed of in accordance with a carcass disposal plan developed by the owner and approved by the Department which shall decrease the possibility of the spread of disease, reduce odors, and preclude contamination of ground and surface waters of the state. Dead animals shall be disposed of properly and in an environmentally safe manner in accordance with Federal, State, and local requirements. At all times the facility shall comply with the provisions of an approved carcass disposal plan.

(b) The plan shall include provisions for the disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates.

(c) Accepted methods of carcass disposal include the following:

(1) Rendering.

(A) The owner shall obtain a contract with a rendering service that insures disposal of all carcasses within a

reasonable period of time. The name, address, and telephone number of the rendering service shall be provided. In addition, the frequency and schedule of carcass pickup shall be included.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(C) Sealed storage facilities shall not be required for animals weighing 300 pounds or more, but the prevention of pests and odors shall be addressed.

(2) Burial.

(A) Burial shall only be allowed as a method of carcass disposal if no reasonable alternative exists and the disposal plan contains specific measures and practices which are utilized to protect the ground and surface waters of the state.

(B) Prior approval by the Department is required of any carcass disposal plan listing burial as the method of disposal.

(3) Composting.

(A) Prior approval by the Department is required of any carcass disposal plan listing composting as the method of disposal.

(B) The Department may require another method of carcass disposal other than composting if the Department determines that a more feasible and effective method of carcass disposal exists.

(4) Incineration shall only be used as method of carcass disposal if the animal feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 35 Ok Reg 761, eff 9-14-18 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-4-14. Employee education and training

(a) Employees responsible for work activities which relate to compliance shall be regularly trained and informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal. Employee training shall inform personnel at all levels of the general components and goals of the Pollution Prevention Plan. Training shall include but not be limited to the following topics:

(1) Proper operation and maintenance of waste retention structures, including proper water level maintenance.

(2) Land application of wastes, proper operation, and maintenance of the facility.

(3) Good housekeeping and material management practices.

(4) Necessary record keeping requirements.

(5) Spill response and clean up.

(b) The owner is responsible for determining the appropriate training frequency for different levels of personnel and the PPP shall identify periodic dates for training.

(c) Curricula and course content shall be developed under the supervision of Oklahoma State University Cooperative Extension Service and topics shall include:

- (1) Proper operation and management of waste retention structures.
- (2) Animal waste nutrient management, including land application of waste.
- (3) Air quality and odor control.
- (4) Regulation and record keeping requirements.
- (5) Water quality.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-15. Owner inspections

(a) The owner or the person named in the PPP as the individual responsible for drafting or implementing the plan shall be responsible for inspections and record keeping.

(b) Incidents including spills, discharges, and other information describing the pollution potential and quantity of the discharge shall be included in the records. Inspections and maintenance activities shall be documented and recorded. These records shall be kept on site for a minimum of three (3) years.

(c) The authorized person named in the PPP shall require inspection of designated equipment and facility areas. Material handling areas shall be inspected for evidence of or the potential for pollutants entering the drainage system. A follow-up procedure shall be used to insure that appropriate action has been taken in response to the inspection.

(d) In addition to the Department annual inspection, a complete inspection of the facility shall be performed at least annually by the owner. A report documenting the findings of the inspection shall be prepared, which includes the operative status of the check valves system on applicable wells. The inspection shall be conducted by the authorized person named in the PPP to verify that the description of potential pollutant sources is accurate, the drainage map has been updated or otherwise modified to reflect current conditions and the controls outlined in the PPP to reduce pollutants are being implemented and are adequate.

(e) The Department may sample wells on or near the site.

(f) Records documenting significant observation made during the site inspection shall be retained as part of the Pollution Prevention Plan. Records of all inspections shall be maintained for a period of three (3) years.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-16. Best Management Practices (BMPs)

(a) The owner shall document all Best Management Practices (BMPs) used to comply with the required effluent limitations. Equivalent measures contained in a site-specific AWMP prepared by NRCS may be substituted for the BMPs.

(b) The criteria for BMPs shall be established in writing by the Department and shall include but not be limited to the following:

(1) There shall be no water quality impairment to public and neighboring private drinking water wells due to waste handling at the facility. Wastewater retention structures or land application of wastewater shall not be located within three hundred (300) feet of an existing public or private drinking water well.

(2) Animal waste handling, treatment, and management shall not knowingly or reasonably result in the destruction of endangered or threatened species or contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor shall disposal knowingly interfere with or cause harm to migratory birds. The owner shall notify the appropriate fish and wildlife agency in the event of any significant fish, wildlife, or migratory bird or endangered species kill or die-off on or near retention ponds or in fields where waste has been applied and which could reasonably have resulted from waste management at the facility.

(3) Solids, sludges, manure, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner designed to prevent pollutants from being discharged to surface or groundwaters of the State.

(4) The owner shall prevent the discharge of pesticide contaminated waters into surface or groundwaters of the State. All wastes from dipping vats, pest, and parasite control units and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner which prevents pollutants from entering the surface or groundwaters of the State.

(5) Fresh water entering into contaminated areas shall be managed to prevent contamination. Preventing the drainage of fresh surface waters into or onto waste contaminated areas shall be accomplished by one of the following:

(A) Terracing and the construction of other diversion structures to redirect fresh water drainage from entering waste contaminated areas.

(B) Rainwaters falling directly on waste contaminated areas of the facility shall be collected and dispersed as a waste.

(6) Actions as deemed necessary shall be taken to retain all animal waste on the premises until proper waste utilization is accomplished.

(c) The owner shall describe how each BMP shall be implemented and complied with at the facility.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-17. Other statutory authority

No condition of this Subchapter shall release the owner from any responsibility or requirements under other Federal, State, or Local

statutes or rules. The burden shall be upon the owner to determine compliance.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-18. Violation points system

The following violation points system shall be utilized by the Department to assess points prior to suspension, revocation, or nonrenewal of a CAFO license. This system shall operate in addition to penalties provided for in the Oklahoma Concentrated Animal Feeding Operations Act, and shall not alter the authority to the Board to revoke a license under other sections of the Act.

(1) When any animal feeding operation accrues a total of fifteen (15) or more points in any two (2) year time period, the license of the animal feeding operation shall be suspended, revoked, or not renewed by the Board.

(2) Points shall accrue based on violations of the Oklahoma Concentrated Animal Feeding Operations Act and rules.

(A) Failure of any CAFO to apply for a license when required by the provisions of the Oklahoma Concentrated Animal Feeding Operations Act shall accrue three (3) to five (5) points.

(B) Knowingly making any false statement, representation, or certification in, omitting material data from, or tampering with any application for a license, or notice relating to the determination of affected property owners shall be a significant violation and accrue four (4) to five (5) points.

(C) Failure to follow the Pollution Prevention Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(D) Failure to follow the Pollution Prevention Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(E) Failure to provide full closure of a facility pursuant to a closure plan shall accrue three (3) to five (5) points.

(F) Failure by an animal feeding operation to utilize or comply with Best Management Practices and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(G) Failure by an animal feeding operation to utilize or comply with Best Management Practices and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health,

or the environment shall accrue three (3) to four (4) points.

(H) Failure by an animal feeding operation to report a discharge shall accrue two (2) to four (4) points.

(I) Failure by an animal feeding operation to utilize or comply with an Animal Waste Management Plan and the failure results in actual harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall be a significant violation and accrue five (5) points.

(J) Failure by an animal feeding operation to utilize or comply with an Animal Waste Management Plan and the failure results in potential harm to natural resources of the state, ground or surface water quantity or quality, public health, or the environment shall accrue three (3) to four (4) points.

(K) Failure by an animal feeding operation to follow a carcass disposal plan shall accrue one (1) to three (3) points.

(L) Failure by an animal feeding operation to follow an erosion control plan shall accrue one (1) to two (2) points.

(M) Failure to take such actions as are reasonable and necessary to avoid pollution of any stream, lake, river or creek or violate any rule to prevent water pollution shall be a significant violation and accrue five (5) points.

(N) Knowingly making false statements, representation, or certification in any water pollution form, notice, or report shall be a significant violation and accrue five (5) points.

(O) Knowingly rendering inaccurate any monitoring device or method required to be maintained by any water pollution rules shall be a significant violation and accrue five (5) points.

(3) All violations which are assessed four (4) or five (5) points shall only accrue points upon approval by the State Board of Agriculture. All other violations shall accrue points upon approval by the Agricultural Environmental Management Services Division of the Department. Assessment of points by the Agricultural Environmental Management Services Division may be appealed in writing to the Division Director. If the accumulated number of points reaches a total of fifteen (15) points, the owner may appeal to the State Board of Agriculture.

(4) Even if the violation points do not add up to a total of fifteen (15) points, the State Board of Agriculture may deem a violation that results in serious harm to be so significant as to warrant immediate revocation, nonrenewal, or suspension of the license.

(5) Any owner whose license is suspended, revoked, or not renewed shall remain without the license for a minimum of one (1) year. At the Department's discretion, the license may be renewed so long as the owner complies with all conditions which the Department imposes on the animal feeding operation.

(6) Conditions for renewal shall at a minimum include compliance during the entire period of revocation with all aspects of the Oklahoma Concentrated Animal Feeding Operations Act and its rules, and correction of all conditions which caused the license nonrenewal, suspension, or revocation.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-19. Receipt and resolution of complaint against owner

Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, is notified within five (5) working days. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent possible by the Department. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-20. Biosecurity

If direct contact with animals or animal quarters becomes necessary, disease prevention measures outlined by the owner will be followed by the inspector.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-21. Closure of animal waste retention structures

(a) If for any reason a waste retention structure is taken out of operation permanently or by action of the State Board of Agriculture is ordered to permanently cease operations, the owner is responsible for notifying the Department of owner's intention to close the waste retention structures for the handling of animal waste. The owner is responsible for the proper closure of all waste retention structures to be closed. If a facility temporarily ceases operations and remains in full compliance with its Pollution Prevention Plan, the facility shall not be considered to have permanently closed.

(b) The owner shall submit a closure plan as part of the permit application including at a minimum:

(1) The sequence of closing process including but not limited to handling of waste retention structure wastewater, solids, and handling and safe disposal of bottom sludge.

(2) Demonstrate the availability of sufficient land area for land application of the liquid, solid, and sludge component of the waste retention structure.

(3) Provide a copy of a written estimate, in current dollars, of the cost of hiring an independent third party to decommission each waste retention structure.

(c) All future changes or modifications to the closure plan shall be approved by the Department.

(d) A post closure monitoring program shall be conducted for a period of at least three (3) years.

(e) A certificate of post closure performance shall be submitted to the Department at the end of the post closure period. The certificate shall be signed by the owner and by a Professional Engineer registered in the State of Oklahoma, indicating that all waste retention structures were maintained and monitored in accordance with the approved closure plan.

(f) Closure requirements of waste retention structures shall be based on site specific conditions, as follows:

(1) The Department shall be notified in writing whenever a animal waste retention structure becomes permanently inactive, is abandoned, or operation of the structure ceases permanently for any reason. Any animal waste retention structure shall be considered by the Department to have become permanently inactive or to have ceased operations permanently in the following circumstances:

(A) The facility is closed by the Department because of repeated violations which result in the filing of a Board order to cease operations.

(B) The owner is unable to furnish documentation to show that there has been receipt of animal waste into the retention structure during the previous twenty-four (24) months and the owner is not maintaining the retention structure in consistent compliance with the applicable rules and the Department approved plans.

(2) Upon the owner's determination that a animal waste retention structure has become permanently inactive or has permanently ceased operation pursuant subpart (f)(1)(B) above, the owner shall notify the Department in writing within ninety (90) calendar days thereafter of the intention to close waste retention structure. Closure of retention structures shall commence within six (6) months of the date of notice to the Department of the intention to close and be completed within two (2) subsequent growing seasons. Closure shall be in accordance with a closure plan approved by the Department. Any extension of time for closure shall be requested in writing by the owner and approved by the Department. A legal change other than a transfer of the owner of any animal waste retention structure shall not extend the time limit for closure.

(3) Liquid contents of a waste retention structure may be pumped out and land applied according to Department rules.

(4) Solids from the waste retention structure shall be removed and disposed of in an environmentally safe manner.

(5) Sludge from the bottom of the waste retention structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department rules.

(6) The owner shall grid sample soil from the bottom of the waste retention structure and, at the owner's election, shall either:

(A) have the samples analyzed in a State certified laboratory for nitrate-nitrogen and electrical conductance;

or

(B) analyze samples in the field for nitrate-nitrogen and electrical conductance using field leaching procedures and a test kit, with laboratory confirmation by sending one sample per every twenty (20) samples to a laboratory for analysis.

(7) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.

(8) If soil is to be removed from the bottom of a waste retention structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.

(9) The Department may require monitoring wells if evidence indicates that contamination has migrated to the groundwater based on site specific conditions.

(10) Exemption from closure and transfer of responsibility for any animal waste retention structure to any other party shall be requested in writing for approval by the Department.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08 ; Amended at 29 Ok Reg 912, eff 7-1-12]

35:17-4-22. Variances

Variances from these rules shall only be granted on a case by case basis and the granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-23. Licensed facilities not yet constructed

All structures and facilities licensed but not yet constructed shall be subject to all construction requirements of the Oklahoma Concentrated Animal Feeding Operations Act in effect at the date of construction. Prior to commencement of construction, the Pollution Prevention Plan shall be updated, and the Department shall be notified of construction prior to commencement.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

35:17-4-24. Repealer

All previous rules promulgated by the Board under the Oklahoma Feed Yards Act or the Oklahoma Concentrated Animal Feeding Operations Act are repealed.

[Source: Added at 25 Ok Reg 1795, eff 7-1-08]

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-1. Purpose

These rules shall serve to control nonpoint source runoff and discharges from poultry waste application of poultry feeding operations. The rules allow for the monitoring of poultry waste application to land or removal from these operations and assist in ensuring beneficial use of poultry waste while preventing adverse effects to the waters of the state of Oklahoma. These rules are promulgated pursuant to and are read in conjunction with the Oklahoma Registered Poultry Feeding Operations Act found at Section 10-9.1 et seq. at Title 2 of the Oklahoma Statutes. The provisions of the Oklahoma Registered Poultry Feeding Operations Act are incorporated by reference.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-2. Definitions

In addition to the terms contained and defined in the Oklahoma Registered Poultry Feeding Operations Act, the following words or terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Discharge" means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State.

"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 Title 2 of the Oklahoma Statutes and shall also include a certified nutrient management plan and animal waste management plan.

"Occupied residence" means a habitable structure designed and constructed for full-time occupancy in all weather conditions, and:

- (A) Is not readily mobile,
- (B) Is connected to a public or permanent source of electricity and a permanent waste disposal system or public waste disposal system, and
- (C) Is occupied as a residence.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"Waste facility" means any structure or combination of structures utilized to control poultry waste until it can be utilized in an authorized manner. These structures shall include all treatment and storage structures but not be limited to pits, burial sites, barns, or roof covered structures which house poultry, composters, poultry waste storage sites, or retention structures, and all appurtenances or additions.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 36 Ok

35:17-5-3. Registration, Nutrient Management Plan (NMP) required

(a) Registration.

- (1) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.
- (2) Every poultry feeding operation shall be required to renew the registration annually by January 1 to operate.
- (3) 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.
- (4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) Nutrient Management Plan.

- (1) Every poultry feeding operation shall obtain or apply for an approved NMP addressing both nitrogen and phosphorus.
- (2) All new operators of poultry feeding operations shall obtain or apply for a NMP prior to construction of the facility. The NMP shall be completed and implemented within one year of application.
- (3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.
- (4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans shall also be reviewed and updated in the following circumstances:
 - (A) When the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards or
 - (B) Upon notification of the Oklahoma Department of Agriculture, Food, and Forestry.
- (5) The NMP shall be updated prior to the expansion of a facility.
- (6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and Forestry. In no event shall the poultry feeding operation land apply poultry waste in excess of the standards contained in Appendix A.

(c) Transfer.

- (1) Owners intending to sell a registered poultry feeding operation shall notify the Department at least ten (10) days prior to the final sale.
- (2) Owners selling the registered poultry feeding operation shall submit a final annual report for the current fiscal year within thirty (30) days following the final sale.
- (3) New owners purchasing a registered poultry feeding operation shall have thirty (30) days to submit a transfer application on a

form prescribed by the Department along with the Ten (10) Dollar nonrefundable application fee.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 37 Ok Reg 957, eff 9-14-20 ; Amended at 40 Ok Reg 123, eff 10-20-22 (emergency); Amended at 40 Ok Reg 1504, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

(B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.

(C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility;

(2) Public school shall be one thousand five hundred (1,500) feet;

(3) Incorporated city limits shall be one thousand five hundred (1,500) feet;

(4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;

(5) Property line shall be one hundred and fifty (150) feet;

(6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;

(7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and

(8) Public well shall be five hundred (500) feet.

(b) The setbacks contained in subsections (a)(1), (2), (3), and (5) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), (3), and (5) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.

(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled

map:

- (1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and
- (2) Identification of all locations listed in subsection (a) within one thousand (1,000) feet of the facility.

(d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.

(e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.

(f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.

[Source: Added at 36 Ok Reg 1362, eff 9-14-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-3.2. Cancellation of poultry feeding operation registration

(a) A request to cancel registration of a poultry feeding operation shall be in writing and include a final annual report for the current fiscal year.

(b) Poultry waste shall be properly removed from all poultry waste management systems prior to request for cancellation of a poultry feeding operation registration.

[Source: Added at 37 Ok Reg 957, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-4. Soil and litter tests required

(a) All soil and poultry waste analysis data shall be dated prior to land application.

(b) Poultry waste shall be applied only by an Oklahoma certified poultry waste applicator.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Revoked at 15 Ok Reg 4266, eff 8-20-98 (emergency); Revoked at 16 Ok Reg 2119, eff 6-25-99 ; Added at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 37 Ok Reg 957, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-5. Nutrient Management Plan

(a) The NMP shall comply with all requirements contained in Appendix B and shall contain, at a minimum, the following:

- (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, including soil and poultry waste testing.

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

(5) Soils map with description and type or series.

(6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.

(7) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided.

Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. 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. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(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 or snow covered except in conformance with the NMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(H) Poultry waste shall only be applied by a certified poultry waste applicator.

(b) The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(2) Burial shall only be approved by the Department as a method of emergency carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.

(3) Composting by methods as approved in the NMP.

(4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(5) Alternative methods submitted to and approved by the Department on a case by case basis.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.

(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 37 Ok Reg 957, eff 9-14-20 ; Amended at 40 Ok Reg 123, eff 10-20-22 (emergency); Amended at 40 Ok Reg 1504, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-6. Poultry waste Transfers

In the event poultry waste cannot be used on the premises of the poultry feeding operation, the poultry waste shall be sold, given away, or otherwise safely removed from the premises.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2508, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-7. Record keeping

(a) Annual reports regarding all poultry waste removed from or land applied by the facility shall be maintained for a minimum of six (6) years.

(b) Education certifications shall be maintained for a period of five (5) years and shall be available at all times to the Department .

(c) Soil and poultry waste analysis data shall be retained by the poultry feeding operation for no less than six (6) years.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-5-8. Inspections [REVOKED]

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-9. Complaints

Upon receipt of a complaint, the State Department of Agriculture shall notify the person filing the complaint in writing of its receipt and status within five (5) working days. The party whom the complaint is filed against, if known, will be notified within five (5) working days. The State Department of Agriculture or its authorized agents are empowered to enter upon the premises of any poultry feeding operation for the purpose of investigating complaints regarding the operation or to determine compliance with the Oklahoma Registered Poultry Feeding Operations Act. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies to the extent determined necessary by the State Department of Agriculture. The complainant and owner shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-9.1. Biosecurity

(a) Standard precautions for the prevention of the transmission of communicable diseases to humans and animals shall be used by employees of the State Department of Agriculture when inspecting poultry feeding operations pursuant to their official duties specified by the Oklahoma Registered Poultry Feeding Operations Act.

(b) Except for emergency situations or when enforcement of the provisions of the Oklahoma Registered Poultry Feeding Operations Act is required, the State Department of Agriculture shall observe the health standards and sanitary requirements of the facility.

[Source: Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 (emergency); Amended at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-10. Investigations and penalties [REVOKED]

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Revoked at 15 Ok Reg 4266, eff 8-20-98 (emergency); Revoked at 16 Ok Reg 2119, eff 6-25-99]

35:17-5-10.1. Violation points system [REVOKED]

[Source: Added at 15 Ok Reg 4271, eff 8-2-98 (emergency); Added at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 30 Ok Reg 813, eff 7-1-13 ; Revoked at 33 Ok Reg 1164, eff 9-11-16]

35:17-5-11. Education

(a) All operators of poultry feeding operations shall attend educational courses on poultry waste handling provided by the Oklahoma Cooperative Extension Service.

(b) All operators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the operator has received a total of nineteen (19) hours of training. Any operator may attend more hours than are required, however, those hours

shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator will graduate from the program but shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) 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 Cooperative Extension Service in consultation with the Department.

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

(e) 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.

(f) 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 this section.

(g) All operators shall obtain the required education no later than December 31st of each calendar year.

(h) Oklahoma Cooperative Extension Service education courses previously taken by an operator pursuant to rules promulgated by the State Board of Agriculture for Commercial Poultry Operations shall count towards the mandatory education requirements contained in the Oklahoma Registered Poultry Feeding Operations Act.

[Source: Added at 15 Ok Reg 1057, eff 12-19-97 (emergency); Added at 15 Ok Reg 2520, eff 6-25-98 ; Amended at 15 Ok Reg 4266, eff 8-20-98 ; Amended at 16 Ok Reg 2119, eff 6-25-99 ; Amended at 22 Ok Reg 2306, eff 7-11-05 ; Amended at 29 Ok Reg 1694, eff 8-1-12]

35:17-5-12. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)¹]

Editor's Note: ¹ *This emergency action reserving Section number 35:17-5-12 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this*

emergency action]

35:17-5-13. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)¹]

Editor's Note: ¹*This emergency action reserving Section number 35:17-5-13 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action]*

35:17-5-14. [EXPIRED]

[Source: Reserved at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)¹]

Editor's Note: ¹*This emergency action reserving Section number 35:17-5-14 expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action]*

35:17-5-15. Floodplain restrictions [EXPIRED]

[Source: Added at 19 Ok Reg 719, eff 1-29-02 through 7-14-02 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. [See also 19 Ok Reg 3091 for Editor's Notice related to expiration date of this emergency action.] Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-02 (after the 7-14-02 expiration of this emergency action), Section 35:17-5-15 was no longer effective. For the official text of the emergency rule that was effective from 1-29-02 through 7-14-02, see 19 Ok Reg 719.*

**SUBCHAPTER 7. POULTRY WASTE APPLICATORS
CERTIFICATION**

35:17-7-1. Purpose

These rules provide a mechanism for poultry waste applicators to obtain an applicator's certificate issued by the State Board of Agriculture pursuant to the Oklahoma Poultry Waste Applicators Certification Act found at Section 10-9.16 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-2. Definitions

In addition to the terms defined in Section 10-9.1 of Title 2 of the Oklahoma Statutes, the following terms when used in this subchapter shall have the following meaning unless the context clearly indicates otherwise:

"Commercial poultry waste applicator" means any person who engages in commercial land application of more than ten (10) tons of poultry waste per year. Any farmer while working for a neighbor in agricultural production, and not advertising, nor holding themselves 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.

"Discharge" means any release by pumping, pouring, emptying, or dumping of poultry waste directly or through a manmade conveyance into waters of the State of Oklahoma.

"Private poultry waste applicator" means any person who is not a commercial poultry waste applicator but engages in the land application of more than ten (10) tons of poultry waste per year for purposes including, but not limited to, producing any agricultural commodity on property owned or rented by the person or the 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.

"Runoff" means any release by leaking, escaping, seeping, or leaching of poultry waste into waters of the State.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-3. Commercial poultry waste applicator's certificate

(a) Any person who acts, operates, conducts business, or advertises as a commercial poultry waste applicator shall obtain a valid applicator's certificate issued by the Board.

(b) All existing commercial poultry waste applicators shall apply for a commercial poultry waste applicator's certificate prior to January 1, 2001. All new commercial poultry waste applicators shall apply for a commercial poultry waste applicator's certificate prior to doing business or advertising in Oklahoma. Education requirements shall be completed within one year of obtaining the commercial poultry waste applicator's certificate.

(c) A certified commercial poultry waste applicator may allow employees and other applicators over which direct control is exercised by the applicator to land apply poultry waste without obtaining a commercial poultry waste applicators certificate so long as the following conditions exist:

- (1) The land application is supervised by the certified commercial poultry waste applicator;
- (2) The certified commercial poultry waste applicator is the responsible person for all aspects of the land application; and
- (3) The certified commercial poultry waste applicator is responsible for ensuring employees and other applicators are properly trained regarding poultry waste handling and

application.

(d) A certified commercial poultry waste applicator shall notify the owner or lessee of the property where poultry waste is land applied of all requirements of the Oklahoma Poultry Waste Applicators Certification Act and rules which apply to the landowner. A certified commercial poultry waste applicator shall upon request provide all necessary records to the owner or lessee of the property where poultry waste is land applied.

(e) Every certified commercial poultry waste applicator shall file an annual report as required by Section 10-9.18 of Title 2 of the Oklahoma Statutes.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-4. Private poultry waste applicators certificate

(a) Any person who land applies poultry waste as a private poultry waste applicator shall obtain a valid applicator's certificate issued by the Board.

(b) All new private poultry waste applicators shall apply for a private poultry waste applicator's certificate prior to land applying poultry waste in Oklahoma. Education requirements shall be completed within one year of obtaining the private poultry waste applicator's certificate.

(c) A certified private poultry waste applicator may allow employees and other applicators over which direct control is exercised by the certified private poultry waste applicator to land apply poultry waste without obtaining a private poultry waste applicators certificate so long as the following conditions exist:

(1) The land application is supervised by the certified private poultry waste applicator;

(2) The certified private poultry waste applicator is the responsible person for all aspects of the land application; and

(3) The certified private poultry waste applicator is responsible for ensuring employees and other applicators are properly trained regarding poultry waste handling and application.

(d) Every certified private poultry waste applicator shall file an annual report pursuant to 2 O.S. § 10-9.18.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00 ; Amended at 33 Ok Reg 1164, eff 9-11-16]

35:17-7-5. [RESERVED]

[Source: Reserved at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-6. [RESERVED]

[Source: Reserved at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-7. [RESERVED]

[Source: Reserved at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-8. Education requirements

(a) All certified poultry waste applicators shall attend educational courses on poultry waste handling provided by Oklahoma Cooperative Extension Service.

(b) All poultry waste applicators shall obtain an initial nine (9) hours of education in the first year and two hours of continuing education every year until the applicator has received a total of nineteen (19) hours of training. Any applicator may attend more hours than are required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the applicator then shall be required to receive two (2) hours of continuing education every three (3) years.

(c) The Oklahoma Cooperative Extension Service shall develop the educational training course to aid in certification.

(1) Curricula for the training course shall include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent.

(2) 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 Cooperative Extension Service in consultation with the Department.

(d) At the completion of each course, the certified poultry waste applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

(e) Failure to obtain the prerequisite and annual training and education as provided in this subsection shall be deemed a violation of the Oklahoma Poultry Waste Applicators Certification Act.

(f) All applicators shall obtain the required education no later than December 31st of each calendar year.

(g) Any certified poultry waste applicator that has completed education requirements of the Oklahoma Registered Poultry Feeding Operations Act shall be deemed to be in compliance with the education requirements of this section.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00 ; Amended at 22 Ok Reg 2306, eff 7-11-05 ; Amended at 29 Ok Reg 1694, eff 8-1-12 ; Amended at 33 Ok Reg 1164, eff 9-11-16]

35:17-7-9. [RESERVED]

[Source: Reserved at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-10. [RESERVED]

[Source: Reserved at 17 Ok Reg 2832, eff 7-13-00]

35:17-7-11. Reciprocal agreement with state and federal agencies

Reciprocal agreements which allow the federal government, any state, any department, or agency to obtain a commercial or private poultry waste applicators certificate shall assist in fulfilling the intent of the Oklahoma Poultry Waste Applicators Certification Act.

[Source: Added at 17 Ok Reg 2832, eff 7-13-00]

SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

35:17-9-1. Purpose and applicability

(a) This subchapter applies to any person who owns or operates any compost facility using source materials within the Department's areas of environmental jurisdiction pursuant to 2 O.S. § 2-4(A)(16).

(b) These rules shall not apply to any compost facility:

- (1) Located on a facility permitted or licensed as a concentrated animal feeding operation or a registered poultry feeding operation if any portion of the source materials is from the concentrated animal feeding operation or registered poultry feeding operation;
- (2) Permitted or required to be permitted by the Oklahoma Department of Environmental Quality or
- (3) Producing compost volume of fewer than two hundred (200) cubic yards annually if production does not create a public nuisance or impair local water quality standards.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 24 Ok Reg 1766, eff 6-25-07 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 37 Ok Reg 957, eff 9-14-20]

35:17-9-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Animal waste" means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

"Compost facility" or **"facility"** means a facility where source material is converted, under thermophilic conditions, to a product with high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, and storm water run off. This includes all contiguous land and structures, other appurtenances, and improvements on the land used for the handling, processing, storage, or disposal of compost and source materials or ingredients used in

producing compost.

"Leachate" means liquid that has passed through or emerged from animal waste or materials being composted, and may contain soluble, suspended, or mixable materials removed from the source material.

"Operator" means the owner and person responsible for the management of the facility.

"Source material" means material used as the main organic source to be converted by thermophilic conditions into compost and may include but not be limited to manure and other animal waste.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-3. Permit provisions and application

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department.

(b) The permit shall be renewed every five (5) years on October 1.

(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, telephone number, and email address of the owner;

(2) Name, address, and county of the facility, including the Global Positioning System (GPS) coordinates to the entry of the facility;

(3) Name, address, and telephone number of the operator, if other than the owner;

(4) A description of the proposed compost facility purpose of the facility.

(5) A composting plan that shall include but not be limited to the following:

(A) Source materials proposed for use and the estimated amount of compost produced per year;

(B) Proposed type of composting process or processes to be used at the facility, which may include windrow, static pile, or in vessel composting method;

(C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;

(ii) Soil map showing soil types at the facility; and

(iii) 100-year flood plain map.

(D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface

impoundments located on the site.

(E) Design drawings and specifications for:

- (i) receiving, processing, storage, disposal, or reuse areas;
- (ii) leachate collection systems;
- (iii) storage, treatment, and disposal of leachate and sludge;
- (iv) storm water drainage;
- (v) protection of groundwater from leachate;
- (vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.

(F) Proposed operational parameters.

(G) Site layout and construction.

(H) Best management practices used at the site for erosion control, water pollution control, odor control, storage of the source materials, storage of the finished compost, and aesthetic enhancement. Best management practices shall be utilized to ensure environmental hazards are avoided and operations do not create nuisance conditions, including blowing of dust or waste, odor, pest, or attraction of vermin creating public health concerns or erosion.

(I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.

(J) A notarized certification signed by the person applying for the permit, stating: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

(K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.

(L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.

(d) The application for a new facility or a renewal shall be accompanied by an application fee of Two Hundred Dollars (\$200.00).

(e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.

(f) The Department shall require closure of any facility under the following circumstances:

(1) The operator of the facility notifies the Department that the facility is no longer in operation.

(2) The facility has not accepted source material nor produced compost for a period of six (6) months.

(3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.

(g) A compost permit shall not be transferred.

(1) Upon sale of a compost facility, the new owner shall submit a new application and fee within thirty (30) days of the final sale.

(2) The former owner shall provide written notice of sale at least ten (10) days prior to finalization of the sale along with a written statement identifying plans to close or transfer the total retention storage structure.

(3) If the new owner agrees to take over responsibility of the total retention storage structure, as outlined in OAC 17-9-9(d), a signed, notarized agreement by both parties shall be submitted to the Department prior to the sale.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 24 Ok Reg 1766, eff 6-25-07 ; Amended at 37 Ok Reg 957, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-4. Siting of composting facility

(a) The following factors shall be considered in the selection of a site for the facility:

(1) Prevailing wind direction and proximity to occupied residences;

(2) Topography of the facility location, including avoiding locating the facility on steep slopes; or

(3) Ground and surface water protection.

(b) The Department may conduct a presite inspection of the proposed facility prior to issuing any permit for operation.

(c) The compost facility shall not be located within three hundred (300) feet of a public or private drinking water well.

(d) The compost facility shall not be located within the 100-year flood plain.

(e) The composting and storage areas shall not be located with fifty (50) feet of the property boundaries.

(f) The compost facility shall not be located within 100 feet of a downgradient perennial stream as defined on a current 7.5 minute topographic map.

(g) The compost facility shall not be located with fifty (50) feet of a downgradient intermittent stream as defined on a current 7.5 minute topographic map.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-5. No discharge; endangered and threatened species

(a) There shall be no discharge of wastewater, leachate, contaminated storm water, animal waste, or other pollutant resulting from the operation of the facility to waters of the state.

(b) If, for any reason, there is a discharge, the owner or operator shall make immediate notification to the Department. The report of the discharge shall include:

- (1) a description and cause of the discharge, including a description of the flow path to the receiving water body,
- (2) an estimation of the flow rate and volume discharged,
- (3) the period of discharge, including exact dates and times, and if not already corrected, the anticipated time the discharge is expected to continue,
- (4) steps taken to reduce, eliminate and prevent recurrence of the discharge, and
- (5) test results for fecal coliform bacteria, five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), ammonia nitrogen, total Kjeldahl nitrogen (TKN), any pesticides which the operator has reason to believe could be in the discharge, or any other parameters required by the Department that the Department has reason to believe could be in the discharge.

(c) Construction and operation of the facility shall not result in the destruction of endangered or threatened species nor contribute to the taking of any federally endangered or threatened species of plant, fish or wildlife, nor interfere with or cause harm to migratory birds.

[Source: Added at 23 Ok Reg 876, eff 5-11-06]

35:17-9-6. Leachate and storm water control

(a) The owner or operator shall provide a total retention storage structure or vegetative filter that is of sufficient size to contain or filter all leachate and contaminated storm water.

(b) If a total retention storage structure is required by the Department, the owner shall ensure:

- (1) The waste retention structure shall have the volume to store runoff from a 100 year/ 24 hour storm event,
- (2) One foot of freeboard is maintained, and
- (3) A permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway is constructed.

(c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.

(d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-7. Inspections

The Department may inspect the compost facility at any reasonable time.

[Source: Added at 23 Ok Reg 876, eff 5-11-06]

35:17-9-8. Existing facilities

(a) Any facility in existence on the effective date of these rules shall apply for a permit and comply with all operational requirements.

(b) Any facility in existence on the effective date of these rules shall comply with all structural requirements no later than May 11, 2016.

(c) In no case shall an existing facility discharge to waters of the state.

[Source: Added at 23 Ok Reg 876, eff 5-11-06 ; Amended at 24 Ok Reg 1766, eff 6-25-07]

35:17-9-9. Closure of licensed compost facility retention structures

(a) The owner of a facility shall notify the Department at least thirty (30) days in advance in writing if they intend to permanently cease operations of the facility for any reason, including but not limited to, compliance with orders of the Board of Agriculture.

(b) A facility that temporarily ceases operations for longer than six (6) months but otherwise remains in full compliance with these rules shall not be considered permanently closed if written notice is provided to the Department prior to six (6) months of ceasing operations.

(c) In the event of permanently ceasing operations or abandonment of the facility, the owner shall still be responsible for closure of any waste retention structure by ensuring the following:

(1) Liquid contents of total retention storage structure shall be pumped out and land applied according to Department requirements.

(2) Solids from the total retention storage structure shall be removed and disposed of in an environmentally safe manner.

(3) Sludge from the bottom of the total retention storage structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department requirements.

(4) The owner shall grid sample soil from the bottom of the leachate retention structure and have the samples analyzed in a State certified laboratory for nitrate-nitrogen, total phosphorous, and electrical conductance.

(5) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.

(6) If soil is to be removed from the bottom of the total retention storage structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.

(7) If evidence indicates that contamination has migrated to the groundwater based on site specific conditions, monitoring wells shall be installed as required by the Department.

(8) In the event a total retention storage structure requires closure or replacement in other than a permanently ceasing operations event, written notice shall be submitted to the Department prior to closure and shall follow the requirements of this section.

(d) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a total retention storage structure to another party. A written request and approval by the Department are required for an owner to be exempt from closure obligations of this subsection or to transfer the responsibility for a total retention storage structure to any other party.

[Source: Added at 33 Ok Reg 1164, eff 9-11-16 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:17-9-10. Variances

Variances from these rules shall only be granted on a case by case basis and the granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.

[Source: Added at 33 Ok Reg 1164, eff 9-11-16]

SUBCHAPTER 11. EUCHA-SPAVINAW MANAGEMENT ACT

35:17-11-1. Purpose

The purpose of these rules is to implement the provisions of the Eucha-Spavinaw Management Act and these rules shall apply to all persons utilizing poultry waste for land application purposes in the Eucha-Spavinaw Watershed. In no case shall the provisions of these rules be construed to apply to any persons applying poultry waste for land application purposes in any watershed other than the Eucha-Spavinaw Watershed.

[Source: Added at 25 Ok Reg 69, eff 9-1-07 (emergency); Added at 25 Ok Reg 1040, eff 7-1-08]

35:17-11-2. [RESERVED]

[Source: Reserved at 25 Ok Reg 69, eff 9-1-07 (emergency); Reserved at 25 Ok Reg 1040, eff 7-1-08]

35:17-11-3. Phosphorus index

(a) The Eucha-Spavinaw phosphorus index for the land application of poultry waste shall be determined pursuant to the criteria and formulas contained in Appendix A of this Subchapter.

- (b) Poultry waste shall not be applied to any land application site having a Soil Test Phosphorus (STP) level of 300 mg/kg (milligrams per kilogram) or greater, as determined by the Mehlich-III extractant, ICP analysis method.
- (c) Soil samples for analysis of Soil Test Phosphorus shall be collected from zero inches to four inches in depth, or to the actual depth of the soil if less than four inches.
- (d) Poultry waste samples for determination of soluble phosphorus shall be analyzed pursuant to the method found on page 74 of "Methods of Phosphorous Analysis for Soils, Sediments, Residuals, and Waters," SERA-IEG 17 Southern Cooperative Series Bulletin No. 396.
- (e) Where the index refers to best management practices (BMPs), eligible practices shall adhere to United States Department of Agriculture Natural Resources Conservation Service Conservation Practice Standards for Water Quality.
- (f) The Eucha-Spavinaw phosphorus index shall also include the following maximum application rates:
- (1) The maximum amount of poultry waste that may be applied under any condition during the fall application season is two tons per acre.
 - (2) The maximum amount of poultry waste that may be applied during any season to fescue or other cool season grasses is two tons per acre.
 - (3) The maximum amount of poultry waste that may be applied during the spring and summer seasons (April to June) to Bermuda fields with greater than fifty percent Bermuda mix is three tons per acre.
 - (4) The maximum application limits shall supersede even if the calculated ESPI PI would otherwise allow greater application rates.
- (g) Under no circumstances shall poultry waste application rates exceed Nitrogen requirements for the crop.
- (h) Land application of poultry waste shall be based on the Eucha-Spavinaw phosphorus index but shall also be limited by other applicable statutes or rules where those statutes or rules are more stringent.

[Source: Added at 25 Ok Reg 69, eff 9-1-07 (emergency); Added at 25 Ok Reg 1040, eff 7-1-08]

APPENDIX A. EUCHA-SPAVINAW PHOSPHORUS INDEX

Figure 1

The Phosphorus Index Concept

The original Phosphorus Index (PI) was developed to assist field staff working with landusers to identify sensitive areas and recommend management alternatives to reduce risk of P losses (Lemunyon and Gilbert, 1993). Parameters which influence P availability, retention, management, movement, and uptake are included in the PI. The PI has been developed as a risk assessment tool for P runoff potential from individual fields within a watershed. This assessment is based on soil and field characteristics as well as management practices within each field. Fields having low or high P runoff potential may be identified through the use of the PI and may be prioritized for nutrient application and soil management practices. The PI is designed to assess the relative risks of P loss, not a quantity of P lost in runoff. This document is intended to provide background information for a version of the P Index developed specifically for the Eucha-Spavinaw watershed.

Most states (44) have developed a PI for specific conditions and management practices within each state. Some states have begun to incorporate runoff data to determine weightings for certain parameters. One of the first states to use actual runoff data was Arkansas in the development of a PI for Pastures (DeLaune et al., 2004). Most recent versions of the PI use a multiplicative matrix rather than an additive matrix. The first component considers factors that account for the amount of P on site or being added to the site (P source potential). The second component considers factors that affect P movement and potential off-site transport (P transport potential). The sum of each individual matrix is then multiplied to obtain the P Index.

Calculating the Eucha-Spavinaw Phosphorus Index

The Eucha-Spavinaw PI (ESPI) is based on the Arkansas PI for Pastures. Eight site characteristics are included in the ESPI; they are grouped into P Source and P Transport categories. The ESPI include the following factors: (1) soil test P, (2) soluble P application rate, (3) soil erosion factor, (4) method of P application, (5) soil runoff class, (6) flooding frequency, (7) timing of P application, and (8) grazing management. Based on the ESPI, fields are assigned a class of low, medium, high, or very high.

The ESPI is calculated by multiplying the values for the P source potential and the P transport potential and BMPs, as

Figure 2

follows;

$$\text{ESPI} = (\text{P Source Potential} * \text{P Transport Potential} * \text{BMPs}) / 1.8 * 100 \text{ (eq.1)}$$

Calculating Phosphorus Source Potential

Three sources of P are considered in determining the P Source Potential: soil test P (Mehlich III), soluble manure P, and particulate P soil erosion factor (Table 1).

$$\text{P Source} = 0.4 * \text{lb/ac soluble manure P as poultry litter} + 0.0007 * \text{lb/ac soil test P} + \text{RUSLE2 value} * \text{lb/ac soil test P (eq. 2)}$$

Soil Test P. Soil test P should be determined by collecting a representative soil sample from the field and sending the sample to the appropriate soil testing laboratory. Soil test P should be determined using the Mehlich III procedure (Mehlich, 1984). The value reported by the testing laboratory (lb P/ac) is entered into eq. 2 after conversion to lb P/ac by multiplying by 1.33.

Soluble Manure P. The soluble manure P applied is determined by collecting and analyzing the manure which is applied to the field. Soluble P in the manure should be determined using the method described by Self-Davis and Moore (2000). The amount of soluble P applied to a field is entered into eq. 2.

Particulate P Soil Erosion Factor. The erosion factor is calculated by multiplying the annual erosion rate (as calculated by RUSLE2) by soil test P and dividing by a conversion factor (667 ton soil/ac).

Calculating Phosphorus Transport Potential

Five factors of P transport are considered in determining the P Transport Potential: soil runoff class, flooding frequency, method of application, timing of application, and grazing management (Table 2).

$$\text{P Transport} = \text{runoff class} + \text{flooding frequency} + \text{application method} + \text{application timing} + \text{grazing management (eq. 3)}$$

Soil Runoff Class. The soil runoff class is determined using slope gradient and the runoff curve number of the soil (Tables 3

Figure 3

and 4).

Flooding Frequency. The flooding frequency for each soil series is found in the Soil Survey for each particular county. Fields are grouped into land that is never flooded (none), occasionally flooded, or frequently flooded.

Application Method. Application method refers to how the farm manager will apply the manure to a field. The categories include: incorporated, surface applied, or surface applied on frozen or snow covered ground.

Application timing. Timing of application was determined by evaluating historical runoff data as well as seasonal crop growth specific to the Eucha-Spavinaw watershed. Times frames are (with increasing risk for runoff): July-October, April-June, November-March.

Grazing Management. Grazing management is subdivided into three management scenarios: pastures which are hayed only, hayed and grazed, and grazed only. A pasture under intensive grazing would be expected to have a higher risk for P runoff than a pasture with no grazing due to compaction and additional P inputs from cattle.

Best Management Practices (BMPs)

A farmer is given credit for the use of BMPs which may reduce the ESPI, such as fencing around streams to prevent cattle access. These include those BMPs which are not accounted for in the ESPI (i.e. alum is accounted for in the P source factor, therefore it is not listed as an additional BMP). Each BMP is given a weighting factor of 0.9. The final P Index value is multiplied by each BMP that may be utilized within a watershed.

ESPI with BMPS = ESPI * 0.9 for each BMP

Example: System with 2 BMPS

ESPI = Initial ESPI * 0.9 * 0.9

More research is needed to determine the effectiveness of each BMP and to identify potential BMPs.

Interpretation and Recommendations of the ESPI

Once the ESPI is calculated using eq. 1, fields are assigned a class of low, medium, high, or very high. Each class is associated with a site interpretation and nutrient application recommendation (Table 5). ESPI values range from 0 to >100 and

Figure 4

are unitless, which follow an initiative by other Indexes used in the Northeastern and Mid-Atlantic Regions to ensure that Indexes are consistent across state boundaries. Consistent with other Indexes, ESPI is designed to assess the relative risks of P loss, not a quantity of P lost in runoff.

Table 1 - Phosphorus Source Potential Characteristics and Calculations

Site Characteristic	Description	Loss value
Soil Test P (lb/ac)	The amount of Plant available P in the soil, as measured by soil test.	
Loss rating value	0.0007 x Mehlich III Soil Test P Value	LRV
Soluble manure P rate (lb/ac)	The amount of soluble P applied per acre, lbs. SRP/acre.	
Loss rating value	0.4 x _____ lbs. soluble P applied as poultry litter	LRV
Particulate P Soil erosion factor (tons/ac/yr)	The amount of soil erosion as calculated by $RUSLE2 \times STP$. $RUSLE (Ton A) \times STP (lb A) / 667 Ton A$	
Loss rating value	RUSLE2 value x Mehlich III Soil Test P Value	LRV
P source value = (Loss rating value for soil test P + Loss rating value for soluble manure P + Loss rating value for particulate P from soil erosion factor)		

Table 2 - Phosphorus Transport Potential Characteristics and Calculations

Site Characteristic	Description					Loss Value
	Negligible	Low	Moderate	High	Very High	
Soil runoff class						
Loss rating value	0.1	0.2	0.3	0.5	1.0	LRV
Flooding frequency	None		Occasional	Frequent		
Loss rating value	0		0.1	2.0		LRV
Application method	Incorporated		Surface applied	Surface applied on frozen ground or snow		
Loss rating	0.1		0.2	0.5		LRV

Figure 5

value				
Application timing	July-Oct	April-June	Nov-March	
Loss rating value	0.1	0.4	0.5	LRV
Grazing Management	Hayed only	Grazed and hayed	Grazed only	
Loss rating value	0.1	0.2	0.3	LRV
P Transport = (runoff class + flooding frequency + application method + application timing + grazing management)				

Table 3 - Partial listing of runoff curve numbers.

Cover type	Hydrologic Condition	Soil Hydrologic Group			
		A	B	C	D
	Poor	68	79	86	89
Pasture	Fair	49	69	79	84
	Good	39	61	74	80
Hayland not grazed		30	58	71	78

Table 4 -Runoff class based on field slope and runoff curve number.

Slope %	Runoff Curve Number							
	<50	50-60	60-65	66-70	71-75	76-80	81-85	>85
<1	N	N	N	N	N	L	L	M
1.1-3	N	N	N	L	L	L	M	M
3.1-8	N	N	L	L	M	M	H	H
8.1-15	L	L	L	M	M	H	H	VH
>15	L	L	M	M	H	H	VH	VH
N=Negligible, L=Low, M=Moderate, H=High, VH=Very High								

Table 5. ESPI Interpretation and Nutrient Application

Figure 6

Recommendations

P Index Scale	Site Interpretations and Recommendations
< 33	Low potential for P movement from site. Apply nutrients based on ESPI calculation. Caution against long-term P buildup.
34 to 55	Medium potential for P movement from site. Evaluate the Index and determine any areas that could cause long-term concerns. Add conservation practices or reduce P application to maintain the risk at 55 or below. Apply nutrients based on ESPI calculation.
56 to 100	High potential for P movement from site. Evaluate the Index and determine elevation cause. Add appropriate conservation practices and/or reduce P application. The immediate planning target is a PI value of 55 or less. If this target cannot be achieved with realistic conservation practices and/or reduced P rates in the short term, then a progressive plan needs to be developed with a long-term goal of a PI less than 55 . Apply nutrients to meet crop phosphorus needs according to NRCS Nutrient Management standard (590). Application rates based on crop phosphorus needs are generally less than 1 ton/ac. Since accurate, uniform applications at these low rates are rarely obtainable with conventional equipment, no litter (nutrient) application is recommended.
>100	Very High potential for P movement from site. No litter (nutrient) application. Add conservation practices to decrease this value to below 100 in the short term and develop a progressive conservation plan that would reduce the PI to a lower risk category, with a long-term goal of a PI less than 55 .

Example 1

The following site characteristics from farm A are:

Figure 7

- a) Soil test P = 300 lb/ac
- b) Soluble Manure P = 500 mg P/kg manure or 1 lb soluble P per ton of manure.
Application rate is 2 tons manure/ac
2 tons manure/ac * 1 lb soluble P/ ton = 2 lb soluble manure P/ac
- c) Soil erosion factor = RUSLE2 value is 0.10 ton/ac/yr
- d) Manure is surface applied
- e) Soil runoff class is Low (CN=74, Slope = 2%)
- f) No flooding occurs
- g) Application timing is May
- h) Grazing management is grazed and hayed

Calculating P Source Potential

Soil test P (300 lb P/ac * 0.0007)	=	0.21
Soluble manure P rate (2 lb soluble P/ac * 0.4)	=	0.8
Soil Erosion Factor (0.10 ton/ac/yr * 300 lb/ac)/667	=	<u>0.045</u>
	=	1.055

Calculating P Transport Potential

Low runoff class	=	0.2
No flooding	=	0
Surface applied	=	0.2
Applied in May	=	0.4
Pasture is grazed and hayed	=	<u>0.2</u>
		1.0

ESPI = 1.055 * 1.0 / (1.8*100) = 59

ESPI is 59, which is in the high risk category and nutrient applications are to be based on crop P needs. Since application rates based on phosphorus needs generally equate to <1 ton/ac and such application rates are not accurate, no litter is applied.

However, the ESPI for the same field could be re-calculated if a change in management was made, such as litter application rate. The application rate could be adjusted to 1.5 tons/ac. Calculating the ESPI for the field above with an application rate goal of 1.5 tons/ac would result in an ESPI of 48, which is in the medium risk category. Therefore, a litter application rate of 1.5 tons/ac would be allowed.

Background References:

Coale, F., and S. Layton. 1999. Phosphorus site index for Maryland. Report to the Northeast Phosphorus Index Work

Figure 8

Group. Univ. of Maryland., College Park, MD.

- DeLaune, P.B., P.A. Moore, Jr., D.K. Carman, T.C. Daniel, and A.N. Sharpley. 2004. Development of a phosphorus index for pastures fertilized with poultry litter - Factors affecting phosphorus runoff. *J. Environ. Qual.* 33:2183-2191.
- Gburek, W.J., A.N. Sharpley, and G.J. Folmar. 1998. Modifying the P index to account for transport pathways. Report to the SERA Transport Workgroup. USDA-ARS, University Park, PA.
- Lemunyon, J.L., and R.G. Gilbert. 1993. The concept and need for a phosphorus assessment tool. *J. Prod. Agric.*, 6: 483-486.
- Mehlich, A. 1984. Mehlich 3 soil test extractant: A modification of Mehlich 2 extractant. *Comm. Soil Sci. Plant Anal.* 15:1409-1416.
- Self-Davis, M.L., and P.A. Moore, Jr. 2000. Determining water-soluble phosphorus in animal manure. p. 74-76. In G.M. Pierzynski (ed.), *Methods of Phosphorus Analysis for Soils, Sediments, Residuals, and Waters*, Southern Cooperative Series Bulletin #396, Sept. 2000. (http://www.soil.ncsu.edu/seral7/publications/seral7-2/pm_cover.htm).
- USDA-NRCS. 1999. Development of the phosphorus index. NRCS homepage. www.nhq.nrcs.usda.gov/BCS/nutri/manage.html.

APPENDIX B. NUTRIENT MANAGEMENT PLAN REQUIREMENTS

Figure 1

DEFINITION

Managing the amount, source, placement, form, and timing of the application of poultry litter and nutrients and soil amendments for optimum plant growth and protecting the environment.

PURPOSES

- To budget and supply nutrients for plant production.
- To properly utilize manure or organic by-products as a beneficial plant nutrient source.
- To minimize agricultural nonpoint source pollution of surface and ground water resources.
- To maintain or improve the physical, chemical, and biological condition of soil.

CRITERIA

General Criteria Applicable to All Purposes

A nutrient budget for nitrogen (N), phosphorus (P), and potassium (K) shall be developed that considers all potential sources of nutrients (Exhibit 1, Tables 1 and 2).

Realistic yield goals shall be established using guidance outlined in Oklahoma State University Extension (OSU) Fact Sheet F-2225, OSU Soil Test Interpretations (<https://extension.okstate.edu/fact-sheets/osu-soil-test-interpretations.html>). A realistic yield goal is generally the average of three highest yields over the last five years. Rates of nutrient application established by OSU shall be the basis for nutrient recommendations. For new crops or varieties, industry yield recommendations may be used until documented yield information is available.

Plans for nutrient management shall specify the form, source, amount, timing, and method of application for each field to achieve realistic production goals and minimize the loss of nutrients to erosion, runoff, volatilization, and leaching.

Using effluent water for irrigating crops and grasses can increase salt concentrations in the soil creating a negative impact on plant growth. OSU Factsheet PSS-2245 (<https://extension.okstate.edu/fact-sheets/using-lagoon-effluent-as-fertilizer.html>) contains guidance for irrigating with effluent water.

SOIL AND TISSUE SAMPLING LABORATORY ANALYSIS (TESTING)

Nutrient planning shall be based on current soil test results developed in accordance with OSU guidance.

Soil samples shall be taken at least as often as the Registered Poultry Feeding Operations Act requires. Non-cultivated fields should be sampled during the dormant season. Fields used for cultivation should be sampled after harvest or before planting. Do not sample immediately after lime, fertilizer, or manure applications. Soil sampling shall occur prior to the first land application of the calendar year.

The OSU County Extension Service Office is available to assist with the soil testing process. Additional information concerning soil sampling can be found in the OSU Extension Fact Sheet F-2207, How to Get a Good Soil Sample (<https://extension.okstate.edu/fact-sheets/how-to-get-a-good-soil-sample.html>).

Figure 2

If a soil test laboratory other than OSU is used, the lab shall use the same phosphorus and potassium extractant (Mehlich-3) as used by the OSU lab and nutrient recommendations will be the same as those used by OSU. The soil testing laboratory shall be a member of the North American Proficiency Testing Program or Agricultural Laboratory Proficiency Program.

Soil testing shall include analysis for any nutrients for which specific information is needed to develop the nutrient management plan (e.g., pH, N, P, and K). Additional information concerning soil testing can be found in the [OSU Extension Fact Sheet F-2225, OSU Soil Test Interpretations and Fact Sheet F-2901, Procedures Used by OSU Soil, Water, and Forage Analytical Laboratory](#).

ADDITIONAL CRITERIA TO BUDGET AND SUPPLY NUTRIENTS FOR PLANT PRODUCTION

Plant nutrient removal rates can be found in Table 3. Nutrient removal rates for crops or forage combinations not listed in Table 3 may be calculated using the USDA Crop Nutrient Tool (<https://plantsorig.sc.egov.usda.gov/npk/main>).

Do not apply nutrients in the following situations:

- Animal manure shall not be land applied within 500 feet of the corner of an occupied residence not owned or operated by the feeding operation.
- Animal manure shall not be land applied within 300 feet of an existing public or private drinking water well.
- To areas within 100 feet of a perennial stream, pond, well, or sinkhole, unless an established buffer strip is present. The width of the buffer strip shall be used as a setback distance for application purposes. The buffer strip shall meet the requirements for design and maintenance established in the appropriate United States Department of Agriculture Natural Resources Conservation Service (NRCS) or OSU buffer standard and specification.
- To areas within 50 feet of an intermittent stream unless an established buffer strip is present. The width of the buffer strip shall be used as a setback distance for application purposes. The buffer strip must meet the requirements for design and maintenance established in the appropriate NRCS or OSU buffer standard and specification.
- To fields with > 15% slope.
- To soils less than 10 inches in depth to parent material.
- On soils that are frequently flooded.
- On soils that are frozen, snow covered, or water saturated (including periods of heavy rain when water ponding has occurred on the soil surface).
- On soils where the rock fragments in the surface layer are 3 to 10 inches in diameter and exceed 50% by volume.
- On soils where the rock fragments in the soil surface layer are > 10 inches in diameter and exceed 25% by volume.
- On soils where the rock fragments are > 10 inches in diameter which covers > 3% of the soil surface and the slope is > 8%. (Soil map unit name will include the description of Extremely Stony, Extremely Bouldery, Extremely Rubbly, or Very Rubbly)
- On areas eroding at levels greater than the soil loss tolerance, "T", from wind or water erosion or active gullies unless following a conservation plan that will reduce erosion below "T". Use current NRCS soil loss prediction methods.
- On soils that are occasionally flooded. Manure may be applied between June 20 and September 20 on soils classified as occasionally flooded. Manure may also be applied to soils classified as occasionally flooded between February 1 and April 20 if the area is established to cool season grasses four inches in height at the

Figure 3

time of application. In no case will manure be applied when the soil is water saturated or when ponding has occurred on the soil surface after periods of heavy rain.

Organic Nutrient Application Rates

Timing and method of nutrient application shall correspond as closely as possible with plant nutrient uptake characteristics, cropping system limitations, weather and climatic conditions, availability of nutrients in manure, and field accessibility. Nutrients materials will be applied uniformly to the area. The application rate for liquid manure shall not create runoff and shall minimize ponding.

The application rate shall be based on the most limiting application based on Nitrogen (N) and Phosphorus (P). The following shall also be used when applying manure or organic by-products:

- **N Application** – The amount of N applied from manure shall not exceed the annual crop requirement for N. In some situations, additional N from inorganic/commercial sources may be required to supplement the organic sources. Manure may be applied to a legume crop at a rate equal to the estimated N removal in the harvested plant biomass.
- **P Application** – The maximum planned rates of P application shall be determined using a P assessment.

Field Risk Assessment

When applications of manure or other organic by-products are planned, a field-specific assessment of the potential for P and N transport from the site shall be completed as detailed below. (Tables 4 and 5)

Additional Criteria to Minimize Agricultural Non-Point Source Pollution of Surface and Ground Water Resources

Nutrient application rates are limited for certain water bodies in watersheds identified by the Oklahoma Department of Environmental Quality (ODEQ) as Nutrient Limited Watersheds and Nutrient Vulnerable Groundwaters in the Oklahoma Administrative Code (OAC) 252:30 of the Oklahoma Water Quality Standards. (Tables 5 and 6)

PLANS AND SPECIFICATIONS

Plans and specifications shall be in keeping with Appendix A and shall describe the requirements for implementing a practice to achieve its intended purpose, using nutrients to achieve production goals and to prevent or minimize water quality impairment.

The following components shall be included in the nutrient management plan as applicable:

- Aerial photograph or map and a soil map of the site,
- Plant production sequence or crop rotation,
- Results of soil, plant, water, manure, and/or organic by-product sample analyses,
- Realistic yield goals for the crops in the rotation based on OSU guidance,
- Recommended nutrient rates, timing, form, and method of application and incorporation,
- Guidance for implementation, operation, maintenance, recordkeeping, and
- Completed nutrient budget for N, P, and K for the rotation or crop sequence.

If increases in soil phosphorus levels are expected, plans shall document:

- The soil phosphorus levels at which it may be desirable to convert to phosphorus based implementation,
- The relationship between soil phosphorus levels and potential for phosphorus transport from the field,
- The potential for soil phosphorus drawdown from the production and harvesting of crops, and
- The management activities or techniques used to reduce the potential for phosphorus loss.

Figure 4

When applicable, plans shall include other practices or management activities as determined by specific regulation, program requirements, or producer goals.

Figure 5

TABLE 1: Nitrogen Requirements

The nitrogen requirement is calculated by subtracting the soil test nitrogen value from the nitrogen required for a selected crop and yield goal.

Established Bermudagrass		Cool Season Grasses (Fescue, Orchard)		Established Old World Bluestem		Established Weeping Lovegrass	
N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal tons/ac
50	1	60	1	35	1	35	1
100	2	120	2	70	2	70	2
150	3	180	3	110	3	110	3
200	4	240	4	150	4	160	4
260	5	300	5	200	5	220	5
320	6						
400	7						

Virgin Native Hay Meadow		Small Grains for Grazing		Canola		Forage Sorghum or Corn Silage		
N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal tons/ac	N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal	
							Silage tons/ac	Hay tons/ac
0	1.0	30	0.5	50	1000	45	5	2.5
50	1.5	60	1.0	75	1500	90	10	5.0
100	1.6	90	1.5	100	2000	135	15	7.5
		120	2.0	125	2500	185	20	10.0
		150	2.5	150	3000	240	25	12.5
		180	3.0	175	3500	300	30	15.0

N Required lbs/ac	Wheat	Barley	Oat	Corn		Grain Sorghum		Cotton	
	Yield Goal bu/ac			N Required lbs/ac	Yield Goal lbs/ac	N Required lbs/ac	Yield Goal bu/ac	N Required lbs/ac	Yield Goal bales/ac
30	15	20	25	40	40	30	2000	30	0.50
40	20	25	35	50	50	40	2500	45	0.75
60	30	35	55	60	60	50	3000	60	1.00
80	40	50	70	85	85	70	4000	75	1.25
100	50	60	90	110	100	85	4500	90	1.50
125	60	75	105	130	120	100	5000	105	1.75
155	70	90	125	190	160	160	7000	120	2.00
185	80	100	140	215	180	195	8000	135	2.25
240	100	125	175	240	200	230	9000	150	2.50
				300	250			165	3.00

Figure 6

				360	300				180	3.50
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Alfalfa	Peanuts	Soybeans	Mungbeans, Cowpeas, Guar
10 to 20 lbs/ac for establishment. None needed for maintenance	10 to 20 lbs/ac with P and K	10 to 20 lbs/ac with P and K	10 to 20 lbs/ac with P and K

Nitrogen Requirements

Nitrogen Recommendations for Establishing Grass

Soil Test N ^{1/}	Native Grass / Bluestem Establishments	All Other Grass Establishments
	N Required lbs/ac	
0	0	40
1	0	39
2	0	38
3	0	37
4	0	36
5	0	35
6	0	34
7	0	33
8	0	32
9	0	31
10	0	30
11	0	29
12	0	28
13	0	27
14	0	26
15	0	25
16	0	24
17	0	23
18	0	22
19	0	21
20	0	20
21+	0	0

^{1/} Nitrogen soil test values are only valid if test is within the last 60 days; therefore, assume nitrogen soil test of zero (0) when old tests are used.

Note: For recommendations on maintenance of grass stands for long-term deferment programs (e.g., CRP) follow the guidance in Tables 1, 2, 3 of this Appendix A.

Figure 7

TABLE 2: Phosphorus Requirements

P Soil Test Index	Established Bermudagrass		Established Cool Season Grasses		Established Old World Bluestem		Established Weeping Lovegrass	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	75	50	80	30	60	50	60	50
10	60	65	60	50	40	70	50	70
20	40	80	40	70	30	85	40	85
40	20	95	20	95	20	95	20	95
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Virgin Native Hay Meadows		Small Grains for Grazing		Legumes in Pasture		Canola	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	40	50	80	25	75	50	80	25
10	20	80	60	45	60	65	60	45
20	0	95	40	80	40	80	40	80
40	0	100	20	90	20	95	20	90
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Small Grains		Grain Sorghum		Corn		Cotton	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	80	25	60	40	80	30	75	55
10	60	45	50	60	60	60	60	70
20	40	80	40	80	40	80	45	85
40	20	90	20	95	20	95	30	95
65+	0	100	0	100	0	100	0	100

P Soil Test Index	Alfalfa		Peanuts		Soybeans		Mungbean, Cowpeas, Guar	
	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	200	20	80	40	70	40	70	40
10	150	50	60	60	50	60	50	60
20	100	70	40	80	30	80	30	80
40	60	90	20	95	20	95	20	95

Figure 8

65+	0	100	0	100	0	100	0	100
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Figure 9

Phosphorus Requirements

Phosphorus Recommendations for Establishing Grass

P Soil Test Index	Bermudagrass Establishments	Fescue and Cool Season Grass Establishments	Bluestem and Lovegrass Establishments	Native Grass Establishments
	P ₂ O ₅ lbs/ac			
0	40	40	40	40
1	40	40	40	38
2	40	40	40	36
3	40	40	40	34
4	40	40	40	32
5	40	40	40	30
6	40	40	40	28
7	40	40	40	26
8	40	40	40	24
9	40	40	40	22
10	40	40	40	20
11-20	40	40	30	0
21-40	30	30	20	0
41-48	20	20	0	0
49+	0	0	0	0

Note: For recommendations on maintenance of grass stands for long-term deferment programs (e.g., CRP) follow the guidance in Tables 1, 2, 3 of this Appendix A.

P Soil Test Index	Forage Sorghum or Corn Silage	
	P ₂ O ₅ lbs/ac	Percent Sufficiency
0	100	30
10	75	60
20	45	80
40	25	95
65+	0	100

Figure 10

TABLE 3: Crop Nutrient Removal *

Forage as Hay Crop						
% of Dry Material Harvested						
			% Moisture (default)	%N	%P	%K
Bermuda			9.05	1.37	0.19	1.55
Tall Fescue			12.50	1.71	0.30	1.96
Native Hay			9.50	1.52	0.22	1.45
Alfalfa			9.65	2.79	0.26	2.12
Ryegrass			12.74	1.49	0.20	1.42
Wheatgrass			10.85	1.34	0.07	
Clovers			11.99	2.63	0.27	2.35
Eastern Gamagrass			10.85	1.51	0.10	3.06
Crop						
% of Dry Material Harvested						
Crop	Unit	Weight/Unit	% Moisture (default)	%N	%P	%K
Barley	grain	48 lbs/bu	11.72	2.11	0.42	0.54
	straw	72 lbs/bu	11.25	0.69	0.10	1.79
Corn	grain	56 lbs/bu	13.52	1.64	0.31	0.34
	stove	56 lbs/bu	13.30	0.98	0.10	1.50
Oats	grain	32 lbs/bu	10.67	2.09	0.38	0.46
	straw	64 lbs/bu	9.68	0.71	0.09	2.39
Rye	grain	56 lbs/bu	11.88	2.14	0.38	0.52
	straw	84 lbs/bu	9.07	0.50	0.09	0.97
Sorghum	grain	56 lbs/bu	11.18	1.87	0.33	0.39
	stove	56 lbs/bu	8.13	0.67	0.13	0.73
Soybeans	beans	97 lbs/bu	10.12	6.57	0.67	1.54
	straw	75 lbs/bu	11.07	0.83	0.06	0.57
Wheat	grain	60 lbs/bu	11.68	2.30	0.43	0.49
	straw	92.48 lbs/bu	9.22	0.64	0.06	1.17
Cotton	lint & seed	500 lbs/bale	7.80	3.30	0.41	0.49
	burs & stalks	3 lbs/lb of lint	7.70	0.99		

* These crop nutrient removal figures come from the NRCS Agricultural Waste Management Field Handbook, Chapter 6, Role of Plants in Waste Management (Table 6-6). The handbook lists additional crops not listed above. These numbers represent average figures taken from multiple sources and are nutrients removed in the harvested portion of the crop. These figures can be used as guidance for waste management planning purposes. Actual waste application will be based on soil test.

Example calculation to estimate nutrients removed

Bermuda: Yield 3 tons/ac forage = 6000 lbs/ac hay
 $(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0019 (\% \text{P/lb}) = 10.37 \text{ lbs/ac phosphorus in hay}$
 $(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0137 (\% \text{N/lb}) = 75.01 \text{ lbs/ac nitrogen in hay}$
 $(6000 \text{ lbs} - (6000 \text{ lbs} \times 0.0905 (\% \text{ moisture}))) \times 0.0155 (\% \text{K/lb}) = 84.57.0 \text{ lbs/ac potassium in hay}$

Wheat: Yield 40 bu/ac = 60 lbs/bu x 40 bu = 2400 lbs of grain
 $40 \text{ bu/ac} \times 92.48 \text{ lbs/bu straw} = 3,699.2 \text{ lbs/ac straw produced}$
 $1 \text{ ton/ac straw baled and removed from field} = 1 \text{ ton/ac} \times 2000 \text{ lbs} = 2000 \text{ lbs of straw/ac Grain:}$

Figure 11

$(2400 \text{ lbs/ac} - (2400 \text{ lbs/ac} \times 0.1168 \text{ (\% moisture)})) \times 0.0230 \text{ (\%N/lb)} = 48.75 \text{ lbs/ac Nitrogen in grain}$
 $(2400 \text{ lbs/ac} - (2400 \text{ lbs/ac} \times 0.1168 \text{ (\% moisture)})) \times 0.0043 \text{ (\%P/lb)} = 9.11 \text{ lbs/ac Phosphorus in grain}$
 $(2400 \text{ lbs/ac} - (2400 \text{ lbs/ac} \times 0.1168 \text{ (\% moisture)})) \times 0.0049 \text{ (\%K/lb)} = 10.39 \text{ lbs/ac Potassium in grain}$
Straw: $(2000 \text{ lbs/ac} - (2000 \text{ lbs/ac} \times 0.0922 \text{ (\% moisture)})) \times 0.0064 \text{ (\%N lb)} = 11.62 \text{ lbs/ac Nitrogen in straw}$
 $(2000 \text{ lbs/ac} - (2000 \text{ lbs/ac} \times 0.0922 \text{ (\% moisture)})) \times 0.0006 \text{ (\%P lb)} = 1.09 \text{ lbs/ac Phosphorus in straw}$
 $(2000 \text{ lbs/ac} - (2000 \text{ lbs/ac} \times 0.0922 \text{ (\% moisture)})) \times 0.0057 \text{ (\%K/lb)} = 10.35 \text{ lbs/ac Potassium in straw}$
Total Nutrient Removed = 60.37 lbs/ac N removed, 10.2 lbs/ac P removed, 20.74 lbs/ac K removed

Figure 12

Table 4: Annual Manure Application Rates for Non-Nutrient Limited Watersheds and Non-Nutrient Vulnerable Groundwaters

Rating	Soil Test P Index	0 – 8% Slope	8 to 15% Slope	0 to 15% Slope
		Soil > 20" Deep	Soil > 20" Deep	Soil 10" to 20" Deep
*Low	0 – 65	Full Rate	Full Rate Split Application	Half Rate
*Moderate	66 – 250	Full Rate	Half Rate	Half Rate
*High	251 – 400	Half Rate	Half Rate	Half Rate
*Very High	> 400	Plant Removal ¹	Plant Removal ¹	Plant Removal ¹
*Severe	*	No Application	No Application	No Application

Rating	Soil Test P Index	Rocks >10" in diameter which cover >3% of the soils surface and <8% slope
*Low	0 – 65	Half Rate
*Moderate	66 – 250	Half Rate
*High	251 – 400	Half Rate
*Very High	> 400	Plant Removal ¹
*Severe	*	No Application

¹ Note – It may not be feasible to calibrate equipment and make manure applications at the Plant Removal rate.

Figure 13

Table 5: Annual Manure Application Rates for Nutrient Limited Watersheds

Rating	Soil Test P Index	0 – 8% Slope	8 to 15% Slope	0 to 15% Slope
		Soil > 20" Deep	Soil > 20" Deep	Soil 10" to 20" Deep
*Low	0 – 65	Full Rate	Full Rate Split Application	Half Rate
*Moderate	66 – 120	Full Rate	Half Rate	Half Rate
*High	121 – 300	Half Rate	Half Rate	Half Rate
*Severe	> 300	No Application	No Application	No Application

Rating	Soil Test P Index	Rocks >10" in diameter which cover >3% of the soils surface and <8% slope
*Low	0 – 65	Half Rate
*Moderate	66 – 120	Half Rate
*High	121 – 300	Half Rate
*Severe	> 300	No Application

* See **Severe Rating - No Application** listed below. Check for specific site characteristics which may deem the field inadequate for manure application from the list below.

Annual manure application rates are listed below.

Manure Application Rates

Full Rate – Not to exceed the Nitrogen requirement of the crop and the following P₂O₅ rates:

1. 200 lbs P₂O₅ per acre when surface applied.
2. 300 lbs P₂O₅ per acre when application is by sprinkler irrigation and managed to prevent runoff from the field.
3. 400 lbs P₂O₅ per acre if injected or incorporated below the soil surface.

Half Rate – Not to exceed the Nitrogen requirement of the crop and the following P₂O₅ rates:

1. 100 lbs P₂O₅ per acre when surface applied.
2. 150 lbs P₂O₅ per acre when application is by sprinkler irrigation and managed to prevent runoff from the field.
3. 200 lbs P₂O₅ per acre if injected or incorporated below the soil surface.

Split Application –

1. Nitrogen- Not to exceed the Nitrogen requirement of the crop, applied during the growing season
2. Phosphorus- Application will be no more than ½ the allowed P₂O₅ rate per application at least 30 days apart.

Severe Rating - No Manure Application.

Figure 14

Table 6: Mitigation for Nutrient Vulnerable Groundwaters

Leaching Index (LI)	Groundwater Vulnerability Rating	Mitigating Activities	RATING
0 - 5	High	One (1) activity	LOW
	Very High	One (1) activity	
5 - 10	High	Two (2) activities	MODERATE
	Very High	Two (2) activities	
10+	High	Three (3) activities	HIGH
	Very High	Four (4) activities	

MITIGATING ACTIVITIES:

- Delay nitrogen application until plants are actively growing (4" minimum height)
- Apply split applications of 50% of the total nitrogen needs
- Seasonal nitrogen requirements for actively growing plants shall be split to provide no more than 40 lbs of actual nitrogen every 4 – 6 weeks. Warm season plants – apply ≤ 40 lbs/acre Nitrogen during early spring (green up), after first cutting or grazing (late May – early June), or late summer. Cool season plants- apply ≤40 lbs/ac in the fall at planting. Add the remaining recommended amount in early spring (Feb – March).
- Nitrogen will not be applied during expected heavy rainfall months (April, May, and June) on warm season plants.
- Lower realistic yield expectation by 25%
- Use enhanced efficiency fertilizer products (sulfur coated urea products, polymer coated fertilizers, uncoated slow release fertilizers).
- Utilize nitrogen release strip and GreenSeeker sensors to make mid-season nitrogen applications
- Use precision agricultural technologies to precisely apply variable rates of nitrogen fertilizer.
- Utilize annual soil testing.
- Banding nitrogen applications.
- Use legume crops and cover crops to provide nitrogen through biological fixation and nutrient recycling.

[Source: Added at 40 Ok Reg 123, eff 10-20-22 (emergency); Added at 40 Ok Reg 1504, eff 9-11-23]

CHAPTER 18. CARCASS DISPOSAL

[**Authority:** OKLA. CONST. art VI; 2 O.S., §§ 2-4(2), 2-4(7), 2-4(16), 10-9 et seq., and 20-1 et seq.; 21 O.S., § 1223; 27A O.S., §§ 1-1-202(2) 1-3-101(D)]
[**Source:** Codified 9-4-20]

35:18-1-1. Purpose

(a) These rules are for regulating the disposal of all domestic animal carcasses in Oklahoma pursuant to the provisions of Section 1223 of Title 21 of the Oklahoma Statutes.

(b) The owner of any domestic animal shall be required to dispose of its carcass within twenty-four (24) hours after notice or knowledge of the animal's death.

(c) These rules shall supercede any other rules related to carcass disposal in Title 35 of the Oklahoma Administrative Code, except for those related to licensed managed feeding operations pursuant to 35:17-3-17. These rules shall not apply to wildlife, but may be used as guidance in disposal of wildlife animal carcasses.

[**Source:** Added at 37 Ok Reg 970, eff 9-14-20]

35:18-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Burial" means a process by which an animal carcass is disposed of by placement within an excavation into the soil or upon the soil surface where it is then covered by soil material.

"Composting" means the natural biological degradation of plant and animal matter in a controlled, well-aerated system.

"Domestic animal" means any cattle, bison, horses, sheep, goats, asses, mules, swine, domesticated rabbits, chickens, turkeys, other domesticated fowl, and any animal or bird in captivity.

"Incineration" means the controlled and monitored combustion of animal carcasses for the purposes of volume reduction and pathogen control and the final product is reduced to ashes.

"Landfill" means a solid waste disposal site permitted or approved by the Oklahoma Department of Environmental Quality.

"NRCS" means Natural Resources Conservation Service, an agency in the United States Department of Agriculture.

"Owner" means any person who has possession of a domestic animal by ownership, rent, hire, loan, or otherwise. This definition includes, but is not limited to, an owner or caretaker of an animal and any person who owns or is in control of land on which an animal carcass is found.

"Rendering" means the process or business of recycling animal carcasses and animal by products.

[**Source:** Added at 37 Ok Reg 970, eff 9-14-20]

35:18-1-3. Unlawful acts

It shall be unlawful for the owner of any domestic animal to leave or deposit, or cause to be left or deposited, the carcass of any domestic animal in any well, spring, pond, or stream of water; or leave or deposit the carcass within one-fourth (1/4) mile of any occupied dwelling or of any public highway, without burying or disposing of the carcass pursuant to the provisions of this Chapter.

[Source: Added at 37 Ok Reg 970, eff 9-14-20]

35:18-1-4. Methods of disposal

A domestic animal carcass may be stored in a freezer until such time as the owner is able to dispose of the carcass in one of the following methods:

(1) Burial shall only be used to dispose of a domestic animal carcass if the soil and site conditions are suitable and if no other reasonable alternative exists.

(A) Specific measures and practices shall be utilized to protect the ground and surface waters of the state. The local NRCS office may be available with initial evaluation or an owner may use the NRCS web soil survey tool to perform a desktop site evaluation, but actual site conditions shall be the determining factor when evaluating a site's suitability for burial of a domestic animal carcass.

(B) Requirements for burial of a domestic animal carcass are as follows:

(i) Burial of a domestic animal carcass requires the construction of a pit or trench.

(ii) A burial pit or trench shall not be located closer than one (1) foot vertically above the flood plain or within two (2) feet of the water table or bedrock.

(iii) A burial pit or trench shall not be located within three hundred (300) feet of a well, waters of the state, neighboring residences, public areas, or property lines.

(iv) A burial pit or trench shall not be located along any stream or ravine where a domestic animal carcass may become exposed through erosion of the soil, or where the land is at any time subject to overflow.

(v) After placing a domestic animal carcass in a pit or trench, the carcass shall be covered with a minimum of two and one-half (2 ½) feet of soil.

(vi) A burial pit or trench shall be mounded so water does not pond on the mounded area.

(vii) A burial pit or trench shall be routinely inspected to add additional soil, if necessary, and to ensure that animals are not scavenging, digging, or dragging away a domestic animal carcass.

(viii) Surface rainwater shall be directed to flow away or around the burial pit or trench.

(2) Composting of a domestic animal carcass may be utilized as a method of carcass disposal if the following requirements are met:

(A) The composting process shall be managed at all times to be practically odorless, prevent fly larvae development, prevent animal depredation and prevent leaching of waste material which may cause water or soil contamination.

(B) A domestic animal carcass shall be reduced to brittle, easily broken bone after composting.

(C) A minimal peak temperature of 130 degrees Fahrenheit shall be achieved during the composting process to produce pathogen free compost.

(3) A domestic animal carcass may be disposed of in a self-contained, closed incinerator. An air quality permit from the Oklahoma Department of Environmental Quality may be required.

(4) A domestic animal carcass may be disposed of in a landfill approved to dispose of animal carcasses by the Oklahoma Department of Environmental Quality.

(5) A domestic animal carcass may be disposed of by delivering to a rendering facility within twenty-four (24) hours of death, unless the carcass has been refrigerated or frozen.

(6) A domestic animal carcass, other than poultry, may be disposed of by above ground burial.

(A) Specific measures and practices shall be utilized to protect the ground and surface waters of the state. The local NRCS office may be available with initial evaluation or an owner may use the NRCS web soil survey tool to perform a desktop site evaluation, but actual site conditions shall be the determining factor when evaluating a site's suitability for above ground burial of a domestic animal carcass.

(B) Requirements for above ground burial of a domestic animal carcass are as follows:

(i) Above ground burial of a domestic animal carcass requires the construction of a trench. The trench shall have an approximate depth of 24 inches. There shall be a carbon source placed in the trench at an approximate depth of 12 inches. The domestic animal carcass shall be placed on the carbon layer and covered with a soil cap. A suitable vegetative layer shall be planted or seeded on the soil cap.

(ii) The domestic animal carcass layer shall be a maximum of two feet deep.

(iii) An above ground burial trench shall not be located closer than one (1) foot vertically above the flood plain or within two (2) feet of the water table or bedrock.

(iv) An above ground burial trench shall not be located within three hundred (300) feet of a well, waters of the state, neighboring residences, public areas, or property lines.

(v) An above ground burial trench shall not be located along any stream or ravine where a domestic animal carcass may become exposed through erosion of the soil, or where the land is at any time subject to overflow.

(vi) After placing a domestic animal carcass in an above ground burial trench, the carcass shall be covered with a minimum of two and one-half (2 ½) feet of soil. If this is not attainable, fencing may be required around the trench area to ensure protection from animals.

(vii) An above ground burial trench shall be mounded so water does not pond on the mounded area.

(viii) An above ground burial trench shall be routinely inspected to add additional soil, if necessary, and to ensure that animals are not scavenging, digging, or dragging away a domestic animal carcass.

(ix) Surface rainwater shall be directed to flow away or around the above ground burial trench.

[Source: Added at 37 Ok Reg 970, eff 9-14-20 ; Amended at 38 Ok Reg 1654, eff 9-11-21]

35:18-1-5. Variances

Variances from these rules shall only be granted by the Department on a case by case basis. The granting of a variance shall not act as a precedent for any other case, whether similar or not. In each case where a variance is granted, the decision shall be thoroughly documented.

[Source: Added at 37 Ok Reg 970, eff 9-14-20]

CHAPTER 20. FORESTRY

[**Authority:** 2 O.S., §§ 2-4(2) and (15), 16-10 through 16-13, and 16-26; 19 O.S., §§ 901.55 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:20-1-1. Purpose

The rules of this Chapter establish procedures for implementing various programs of the Oklahoma Department of Agriculture, Food, and Forestry, Forestry Services Division related to the Rural Fire Protection Program Fund Act and Forest Resource Development Program. These programs generally provide funding assistance to rural fire departments, communities, nonprofit groups and others in the areas of rural fire protection and and forest resource development.

[**Source:** Amended at 27 Ok Reg 1113, eff 7-1-10]

SUBCHAPTER 3. RURAL FIRE PROTECTION PROGRAM FUND ACT

PART 1. GENERAL PROVISIONS

35:20-3-1. Purpose

The rules of this Subchapter have been adopted for the purpose of complying with the provisions of 19 O.S. Sections 901.55 through 901.61, known as the Rural Fire Protection Program Fund Act. These rules establish procedures for implementing three programs in the Rural Fire Protection Program Fund Act. The Act provides programs of financial assistance, matching grants and equipment revolving funds to improve fire protection provided by rural fire departments. These rules are designed to be in full compliance with legislative intent, Executive Orders and subsequent guidance from the Attorney General's Office and the Office of State Finance related to funding of local projects, and the Administrative Procedures Act.

[**Source:** Amended at 15 Ok Reg 2164, eff 6-11-98 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

PART 3. FINANCIAL ASSISTANCE PROGRAM

35:20-3-5. Overview of Financial Assistance Program

(a) **Program description.** 19 O.S. Section 901.56 authorizes the Oklahoma Department of Agriculture, Food, and Forestry to provide financial assistance to eligible rural fire departments upon certification by the Rural Fire Coordinators in each District. These funds may be used for certain operational expenses of the fire department, and are intended

to supplement funds already available to the fire department, and not to replace them.

(b) **Contingency.** Implementation of this Part is contingent upon annual appropriation to the Department for this purpose. If funding is approved, the Department will notify the Rural Fire Coordinators on or before June 30.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-6. Eligibility of fire departments for financial assistance

In order to participate in the Financial Assistance Program, fire departments shall meet the eligibility criteria established by 19 O.S. Section 901.56(D).

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-7. Financial Assistance Program announcement [REVOKED]

[Source: Revoked at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-8. Financial assistance certification of eligible fire departments

(a) **Certification procedure.** Each Rural Fire Coordinator shall certify each year the eligibility of fire departments in their assigned District to receive state grants and awards. Fire departments shall complete and submit appropriate forms provided by the Oklahoma Department of Agriculture, Food, and Forestry to the respective Rural Fire Coordinator no later than April 30 of each year. The fire department shall submit the following, at a minimum:

- (1) Name, address, and contact information;
- (2) The fire department's OFIRS reporting number and a statement that a report of fire runs was reported to the State Fire Marshall's Office for the previous year. Fire departments formed after the end of the previous calendar year shall be exempt;
- (3) Proof of a public listing of an emergency telephone number or statement indicating the fire department is a part of the 911 system.
- (4) Proof of workers' compensation insurance on its firefighters;
- (5) Proof of liability insurance on each fire department vehicle acquired from the Department;
- (6) A statement indicating the fire department has formally adopted NIMS and is actively participating in NIMS training and compliance activities; and
- (7) Compliance with all other applicable state and federal laws.

(b) **Ineligibility.** New fire departments formed after April 30 shall not be eligible for funds in that year. Fire departments submitting the forms for certification after April 30 shall not be eligible for funding in that year.

(c) **Certified list of Rural Fire Departments.** From the fire department forms submitted, the Rural Fire Coordinators shall provide a written list

of the certified incorporated cities, towns and rural fire departments, and the name and address of the fire chief or other official contact person to the Department as soon as practicable after notification.

(d) **Review and approval of lists.** The Department shall review the Rural Fire Coordinator's lists of certified fire departments and amounts, and submit them to the State Board of Agriculture for consideration and approval.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-9. Determination of Financial Assistance Program grant amount

The Oklahoma Department of Agriculture, Food, and Forestry shall determine the grant amount by distributing the available Financial Assistance Program funds to all certified fire departments. The funds available will be divided by the total number of eligible fire departments.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-10. Processing of Financial Assistance Program payments

(a) **Claim forms.** The Department will distribute the proper Financial Assistance Program **claim forms** to the contact person in each approved city, town or fire department, for signature. A copy of the fully executed forms will be returned to the fire department.

(b) **Issuance of checks.** Upon approval, the Department will process the proper Financial Assistance Program claim forms as required by law. A fire department may apply for Direct Deposit. Checks will be sent by the Department to the Coordinators for distribution to the fire departments by August 31, unless funding is delayed or reduced by the Oklahoma Legislature or the Office of State Finance, as required by 19 O.S. Section 901.56.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-11. Limitations on use of Financial Assistance Program funds

Limitations on the use of Financial Assistance Program funds are explicit in 19 O.S. Section 901.56. No program funds shall be expended for any purpose which does not relate to the permitted purposes specifically stated therein.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-12. Financial Assistance Program grant administration

(a) **Recordkeeping and auditing.** Participants shall keep complete and accurate records of expenditures made using Financial Assistance Program funds, and make the records available during any subsequent audit. Each fire department shall submit an annual expenditure report to the Coordinator on the form prescribed. If a fire department fails to submit the required annual expenditure report, Financial Assistance

Program funds may be reduced or eliminated, but only during the next calendar year.

(b) **Coordinator's report.** The Coordinators shall submit a written report of Financial Assistance Program results and benefits, as requested by Forestry Services, by June 1 of the following year for funds expended in their Rural Fire Coordination District.

[Source: Amended at 38 Ok Reg 1655, eff 9-11-21]

PART 5. MATCHING GRANT PROGRAM

35:20-3-17. Overview of matching grant program

(a) **Program description.** 19 O.S. Supp. Section 901.57 authorizes the Oklahoma Department of Agriculture, Food, and Forestry to administer federal and state grant programs to rural fire departments to improve fire protection in rural areas by reducing hazard of loss by fire, reducing fire insurance rates, and promoting public safety.

(b) **Contingency.** Implementation of matching grant programs is contingent upon legislative appropriation to the Department for this purpose.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-18. Eligibility of fire departments for matching grants

(a) Incorporated cities under ten thousand (10,000) population according to the latest Federal Decennial Census, towns, and legally formed rural fire departments, unless otherwise designated by law, are eligible for the matching grant programs.

(b) Communities imposing strict boundary limits excluding rural residences logically part of the community or limit fire response only to paid subscribers shall not be considered for funding in matching grant programs.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-19. Matching grant description

(a) **State-funded grants.** For state-funded matching grants, the cost-share level shall be eighty percent (80%) state which requires a twenty percent (20%) local match. The State will reimburse eighty percent (80%) of the project amount, up to the approved limit of the grant.

(b) **Limitations on matching funds.** In-kind matching shall not be accepted as any portion of the local match. Applicants shall certify that matching funds are available on the matching grant application form. Failure to certify shall be cause for rejection of the application.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-20. Matching grant program announcements and fund allocation

(a) **District notification and participation.** The Oklahoma Department of Agriculture, Food, and Forestry will notify the Rural Fire Coordination Districts in writing prior to August 1 if funds are available for the matching grant program. Districts desiring to participate in the program shall notify the Department in the manner prescribed by September 1.

(b) **Grants allocated by District.** Matching grants shall be competitive within each Rural Fire Coordination District. The total amount available for grants shall be initially allocated to each of the participating Rural Fire Coordination Districts based upon each District's proportion of the number of eligible fire departments. Amounts available to each District will be determined by October 1.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-21. Applications for matching grants

(a) **Forms.** Upon appropriation of funds for the state matching grant program, forms will be distributed to all eligible fire departments.

(b) **Application procedure.** Applicants shall respond to questions on the matching grant application form, and include a written narrative of how the grant will benefit their fire department. Completed applications are sent to each Rural Fire Coordination District's Coordinator.

(c) **Application deadline.** The deadline for applications for matching grants is the first week in October of each year, unless otherwise advertised.

(d) **Review and rating of applications.** Applications for matching grants received by the deadline within each Rural Fire Coordination District are reviewed, rated and ranked by the District's Coordinator pursuant to standard criteria and guidelines approved by the Department. Applications received after the deadline will not be rated nor funded. Applications which are incomplete, or which request funding for items outside the purposes described in 19 O.S., Section 901.57, shall be denied and returned to the applicant.

(e) **Application rating criteria.** In anticipation of receiving applications for funding greater than the matching grant program funds available, a set of criteria will be used to rate the applications numerically. These criteria will be reviewed annually by the Rural Fire Coordinators and the Department, and will be standard for all Rural Fire Coordination Districts. Applications with the highest point score will be recommended for funding to the extent of funds available.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-22. Matching grant limitations

(a) The maximum state share of projects funded under the matching grant programs shall be as follows:

- (1) The eighty percent (80%) state share for fire-related equipment shall not exceed thirty-five thousand dollars (\$35,000).

(2) The eighty percent (80%) state share for fire station construction or improvements shall not exceed seventy-five thousand dollars (\$75,000).

(b) Applicants for state matching grant program funds may not apply for both an equipment grant and a fire station grant in the same funding period.

(c) State matching grant program funds may be expended for the purchase or maintenance of fire related equipment and the construction or improvement of structures suitable for fire stations. Applicants shall certify on the application form that the conditions in this section are met when applying for grants for facilities.

(1) No matching grant program funds may be expended or obligated for the purchase of land or construction of fire stations unless all obligations previously incurred for such purposes and to be paid from matching grant program funds have been fully paid and satisfied.

(2) No matching grant program funds shall be expended or obligated for the construction of fire stations unless the eligible participant holds fee simple title, not encumbered by any lien, or holds a lease for a period of not less than ten (10) years, with provisions for renewal of the lease annually, to the land on which it proposes to construct the building. This provision shall not prohibit construction or location of a fire station on land donated in whole or in part for the purpose, and use of matching grant program funds for construction where the donor has reserved right of reversion of such land under stated conditions, if such use is reasonable and appropriate as determined by the Department and the Rural Fire Coordinators.

(3) Matching grant program funds shall be expended under the direction of the chief of the fire department upon duly executed vouchers approved as required by law.

[Source: Amended at 15 Ok Reg 2164, eff 6-11-98 ; Amended at 23 Ok Reg 2166, eff 6-25-06 ; Amended at 27 Ok Reg 1113, eff 7-1-10 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:20-3-23. Board approval of matching grants

Each Rural Fire Coordinator shall send the prioritized list of applications to the Department for submissions of recommended grantees and their approved amounts to the next regularly scheduled meeting of the State Board of Agriculture for consideration and approval.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-24. Matching grant program administration

(a) **Matching grant certification forms.** Upon approval, the Department will distribute the matching grant forms to each grantee to certify the grant. The matching grant forms shall be signed by the grantee and returned to prior to completing the grant.

(b) **Matching grant award date.** Expenditures made prior to the date of the matching grant award shall not be considered for reimbursement. The matching grant award date is the date the State Board of Agriculture

approved the list of grantees. All grant monies shall be obligated by June 30. Grant funds are considered obligated when items are ordered or purchased from the date of the grant award through June 30th, as evidenced on the invoice or in other written form.

(c) **Reimbursement claims.** Grantees shall abide by 19 O.S. Section 901.57, or other procedures established by the Department, when submitting claims for reimbursement.

(d) **Recordkeeping.** Grantees shall keep copies of grant awards, applications, claims, invoices, cancelled checks, and any other documentation that may be necessary for an audit.

(e) **Matching grant reallocation of funds.** If a matching grant cancellation occurs, the Department will reallocate unobligated grant funds pursuant to 19 O.S. Section 901.57.

(f) **Compliance audits.** The Department through the Rural Fire Coordinators will audit one hundred percent (100%) of the completed grants funded under the matching grant program.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

PART 7. RURAL FIRE DEFENSE EQUIPMENT REVOLVING FUND PROGRAM

35:20-3-30. Overview of the rural fire defense equipment revolving fund program

(a) **Program description.** 19 O.S. Sections 901.58 through 901.60 authorize the Oklahoma Department of Agriculture, Food, and Forestry to establish a rural fire defense equipment revolving fund for purchase and resell of fire-related equipment and supplies to rural fire departments at cost.

(b) **Contingency.** Implementation of the rural fire defense equipment revolving fund program is contingent upon legislative appropriation to the Department for this purpose.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-31. Rural fire defense equipment revolving fund created

A revolving fund created in the State Treasury, known as the Rural Fire Defense Equipment Revolving Fund, shall be used for the implementation of the rural fire defense equipment revolving fund program.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-32. Equipment acquisition and storage

(a) **List of items.** The Oklahoma Department of Agriculture, Food, and Forestry and the Rural Fire Coordinators shall jointly develop a list of items to be included in the rural fire defense equipment revolving fund program.

(b) **Purchases.** The Department may purchase bulk supplies of approved items in order to obtain a reduced price, using purchasing methods prescribed by law.

(c) **Inventory and storage.** Purchased items shall be inventoried immediately upon receipt as authorized by 19 O.S. Section 901.59.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-33. Eligibility

(a) Fire departments eligible to participate in the rural fire defense equipment revolving fund program shall include only those with a written and active cooperative agreement with the Rural Fire Defense Program of the Oklahoma Department of Agriculture, Food, and Forestry.

(b) Application procedures for eligible fire departments shall be developed by the Rural Fire Coordinators and filed with the Department.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-3-34. Rural fire defense equipment revolving fund program administration

(a) **Invoicing and payment.** A fire department may provide a purchase order and the Oklahoma Department of Agriculture, Food, and Forestry shall invoice the fire department immediately after the order is filled from the storage area. Payment shall be due within forty-five (45) days of invoice date and shall be payable to the Department's Rural Fire Defense Equipment Revolving Fund. A late payment charge shall be added to invoices not paid within forty-five (45) days.

(b) **Deposit of receipts.** The Department shall deposit all receipts from the resale of equipment and supplies purchased from the rural fire defense equipment revolving fund back into the revolving fund for the purpose of making additional purchases.

(c) **Report.** The Department shall provide a written report documenting savings to fire departments by June 1 of each year.

[Source: Amended at 27 Ok Reg 1113, eff 7-1-10]

SUBCHAPTER 5. URBAN FORESTRY MATCHING GRANT PROGRAM [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:20-5-1. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-2. Statutory definitions [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-3. Additional definitions [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

PART 3. OVERVIEW OF MATCHING GRANT PROGRAM [REVOKED]

35:20-5-7. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-8. Contingency [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

PART 5. MATCHING GRANT PROGRAM GUIDELINES [REVOKED]

35:20-5-12. Eligibility for matching grant program [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Added at 9 Ok Reg 1781, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-13. Matching grant description [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-14. Matching grant program announcements [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 ; Added at 9 Ok Reg 1741, eff 5-26-92 (emergency); Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-15. Applications for matching grants [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 ; Added at 9 Ok Reg 1741, eff 5-26-92 (emergency); Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-16. Matching grant limitations [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-17. Board approval of matching grants [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-5-18. Matching grant program administration [REVOKED]

[Source: Added at 8 Ok Reg 3089, eff 7-8-91 (emergency); Added at 9 Ok Reg 1741, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

SUBCHAPTER 7. RULES FOR THE SMALL BUSINESS ADMINISTRATION TREE PLANTING GRANT PROGRAM [REVOKED]

PART 1. GENERAL PROVISIONS [REVOKED]

35:20-7-1. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-2. Statutory definitions [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-3. Additional definitions [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

PART 3. OVERVIEW OF MATCHING GRANT PROGRAM [REVOKED]

35:20-7-7. Purpose [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-8. Contingency [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ;
Revoked at 14 Ok Reg 2458, eff 6-26-97]

PART 5. MATCHING GRANT PROGRAM GUIDELINES [REVOKED]

35:20-7-12. Eligibility for matching grant program [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-13. Matching grant description [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-14. Statewide allocation of matching grant funds [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-15. Matching grant program announcements [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-16. Applications for matching grants [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-17. Matching grant limitations [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-18. Board approval of matching grants [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-7-19. Matching grant program administration [REVOKED]

[Source: Added at 8 Ok Reg 3351, eff 7-30-91 (emergency); Added at 9 Ok Reg 1743, eff 5-26-92 ; Added at 9 Ok Reg 1745, eff 5-26-92 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

SUBCHAPTER 11. FORESTRY RURAL DEVELOPMENT GRANT PROGRAM [REVOKED]

35:20-11-1. Purpose [REVOKED]

[Source: Added at 11 Ok Reg 2575, eff 6-13-94 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-11-2. Definitions [REVOKED]

[Source: Added at 11 Ok Reg 2575, eff 6-13-94 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-11-3. Contingency [REVOKED]

[Source: Added at 11 Ok Reg 2575, eff 6-13-94 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-11-4. Eligibility for matching grant program [REVOKED]

[Source: Added at 11 Ok Reg 2575, eff 6-13-94 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-11-5. Matching grant description [REVOKED]

[Source: Added at 11 Ok Reg 2575, eff 6-13-94 ; Revoked at 14 Ok Reg 2458, eff 6-26-97]

35:20-11-6. Matching grant program announcements

(a) **Applicant notification.** The Department of Agriculture will notify potential applicants through direct mailings, news releases and personal contact.

(b) **Announcement in Oklahoma Register.** A program announcement will be published in the Oklahoma Register in accordance with Executive Order 88-16.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

35:20-11-7. Applications for matching grants

(a) **Forms.** Forestry Services will utilize, or amend as appropriate, the forms and guidance provided by the U.S. Forest Service for this program.

(b) **Application procedure.** Applicants complete the application for funding according to the guidelines. Completed applications are sent to the Department's contact person.

(c) **Application deadline.** The application deadline will be established by Forestry Services, and published in the Oklahoma Register and in application materials. Applications arriving after the deadline will not be considered.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

35:20-11-8. Application evaluation process

(a) **Application evaluation criteria.** In anticipation of receiving applications for funding greater than the program funds available, evaluation criteria will be used to rank the applications. These criteria will be developed by the Committee.

(b) **Review and evaluation of applications.** Applications will be evaluated and ranked by Committee members, or by others as requested. Applications with the highest evaluation will be recommended for funding to the extent of funds available.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

35:20-11-9. Matching grant limitations

(a) **Funding Range.** The funding range or limit for each application, if any, will be established by the Committee and announced in application materials. Partial funding of large projects may be considered.

(b) **Allowable expenses.** Project expenses may include materials costs, worker salaries and other specific expenses not prohibited by appropriate federal circulars. In-kind service expenses are allowable. Proper documentation of each expense is required, including paid invoices, cancelled checks, payroll receipts, time records and other pertinent proof of expenditures.

(c) **Restrictions.** Grant funds must not replace currently funded projects and projects must occur in Oklahoma.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

35:20-11-10. Approval of matching grants

(a) **Committee recommendation.** The Committee will recommend the final list of applicants to the Director for funding consideration.

(b) **Board approval.** Forestry Services will submit the final list of grantees and recommended amounts to the Board for consideration and approval.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

35:20-11-11. Matching grant program administration

(a) **Grant certification forms.** Upon approval, Forestry Services will distributed to all grantees the forms required to certify the grant. The prescribed forms must be signed by the grantee and returned to Forestry Services before the grant becomes official.

(b) **Grant award date.** Expenditures made prior to the date of the grant award will not be considered for reimbursement. The grant award date is the date the Board approves the list of grantees.

(c) **Reimbursement claims.** Grantees shall abide by standard state practices and Forestry Services guidelines when submitting claims for reimbursement. Only documented expenses will be eligible for reimbursement of the federal share. No advance payments will be made.

(d) **Grant cutoff date.** Forestry Services will establish the grant cutoff date when expenditures must be completed.

(e) **Reaward of unclaimed funds.** Unclaimed grant funds may be rewarded to applicants on file.

(f) **Incomplete projects.** Failure to complete an awarded project may result in repayment of claimed federal funds and ineligibility to receive other awards.

(g) **Cancellation of grants.** Grants may be cancelled by Forestry Services in the event of noncompliance or lack of progress by grantee.

(h) **Recordkeeping.** Grantees shall keep a file on awarded grants, and include copies of grant awares, applications, claims, invoices and

cancelled checks, as appropriate, in order to comply with followup audits.

(i) **Claim processing.** Forestry Services will process reimbursement claims promptly, according to state procedures, and send checks to the grantee's contact person or designee.

(j) **Compliance audits.** Forestry Services will audit completed grants funded under this program as appropriate.

[Source: Added at 11 Ok Reg 2575, eff 6-13-94]

SUBCHAPTER 13. GOVERNOR'S BAN ON OUTDOOR BURNING

PART 1. GENERAL PROVISIONS

35:20-13-1. Purpose

The rules of this Subchapter have been adopted for the purpose of administering the Governor's Ban on Outdoor Burning in Oklahoma. These rules describe the procedures used to determine when a burning ban is necessary and how the decision will be made to implement the burning ban.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-2. Definitions

In addition to the terms defined in 2 O.S. 2001, Section 16-1, the following term, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Burning ban" means gubernatorial action taken by proclamation that emergency drought conditions and extraordinary fire danger exist.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-3. Additional definitions [REVOKED]

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Revoked at 24 Ok Reg 1768, eff 6-25-07]

PART 3. OVERVIEW OF GOVERNOR'S BAN ON BURNING

35:20-13-7. Conditions

(a) Each of the following conditions shall exist prior to the Governor proclaiming a burning ban:

- (1) A drought is currently in progress;
- (2) The drought is severe enough to constitute an emergency; and
- (3) An extraordinary danger from fire exists.

(b) A burning ban shall not be used routinely and shall only be utilized during periods of extraordinary fire danger.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-8. Contingency

The Governor, in consultation with the Commissioner of Agriculture and Oklahoma Department of Agriculture, Food, and Forestry may supersede these rules upon determination that a significant threat to public safety is imminent and following the procedures in these rules would impede the response to that threat.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

PART 5. BURNING BAN GUIDELINES

35:20-13-13. Drought conditions evaluation

Drought severity shall be determined by the Director using the Keetch-Byram Drought Index (KBDI) during the vegetative growing season between May 1 and October 31 and the Palmer Drought Severity Index (PDSI) during the dormant vegetative season between November 1 and April 30.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 16 Ok Reg 2125, eff 6-25-99 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-14. Drought emergency determination

(a) When using the Keetch-Byram Drought Index (KBDI)(May through October), a value above 600 is indicative a severe drought is in progress.
(b) When using the Palmer Drought Severity Index (PDSI) (November through April), a value below -2.99 indicates a severe drought is in progress.
(c) Both the KBDI and the PDSI shall be coupled with fire occurrence data and current weather conditions to accurately describe an emergency situation based on continuous monitoring of each of these factors by the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 16 Ok Reg 2125, eff 6-25-99 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-15. Extraordinary fire danger evaluation

The following factors shall be evaluated by the Oklahoma Department of Agriculture, Food, and Forestry prior to requesting a burning ban:

- (1) **Wildland fire occurrence.** News reports, field reports and fire assistance requests shall be monitored for indications that wildfire activity is increasing above a normal or manageable level
- (2) **Current conditions.**
 - (A) **Season.**

(B) **Keetch-Byram Drought Index (KBDI) or Palmer Drought Severity Index (PDSI).**

(C) **Weather.**

(3) **Forecasted conditions.**

(4) **Personal contacts.** The Department shall contact local representatives of the areas affected.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 16 Ok Reg 2125, eff 6-25-99 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-16. Requesting the burning ban

The Oklahoma Department of Agriculture, Food, and Forestry shall review all information and provide a summary to the Governor's office containing the following:

(1) A statement from the Department to the Governor's office containing:

(A) A description of the area being recommended for inclusion in a burning ban;

(B) A summary of the most recent KBDI or PDSI for the counties being considered;

(C) A summary of wildland fire occurrence by cause, if available, in the affected area; and

(D) A summary of the three (3) and ten (10) day National Weather Service Forecasts for the affected area

(2) A draft of the text to be used in the Governor's emergency proclamation; and

(3) A print-ready map of the affected area.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 16 Ok Reg 2125, eff 6-25-99 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-17. Implementing the declaration

Upon receipt of the official, signed emergency proclamation, the Oklahoma Department of Agriculture, Food, and Forestry shall, in addition to posting on the Department's website, provide notice of the proclamation to the Office of Emergency Management, the State Fire Marshal, affected area County Sheriffs, local news media, and selected cooperating local, state, and federal agencies.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-18. Removing the Ban

(a) In making the determination to remove a burning ban, the Oklahoma Department of Agriculture, Food, and Forestry shall evaluate the following factors:

(1) Drought conditions.

(2) Wildland Fire Occurrence.

(3) Current weather.

(4) Forecasted conditions.

(5) Personal contacts.

(b) The Department shall review all information and provide a summary to the Governor's office containing the following:

- (1) A statement from the Department to the Governor's Office containing:
 - (A) A description of the area recommended for lifting of the burning ban;
 - (B) A summary of the most recent KBDI or PDSI for the areas considered.
 - (C) A summary of the wildland fire occurrence by cause, if available, in the affected area; and
 - (D) A summary of the three (3) and ten (10) day National Weather Service Forecasts for the affected area
- (2) Draft of the text to be used in the Governor's emergency proclamation; and
- (3) Print-ready map of the affected area.

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Amended at 16 Ok Reg 2125, eff 6-25-99 ; Amended at 24 Ok Reg 1768, eff 6-25-07]

35:20-13-19. Implementing the declaration [REVOKED]

[Source: Added at 14 Ok Reg 1236, eff 5-12-97 ; Revoked at 24 Ok Reg 1768, eff 6-25-07]

SUBCHAPTER 15. PERMITTED BURNING UNDER A GOVERNOR'S BURNING BAN [EXPIRED]

Editor's Note: *The emergency rules in this Subchapter 15 expired on 6-30-99, as specified by the issuing agency in the emergency rule document published at 16 Ok Reg 43.*

PART 1. GENERAL PROVISIONS [EXPIRED]

35:20-15-1. Purpose [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

35:20-15-2. Definitions [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

PART 3. AUTHORIZED EXEMPTIONS [EXPIRED]

35:20-15-7. Annual grain stubble burning permitted [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

PART 5. APPROVAL PROCESS [EXPIRED]

35:20-15-12. Application information required [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

35:20-15-13. Approval information required [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

35:20-15-14. Distribution of approved permits [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

PART 7. ADDITIONAL DETAILS [EXPIRED]

35:20-15-19. Legal liability [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

35:20-15-20. Permit violations [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

35:20-15-21. Variances [EXPIRED]

[Source: Added at 16 Ok Reg 43, eff 9-2-98 through 6-30-99 (emergency)]

SUBCHAPTER 17. FOREST RESOURCES DEVELOPMENT PROGRAM

PART 1. GENERAL PROVISIONS

35:20-17-1. Purpose

The rules of this subchapter are adopted for the purpose of administering Oklahoma's Forest Resources Development Program, a forestry cost-share program to help landowners implement forest resource management and conservation projects in Oklahoma, pursuant to Title 2 O.S. Sections 16-10 through 16-13. The Forest Resources Development Program will be used to administer funding allocated to Oklahoma through federal grant programs, and other funding for forestry cost-share programs from state appropriations, federal grants, private foundation grants, donations or similar sources.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-2. Definitions

The following words or terms used in this subchapter shall have the meaning described below unless the context clearly indicates otherwise:

"Advisory Committee" means the group established by the Commissioner of Agriculture to assist with the program, and is equivalent to the State's Forest Stewardship Coordinating Committee, established pursuant to section 16 USC 2113 of the Cooperative Forestry Assistance Act as amended (16 U.S.C. 2101, et seq).

"Applicant" means the person who applies for cost-share assistance under the program.

"Area Forester" means the forester in charge of a designated Forestry Services Administrative Area who provides basic oversight of the cost-share program in their assigned area.

"Cost-share" means the payment that is used to offset part of the cost incurred by an approved applicant for implementation of an approved practice authorized under the program.

"Forester" means the professional natural resources manager who provides information and technical assistance to program participants.

"Fund" means the forestry cost-share revolving fund, authorized at Title 2 O.S. Section 16-11.

"Landowner" means the owner of non-industrial private forestland or a leaseholder who controls the land for the minimum length of time for a practice to be established, but shall not mean corporations whose stocks are publicly traded, owners principally engaged in the processing or manufacture of wood products, governmental entities and public utilities.

"Management plan" means the written plan prepared by a natural resources management professional and approved by the Department that describes projects and activities to be carried out by the landowner, consistent with the landowner's objectives.

"Non-industrial private forestland" means rural lands with existing tree cover, or which are suitable for growing trees, and are owned by any non-industrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.

"Practice" means a prescribed forestry activity consistent with the management plan and implemented through the program that results in improved conditions on eligible private lands. A practice may consist of multiple activities.

"Practice plan" means the written document that contains site-specific technical recommendations on proper installation of requested practices.

"Project" means the purpose for which an applicant requests funding assistance under this program.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-3. Contingency

Implementation of the forestry cost-share program is contingent upon funding being available to the Department for this purpose. Funding may come from any source that is designated for forestry cost-share assistance, including federal grants, state appropriations, donations from individuals or organizations, and any other source.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

PART 3. COST-SHARE PROGRAM GUIDELINES

35:20-17-7. Eligibility for cost-share program

- (a) Any private individual, corporation, trust, joint venture, Native American Tribe, association or other legal entity shall be eligible for participation in the program, provided that they meet the program guidelines established and approved by the Department in consultation with the Advisory Committee.
- (b) Any federal, state or local government agency or political subdivision, corporations with publicly traded stock, landowners primarily engaged in the manufacture of wood products, public utilities, owners of less than ten (10) contiguous acres, unless a waiver is approved by the Department, and any landowner with joint ownership in an eligible tract of land where all joint owners or duly authorized agents do not sign the application shall not be eligible for participation in the program.
- (c) Funding shall be available for practices on a statewide basis, unless restricted to certain counties or geographic areas by the Department in consultation with the Advisory Committee based upon the source of cost-share funding.
- (d) The Department in consultation with the Advisory Committee will establish the minimum and maximum size ownerships for landowners to be eligible to participate in the program, and the minimum size tract where practices are to be installed under the program.
- (e) The Department in consultation with the Advisory Committee may establish additional restrictions for participation in the program, based upon program funding sources and intent.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 21 Ok Reg 748, eff 4-26-04 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-8. Program announcements

The Department shall notify potential applicants through direct mailings, news releases, personal contact and through other conservation agencies.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 21 Ok Reg 748, eff 4-26-04 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-9. Applications for cost-share funding

- (a) The Department will develop the forms and guidelines required for the cost-share program in consultation with the Advisory Committee.
- (b) Any landowner desiring to participate in the program shall submit an application to the Department on a form supplied by the Department. Potential participants shall complete the application for cost-share funding according to the guidelines and shall send completed applications to the Area Forester responsible for the county in which the land where the practice is to be installed is located.
- (c) Applications will be accepted on a continuous basis, unless otherwise established by the Department in consultation with the Advisory Committee.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-10. Management plan requirements

Landowners shall obtain a written forest management plan that satisfies the program guidelines for the land where practices will be implemented prior to obtaining any cost-share funds.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-11. Cost-share practices and rates

The Department with the consultation of the Advisory Committee shall establish the cost-share practices and rates that will be offered to landowners under the program and those practices and rates may vary, depending upon the source and expressed intent of cost-share funding. All approved practice descriptions, specifications and cost-share rates shall be made available to potential applicants in the program guidelines. The Advisory Committee shall review the cost-share rates annually and recommend adjustments to the Department as necessary.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-12. Maximum payment limitation and agreement period

The maximum payment limitation for all program payments shall be established by the Department in consultation with the Advisory Committee, and will be based on the state fiscal year. The program shall only fund annual agreements, and shall not fund long-term, multi-year agreements.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-13. Relationship with other cost-share programs

Cost-share funds shall not be approved if the applicant is already receiving cost-share funds during the state fiscal year on the same acres for the same or similar practices.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-14. Approval of cost-shares

(a) Cost-share funding shall be allocated on a first-come first served basis, unless the Department in consultation with the Advisory Committee establishes an application rating system to fund projects with the highest priority or to meet specific objectives.

(b) In no case shall a cost-share rate be adjusted from the rate in effect when the application was approved.

(c) In the event funding is not immediately available, an application will be retained on file and reconsidered as new funding becomes available. At the end of twelve (12) months, and at least annually thereafter, landowners will be required to notify the Department in writing if they wish for their application to remain on file.

(d) Landowners shall obtain written approval prior to implementing cost-shared practices. Reimbursement shall not occur unless an approved cooperative agreement is on file with the Department prior to practice implementation.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 21 Ok Reg 748, eff 4-26-04 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-15. Practice expiration and extensions

(a) A landowner shall complete implementation of the cost-share practices within twelve (12) months of the date of approval.

(b) The Department may approve an extension of up to twelve (12) months where circumstances beyond the landowner's control prevented practice completion in a timely manner. Under no circumstances shall cost-share funding be extended beyond the initial extension.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 21 Ok Reg 748, eff 4-26-04 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-16. Changes to approved projects

(a) Changes in approved practices or applications may be made, based upon the landowner submitting an amended practice plan and application. The total dollar value of an approved application may be increased based upon the landowner's needs determination and the availability of cost-share funding.

(b) Participants with a pending or an approved application may withdraw their application at any time in writing to the Area Forester.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-17. Inspection of completed practices

Prior to authorizing payment, foresters shall perform on-site inspections to verify that practice specifications and other terms of the cooperative agreement have been followed.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-18. Payment by the Department

(a) The Department shall only make payment upon completion of the following:

- (1) The landowner has completed the practices stated in the cooperative agreement to the Department's satisfaction.
- (2) The landowner has complied with all terms of the agreement.
- (3) The landowner has submitted paid invoices and other proof of cost for practices authorized in the agreement.

(b) The Department may make partial payments for completed components.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 21 Ok Reg 748, eff 4-26-04]

35:20-17-19. Practice maintenance requirement

Landowners shall maintain cost-share practices in accordance with the cooperative agreement for a period of ten (10) years following the date of performance certification. The Department in consultation with the Advisory Committee may establish a maintenance period of less than ten (10) years for certain practices or under certain conditions. Foresters will perform random spot checks of practices completed in prior years and notify the Department of discrepancies.

[Source: Added at 20 Ok Reg 785, eff 3-17-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-20. Refunds or recapture provisions

Landowners shall refund to the Department all state costs in the cooperative agreement plus court costs and reasonable attorney fees under the following circumstances:

- (1) The landowner fails to maintain cost-share practices for the required maintenance period.
- (2) The landowner destroys the funded practices.
- (3) The landowner sells or otherwise loses control of the property and the new owner does not agree to maintain the practices.
- (4) Program violations or abuses occur.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03]

35:20-17-21. Appeals

(a) Landowners may file an appeal of any decision of the forester that is adverse to the landowner. The landowner shall appeal in writing to the Area Forester who received the original application for funding.

(b) The Area Forester and forester involved in the case shall have fourteen (14) calendar days from the date the appeal is received to investigate and respond in writing to the landowner with a determination on the appeal.

(c) In the event the landowner is dissatisfied with the Area Forester' determination, the landowner may request a hearing before the State Board of Agriculture, or the Board may assign an administrative law judge to preside and make a recommendation to the Board.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-22. Accounting and reporting

(a) The Department shall maintain records that include data on approved landowners, approved cost-shares, actual cost-shares, practices installed, accomplishments and any other information.

(b) The Department shall develop quarterly status reports and annual accomplishment reports of program activities.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

35:20-17-23. Equal opportunity provisions

The program shall be developed, promoted and implemented in full compliance with state and federal laws governing discrimination and civil rights.

[Source: Added at 20 Ok Reg 587, eff 1-31-03 (emergency); Added at 20 Ok Reg 1533, eff 6-12-03 ; Amended at 27 Ok Reg 1113, eff 7-1-10]

CHAPTER 25. LABORATORIES

[Authority: 2 O.S., §§ 14-1 et seq.]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:25-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of setting up guidelines and procedures for the operation of the Laboratory Division.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

35:25-1-2. Statutory citations [RESERVED]

SUBCHAPTER 3. METROLOGY

PART 1. GENERAL

35:25-3-1. Consumer protection

(a) Pursuant to the intent of the Legislature, the Oklahoma State Department of Agriculture will administer this Act in a manner which will provide protection for consumers of those goods and services which can be accurately measured, improves the quality and safety of the products produced in this State, and provide the assurance to the people of the state that, from a measurement standpoint, manufactured products are what they purport to be.

(b) Whenever it is deemed necessary, the State Department of Agriculture may require testing on any product sold in Oklahoma.

PART 3. LICENSING OF METROLOGY LABORATORIES

35:25-3-5. Rule Application

Part 3 of this subchapter shall apply to all laboratories licensed by the State of Oklahoma with Standards traceable to the State or National Bureau of Standards.

35:25-3-6. Laboratory Licenses

(a) **Obtaining licenses.** Licenses may be obtained only upon application to the Oklahoma State Department of Agriculture on forms provided by that department and upon payment of the prescribed \$100.00 fee and upon satisfactory Bonding arrangement with the Oklahoma State Department of Agriculture.

(b) **Specific capabilities.** Laboratories will be licensed to perform measurement services in one or more specific category of capability, such

as electrical, optics, dimensions, mechanics, temperature or any other discipline adopted by the National Conference on Weights and Measures. (c) **Initial evaluation.** Licenses will be issued to applicants only after facilities and systems have been examined by an authorized agent of the Oklahoma State Department of Agriculture to ascertain that:

(1) Standards used by the applicant are currently traceable to the National Bureau of Standards.

(2) Personnel performing calibration tests are capable. Personnel may be required to furnish adequate proof of capability.

(3) Satisfactory laboratory procedures are available.

(d) **Periodic re-evaluation.** Licensed laboratories will be reevaluated on an annual basis, by an authorized agent of the Oklahoma State Department of Agriculture, to the extent deemed necessary to verify that the laboratory continues to meet the requirements for licensing.

(e) **Expiration and renewal of licenses.** Licenses will expire on June 30 of the year following date of issue. Renewal shall be made by submission of the required forms provided by OSDA and payment of the \$100 annual fee.

(f) **Revocation of licenses.** A license shall be revoked if a laboratory fails to meet the necessary licensing requirements. Adequate notice (usually 30 days) shall be furnished by OSDA of intent to revoke a license stating deficiency(ies) and recommended remedy(ies).

35:25-3-7. Calibration system requirements

(a) **Calibration policies.** Applicants will make available to the State Department of Agriculture written policies for his calibration system. The policies dealing with measuring and test equipment shall prescribe calibration intervals and sources and define his inspection operations.

(b) **Adequacy of standards.** Standards established by the laboratory for calibrating the measuring and test equipment used in controlling product quality shall have the capabilities for accuracy, stability, and range required for the intended use.

(c) **Environmental controls.** Measuring and test equipment and measurement standards shall be calibrated and utilized in an environment controlled to the extent necessary to assure continued measurements of required accuracy giving due consideration to temperature, humidity, vibration, cleanliness, and other controllable factors affecting precision measurement. When applicable, compensating corrections shall be applied to calibration results obtained in an environment which departs from standard conditions.

(d) **Intervals of calibration.** Measuring and test equipment and measurement standards shall be calibrated at established periodic intervals on the basis of stability, purpose, and degree of usage. Intervals shall be shortened as required to assure continued accuracy as evidenced by the results of preceding calibrations and may be lengthened only when the results of previous calibrations provide definite indications that such action will not adversely affect the accuracy of the system.

(e) **Calibration procedures.** Written procedures shall be prepared or provided and utilized for calibration of all measuring and test equipment

and measurement standards used to assure the accuracy of measurements involved in establishing product conformance. The procedures may be a compilation of published standard practices or manufacturer's written instructions and need not be rewritten to satisfy the requirements of this regulation. The procedures shall require that calibration be performed by comparison with higher accuracy level standards. A description of calibration standards shall be included in the procedures and shall consist essentially of a listing of the applicable measurement standards, both reference and transfer, and shall provide nomenclature, identification number, calibration interval and source, and environmental conditions under which the measurement standards will be applied and calibrated.

(f) **Calibration source.** Measuring and test equipment shall be calibrated by the laboratory or a commercial facility utilizing reference standards (or transfer standards) whose calibration is certified as being traceable to the National Bureau of Standards, has been derived from accepted values of natural physical constants, or has been derived by the ratio type of self-calibration techniques. Reference standards requiring calibration by a higher level standards laboratory shall be calibrated by a commercial facility capable of providing the required service, a government laboratory, or by the National Bureau of Standards. All reference standards used in the calibration system shall be supported by certificates, reports, or data sheets attesting to the date, accuracy, and conditions under which the results furnished were obtained. All subordinate standards and measuring and test equipment shall be supported by like data when such information is essential to achieving the accuracy control required by this specification. In those cases where no data is required, a suitably annotated calibration label on the item shall be sufficient to satisfy the support data requirements of this subsection. Certificates or reports from other than the National Bureau of Standards or government laboratory shall attest to the fact that the standards used in obtaining the results have been compared at planned intervals with the National Standard either directly or through a controlled system utilizing the methods outlined above. The laboratory shall be responsible for assuring that the sources providing calibration services, other than the National Bureau of Standards or a government laboratory, are in fact capable of performing the required service to the satisfaction of this specification. All certificates and reports shall be available for inspection.

(g) **Foreign contracts.** The provisions in subsection (e) shall apply with the exception that the National Standards Laboratories of countries whose standards are compared with International or U.S. National Standards may be utilized in lieu of the U. S. National Bureau of Standards.

(h) **Maintenance of records.** The application of the requirements in (a) through (g) of this section will be supported by records designed to assure that established schedules and procedures are followed to maintain the accuracy of all measuring and test equipment, and supporting standards. The records shall include a suitably identified individual record of calibration or other means of control for each item of measuring and test equipment and measurement standards, providing

calibration interval and date of certification of results of last calibration. In addition, the individual record of any item whose accuracy must be reported via a calibration report or certificate will quote the report or certificate number for ready reference. Records of equipment and its disposal shall be maintained for a period of three (3) years. These records shall be available for review by authorized State Department of Agriculture personnel.

(i) **Calibration labeling.** Measuring and test equipment and measurement standards shall be labelled to indicate the date of last calibration, by whom it was calibrated, and when the next calibration is due. When the size or functional characteristics limit the application of label, an identifying code shall be applied to the item to reflect serviceability and due date for next calibration. When neither labelling or coding is practical, the system shall provide suitable procedures for monitoring of recall records to assure adherence to calibration schedules. Label, codes, or recall records for items which are not required to be used to their full capabilities, or items which require functional check only shall indicate the applicable condition.

35:25-3-8. Laboratory Fees

Fees charged by state licensed metrology laboratories cannot exceed those promulgated by the National Bureau of Standards. Special situations not covered by fee schedules will be ruled on by request to the State Department of Agriculture. Remittance for fees will be on a quarterly basis on forms provided by the Oklahoma State Department of Agriculture.

35:25-3-9. Audits

Firms licensed under the provisions of this Act will be required to maintain adequate records and make such records available for auditing purposes at any time requested by the Oklahoma State Department of Agriculture. Records must be retained for at least three (3) years.

35:25-3-10. Information and complaints

Information regarding state licensed laboratories and their services shall be published and disseminated by the Marketing Division, OSDA. Any complaints regarding the services performed by a licensed laboratory should be registered with the Marketing Division.

SUBCHAPTER 5. CHEMISTRY

35:25-5-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**AAFCO**" means the Association of American Feed Control Officials.

"**AAPFCO**" means the Association of American Plant Food Control Officials.

"**AAPCO**" means the Association of American Pesticide Control Officials.

"**AOAC International**" means the Association of Official Analytical Collaboration International.

"**EPA**" means the United States Environmental Protection Agency.

"**FDA**" means the United States Food and Drug Administration.

"**Official sample**" means a sample which has been taken by a properly prescribed method by a State Department of Agriculture, Food, and Forestry inspector or an authorized agent of the State Department of Agriculture, Food, and Forestry.

"**Procedure**" means the method of analysis of a sample.

"**Service sample**" means a non-official sample taken by an individual, corporation, firm or other state agency for informational use, and shall not include samples deemed to be "official samples".

"**Tolerance**" means the deviation from the guaranteed analysis permitted by law. The tolerances shall be established by State Board of Agriculture where needed, except where otherwise provided by law or these regulations.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

35:25-5-2. Administrative organization

Except as otherwise provided herein, and except as may be directed by the State Board of Agriculture, the powers, duties, and functions vested by the Oklahoma Agricultural Code and the rules of this subchapter shall be exercised and performed through a division of the State Department of Agriculture, Food, and Forestry, to be known as the Laboratory Services Division. The Division shall be under the immediate supervision of a Director, who shall be appointed by the Board and whose compensation and duties shall be fixed by the Board. The Director of the division shall be known as the Director of the Laboratory Services Division.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

35:25-5-3. Official testing and analysis

The Agricultural Laboratories Division shall be the official testing and analytical agency for the State Department of Agriculture, and shall have the power and authority to analyze and test official samples submitted by the officials and authorized agents of the State Department of Agriculture, and the results from any such test shall be deemed official. The testing services include but shall not be limited to the analysis of commercial feeds, commercial fertilizer, pesticides, insecticides, fungicides, herbicides, manufactured dairy products, dairy products used in the manufacture of manufactured dairy products, and any other materials which may be required for testing by the State Board of Agriculture.

35:25-5-4. Methods of analysis; tolerances

(a) The methods of analyzing and testing samples shall be those adopted by the State Board of Agriculture from sources which may include, but shall not be limited to, those adopted by AAPCO, AAFCO, AAPFCO, AOAC International, and the FDA, when methods from these sources are available.

(b) Tolerances for residues of pesticide chemicals shall be identical to those tolerances established by EPA, unless a variance is necessary for the protection of the public health or unless otherwise prescribed by the State Board of Agriculture or State Board of Health in accordance with the provision of law.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

35:25-5-5. Analytical Fees

(a) The fees to be charged for testing or analyzing samples shall be determined by the State Board of Agriculture and shall be filed in the office of the Secretary of State.

(b) If an analysis is requested for which no fee has been established, the Board shall determine and file the fee and the sample shall be charged accordingly.

(c) No charges shall be made for the analysis or testing of an "official sample" as defined in 35:25-5-1.

(d) All service (unofficial) samples submitted for analysis or testing by individuals, firms, corporations or other state agencies shall be subject to the required fees as specified in subsection (a) of this section.

(e) Monies received for the analysis of service samples shall be used solely to perform analytical work.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

35:25-5-6. Report of analysis or test

The results of chemical or bacterial analysis on official samples shall be reported to the proper enforcement division of the State Department of Agriculture. The results on all service (unofficial) samples shall be reported directly to the individual or agency that submitted the sample.

35:25-5-7. Recordkeeping

The records of analysis shall be maintained in the Laboratory Services Division pursuant to the requirements of each program.

[Source: Amended at 38 Ok Reg 1656, eff 9-11-21]

CHAPTER 30. CONSUMER PROTECTION

[**Authority:** 2 O.S., §§ 2-4, 2-14, 2-18, 3-2, 3-32.1 et seq., 3-50.1 et seq., 3-81 et seq., 3-220, 8-21 et seq., 8-41.1 et seq., 8-77.1 et seq., and 8-91 et seq.]
[**Source:** Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

35:30-1-1. Purpose

The rules of this Chapter provide operational guidelines for the public, consumers, and the Division. All laws are directly or indirectly designed as consumer protection regulations concerned with state and federal environmental programs, plant protection, apiary inspection, seed, feed, fertilizer, ag-lime, soil amendment, anhydrous ammonia, feed yards safety enforcement and weed infested materials.

35:30-1-2. Statutory citations [RESERVED]

SUBCHAPTER 2. PLANTING AND HARVESTING

35:30-2-1. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agricultural commodity" means any agricultural, horticultural, silvicultural, viticultural, or vegetable product, bees and honey, planting seed, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer. The term does not include any commodity which has been stored or processed in facilities not owned by its producer.

[**Source:** Added at 13 Ok Reg 3453, eff 7-22-96 (emergency); Added at 14 Ok Reg 1240, eff 5-12-97]

35:30-2-2. Establishing planting and harvesting seasons

For the purpose of meeting the maximum driving and on-duty time exemptions set forth in the National Highway System Designation Act of 1995 the planting and harvesting seasons for agricultural commodities in Oklahoma shall begin on January 1 and end on December 31 of each calendar year.

[**Source:** Added at 13 Ok Reg 3453, eff 7-22-96 (emergency); Added at 14 Ok Reg 1240, eff 5-12-97]

SUBCHAPTER 3. PINK BOLLWORM QUARANTINE [REVOKED]

35:30-3-1. Establishment of quarantine [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-2. Definitions [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-3. Regulated area [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-4. Restricted articles [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-5. Conditions governing movement [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-6. Limited permits [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-7. Dealer-carrier agreements [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-8. Cancellation of certificates and permits [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-9. Authorization of alternate treatment [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-10. General certification provisions and marking and labeling requirements [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

35:30-3-11. Movement for scientific purposes [REVOKED]

[Source: Revoked at 19 Ok Reg 1937, eff 6-27-02]

SUBCHAPTER 4. THOUSAND CANKERS DISEASE [REVOKED]

35:30-4-1. Establishment of quarantine [REVOKED]

[Source: Added at 28 Ok Reg 2192, eff 7-25-11 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-4-2. Regulated area [REVOKED]

[Source: Added at 28 Ok Reg 2192, eff 7-25-11 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-4-3. Regulated articles [REVOKED]

[Source: Added at 28 Ok Reg 2192, eff 7-25-11 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-4-4. Conditions governing movement [REVOKED]

[Source: Added at 28 Ok Reg 2192, eff 7-25-11 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-4-5. Movement for scientific purposes [REVOKED]

[Source: Added at 28 Ok Reg 2192, eff 7-25-11 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 5. PEACH MOSAIC DISEASE QUARANTINE [REVOKED]

35:30-5-1. Establishment of quarantine [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-5-2. Regulated area [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-5-3. Restricted articles [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-5-4. Conditions governing movement [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-5-5. Issuance of nursery inspection certificates [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-5-6. Movement for scientific purposes [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 6. EMERALD ASH BORER QUARANTINE [REVOKED]

35:30-6-1. Establishment of quarantine [REVOKED]

[Source: Added at 34 Ok Reg 813, eff 9-11-17 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-6-2. Regulated area [REVOKED]

[Source: Added at 34 Ok Reg 813, eff 9-11-17 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-6-3. Regulated articles [REVOKED]

[Source: Added at 34 Ok Reg 813, eff 9-11-17 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-6-4. Conditions governing movement [REVOKED]

[Source: Added at 34 Ok Reg 813, eff 9-11-17 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-6-5. Movement for scientific purposes [REVOKED]

[Source: Added at 34 Ok Reg 813, eff 9-11-17 ; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

SUBCHAPTER 7. SWEET POTATO WEEVIL QUARANTINE [REVOKED]

35:30-7-1. Establishment of quarantine; regulated area [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-7-2. Restricted articles [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-7-3. Conditions governing movement [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-7-4. Movement for scientific purposes [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 8. COTTON SEED BUG QUARANTINE

35:30-8-1. Establishment of quarantine

The State Board of Agriculture does hereby establish an external quarantine for the cotton seed bug (*Oxycarenus hyalinipennis*).

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-8-2. Regulated area

Regulated articles from the State of California, and any other state or foreign country known to be infested with the cotton seed bug (*Oxycarenus hyalinipennis*) shall be quarantined.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-8-3. Regulated articles

The following shall be regulated pursuant to this quarantine:

- (1) All plant and plant parts of the family Malvaceae including, but not limited to, nursery stock and other living, dead, cut, or fallen fruit, fruiting structures, or seeds;
- (2) All life stages of the cotton seed bug (*Oxycarenus hyalinipennis*); and
- (3) All equipment used for the production and transportation of cotton.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-8-4. Conditions governing movement

(a) All regulated articles originating from quarantined areas are prohibited entry into or transition through the State of Oklahoma unless the articles are:

- (1) Accompanied by a phytosanitary certificate from the state of origin declaring the articles have been officially inspected after harvest and found free of the cotton seed bug (*Oxycarenus hyalinipennis*) and the articles have been stored in such a manner to remain free of the cotton seed bug in storage and transit; or
- (2) Included in a cooperative agreement with the Oklahoma Department of Agriculture, Food, and Forestry.

(b) Regulated articles originating in an area not known to have the cotton seed bug but in transit through an area known to have the cotton seed bug shall be regulated articles.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-8-5. Movement for scientific purposes

Interstate and intrastate movement of regulated articles for scientific or experimental purposes shall be exempt from the provisions of 35:30-8-4 and may move under a compliance agreement and scientific permit, as required.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

SUBCHAPTER 9. IRISH POTATO SEED QUARANTINE [REVOKED]

35:30-9-1. Establishment of quarantine [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-9-2. Diseases [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-9-3. Regulated area [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-9-4. Restricted articles; conditions governing movement [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-9-5. Penalty for violation [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 11. PEANUT STUNT DISEASE QUARANTINE [REVOKED]

35:30-11-1. Establishment of quarantine [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-11-2. Pest regulated areas and restricted articles [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-11-3. Conditions governing movement [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-11-4. Penalty for violation [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE

35:30-13-1. Establishment of quarantine

(a) It has been determined that Imported Fire Ants *Solenopsis* spp. have become established in Oklahoma and in certain other states. This insect interferes with farming activities, causes damage to certain crops, and is a pest of livestock and pets, as well as of people in rural and urban areas.

(b) A quarantine and rules are established. This subchapter sets forth the name of the pest against which the quarantine is established, the definitions of the terms used, the regulated areas, the regulated material, and the conditions governing the movement of regulated material into, within, and from the State of Oklahoma.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-13-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Certificate" means a document issued by an authorized agent of the Department of Agriculture of the state of origin of the regulated articles to allow the movement of regulated articles to any destination within or from the State of Oklahoma.

"Compacted soil" means soil attached to equipment which cannot be removed by brisk brushing and/or washing with water under normal city water pressure.

"Compliance Agreement" means an agreement to comply with stipulated conditions executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

"Infestation" means actually contaminated by the pest or so exposed to contamination by the imported fire ant that it is reasonable to believe that an infestation exists.

"Mechanized soil" means moving equipment, mechanized equipment used to move or transport soil, e.g., draglines, bulldozers, road scrapers, and dumptrucks.

"Moved (Movement and move)" means shipped, offered for shipment to a common carrier, or carried, transported, moved, or allowed to be moved by any person within the State of Oklahoma or from any regulated area.

"Pest" means all living stages of the Imported Fire Ant (*Solenopsis* spp.).

"Regulated Area" means any area described or designated as regulated.

"Regulated Articles" means Imported Fire Ants, soil and any other products and articles of any character whatsoever, the movement of which is regulated by this quarantine.

"Scientific permit" means a document issued by an authorized agent of the Department of Agriculture of the state of origin of the regulated articles, or issued by the Deputy Administrator of the USDA, to allow the intrastate and/or interstate movement of regulated articles for scientific purposes.

"Soil" - Soil shall be considered that part of the upper layer of earth in which plants grow.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-13-3. Regulated area

Imported Fire Ant regulated areas are the Oklahoma counties of:

- (1) Bryan Jefferson, and McCurtain (1986);
- (2) Marshall (Additional Infested Area 1987);
- (3) Carter, Choctaw, Comanche, Johnston, and Love;
- (4) LeFlore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson;
- (5) Latimer (2017);
- (6) Pittsburgh (2020); and
- (7) Haskell (2024).

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00 ; Amended at 26 Ok Reg 1819, eff 7-1-09 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 37 Ok Reg 971, eff 9-14-20 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-13-4. Regulated articles

Regulated articles are as follows:

- (1) Soil, separately or with other things.
- (2) Plants with soil attached, except houseplants grown in the home and not for sale.
- (3) Grass Sod.
- (4) Used mechanized soil-moving equipment.
- (5) Hay and straw.
- (6) Any other products, articles, or means of conveyance, of any character whatever, not covered by paragraphs (1) through (5) of this section, when it is determined by an authorized agent that they present a hazard of Imported Fire Ant, and the person in possession has been so notified.

35:30-13-5. Article certification exemptions

(a) The following articles are exempt from the certification, permit, or other requirements if they meet the conditions prescribed and have not been exposed to infestation after cleaning or other handling.

- (1) Potting soil, if commercially prepared, packaged and shipped in original containers.
- (2) Hay and straw, if being used for packing or bedding.
- (3) Used mechanized soil-moving equipment, if cleaned of all loose, noncompacted soil.
- (4) Transplants, if substantially free of soil.

(b) Soil samples for processing, testing, or analysis may be moved from a regulated area (without a certificate or permit) only to approved

laboratories (i.e., plant food analysis) or only in emergencies under authorizations from an authorized agent.

35:30-13-6. Interstate movement restrictions

(a) Certificates shall indicate that the regulated articles are free of all living stages of the Imported Fire Ant. Federal certificates or permits may be used in lieu of certificate of state of origin if the interstate shipper meets the requirements of law.

(b) In all cases, certificates or permits must be furnished by the carrier to the consignee at destination of the shipment.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-13-7. Movement for scientific purposes

Interstate and intrastate movement of regulated articles and all living stages of the Imported Fire Ant for scientific or experimental purposes shall be permitted under scientific permit.

35:30-13-8. Intrastate movement

The movement of the Imported Fire Ant and restricted articles is prohibited within the State of Oklahoma from a regulated area to or through a nonregulated area unless accompanied by authenticated certificate or permit.

35:30-13-9. Interstate movement

The movement of the Imported Fire Ant and/or regulated articles into the State of Oklahoma from infested states is prohibited unless the shipments are made in accordance with the provisions of the rules and regulations regarding the Imported Fire Ant quarantine of the United States Department of Agriculture (Federal Quarantine No.81) and/or the Board.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-13-10. Inspection and disposal

(a) Any properly identified agent of the Department is authorized to stop and inspect, without a warrant, any person or means of conveyance moving within or into the State of Oklahoma upon probable cause to believe that the means of conveyance or articles, are infested with the Imported Fire Ant, and the agent is authorized to seize, treat, destroy, or dispose of articles found to be moving in violation of this Subchapter.

(b) The cost of treatment, disposal, and/or destruction of any regulated article shall be borne by the shipper and/or carrier.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-13-11. Waiver of liability

The Plant Industry Division, Oklahoma Department of Agriculture and its cooperators disclaims liability for any cost incident to inspection

or for any requirements under provisions of this quarantine, other than for the services of personnel of the Plant Industry Division.

SUBCHAPTER 14. OKLAHOMA BOLL WEEVIL

35:30-14-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Certificate" means a document issued by an authorized agent of the Department indicating that the movement or transportation of the regulated article complies with the legal requirements detailed in these rules.

"Cotton products" means seed cotton, cotton lint, linters, oil mill waste, gin waste, squares, bolls, gin trash, cotton seed, cottonseed hulls, and all other forms of cotton fiber, excluding the cotton plant or any part of it including stalks, flowers, roots, or leaves.

"Cotton production equipment" means cotton equipment used to plant, harvest, transport, or destroy cotton.

"Elimination zone" means that portion of this state where eradication of the boll weevil is undertaken as an objective.

"Functionally eradicated area" means an area meeting the trapping criteria for a suppressed area with no confirmed evidence of boll weevil reproduction, no oviposition in squares, and movement of regulated articles into or through the area presents a threat to the success of the boll weevil eradication program. The boll weevil population shall be equal to or less than the average of 0.001 boll weevils per trap per week during the cotton-growing season as measured by boll weevil pheromone traps operated by the Organization or any other state agency.

"Inspector" means any authorized agent of the Oklahoma Department of Agriculture, Food, and Forestry assigned to enforce the provisions of the Boll Weevil Eradication Act and promulgated rules.

"Permit" means a specialized document issued by an authorized agent of the Department for the movement or transportation of a regulated article that complies with the legal requirements in these rules.

"Regulated area" means any state other than Oklahoma or any portion of that state that is infested with the boll weevil.

"Restricted area" means that portion of an elimination zone designated as suppressed, functionally eradicated, or eradicated.

"Suppressed area" means an area in which boll weevil reproduction may be present and movement of regulated articles into or through the area presents a threat to the success of the boll weevil eradication program. The boll weevil population must be equal to or less than 0.025 weevils per trap per week during the cotton-growing season as measured by boll weevil pheromone traps operated by the Organization or any other state agency.

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Amended at 21 Ok Reg 749, eff 4-26-04 ; Amended at 24 Ok Reg 1772, eff 6-25-07]

35:30-14-2. Regulated articles

(a) The following articles are regulated:

- (1) The boll weevil (*Anthonomus grandis* Boheman) in any living stage of development.
- (2) Cotton.
- (3) Cotton products.
- (4) Cotton production equipment.
- (5) Any other products, articles, means of conveyance, or any other item not already listed if determined by an inspector that a hazard of spreading the boll weevil exists and the person in possession has been notified.

(b) An area shall be considered free of boll weevil and determined to be an eradicated area when documentation acceptable to the Board of Directors and the Department is provided that indicates no boll weevils were captured for a period of at least one cotton growing season by boll weevil pheromone traps operated by the Organization or any other state agency.

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Amended at 21 Ok Reg 749, eff 4-26-04 ; Amended at 24 Ok Reg 1772, eff 6-25-07]

35:30-14-3. Conditions governing the movement of regulated articles

The following conditions govern the movement of regulated articles:

- (1) A certificate is required to move or transport regulated articles from:
 - (A) a regulated or quarantined area into or through any elimination zone or restricted area in this state;
 - (B) one elimination zone or restricted area into or through any other type of elimination zone or restricted area.
- (2) A certificate may be required to move or transport any regulated article within designated areas when an inspector determines that the regulated article presents the potential to spread boll weevils and the person in possession is notified in writing.
- (3) Certificates may be issued by an inspector if the regulated article:
 - (A) Originated in the non-infested area of this state or in a non-infested area of any other state and was not exposed to infestation at any time;
 - (B) Is treated to destroy the infestation in accordance with approved procedures;
 - (C) Is grown, manufactured, stored, or handled in a manner that prevents the spread or transmission of an infestation; or

(D) Is examined by the inspector and found to be free of infestation.

(4) Permits may be issued by an inspector to allow the movement of a non-certified, regulated article for specified handling, utilization, processing, treatment, or experimental or scientific purposes in accordance with procedures and conditions specified in the permit, provided the inspector determines that the movement will not result in the spread of the boll weevil.

(5) Any certificate or permit issued or authorized by the Department shall be withdrawn or revoked if the Department determines that the holder failed to comply with the procedures and specified conditions set out in the certificate or permit.

(6) All certificates or permits shall be securely attached to the outside of the container that the article is moved or transported except where the certificate or permit is attached to the shipping document and the regulated article is adequately described on the shipping document or on the certificate or permit.

(7) The following are exempt from the provisions of this rule:

(A) Cotton seed and vehicles transporting cotton seed;

(B) Baled cotton, baled gin motes and linters, and vehicles transporting these articles;

(C) Manufactured cotton products; and

(D) Any regulated article transported or moved from one elimination zone or restricted area to another similarly designated area, unless an inspector determines that the regulated article presents the potential to spread boll weevils and the person in possession is notified in writing.

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Amended at 21 Ok Reg 749, eff 4-26-04]

35:30-14-4. Disposition of certificates and permits

Any person that moves or transports regulated articles shall provide any and all records, papers, certificates, or permits issued by the Department on the regulated article to the consignee at the shipment destination.

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Amended at 21 Ok Reg 749, eff 4-26-04]

35:30-14-5. Movement for scientific purposes [REVOKED]

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Revoked at 21 Ok Reg 749, eff 4-26-04]

35:30-14-6. Compliance agreement [REVOKED]

[Source: Added at 17 Ok Reg 2834, eff 7-13-00 ; Revoked at 21 Ok Reg 749, eff 4-26-04]

35:30-14-7. Cotton destruction in elimination zones

(a) Volunteer and other noncommercial cotton in elimination zones shall be managed in the same manner and at the same expense as commercial cotton.

(b) When volunteer and other noncommercial cotton is located within an elimination zone, the owner shall be notified in writing that the cotton has the potential to host boll weevils and ordering that the cotton be destroyed.

(1) The notification shall state that the owner has two (2) weeks from the date of the letter to destroy the volunteer or noncommercial cotton.

(2) If the owner fails to comply with the letter, the Department shall destroy the cotton by any available means and the costs associated with the destruction shall be assessed to the owner and the failure shall be a violation of the Oklahoma Boll Weevil eradication Act.

[Source: Added at 22 Ok Reg 1033, eff 5-26-05]

SUBCHAPTER 15. PESTICIDES [REVOKED]

35:30-15-1. Restricted use pesticides [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-2. Pesticide tolerances [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-3. Pesticide enforcement [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-4. Experimental use pesticides or devices [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-5. Farm pesticide waste disposal [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-6. Ethylene dibromide [REVOKED]

[Source: Revoked at 21 Ok Reg 1177, eff 5-27-04]

35:30-15-7. Time periods for application review [REVOKED]

[Source: Added at 10 Ok Reg 39, eff 10-8-92 (emergency); Added at 10 Ok Reg 1947, eff 5-27-93 ; Revoked at 21 Ok Reg 1177, eff 5-27-04]

**35:30-15-8. Receipt and resolution of complaint against licensee
[REVOKED]**

[Source: Added at 10 Ok Reg 3431, eff 6-7-93 (emergency); Added at 11 Ok Reg 2577, eff 6-13-94 ; Revoked at 21 Ok Reg 1177, eff 5-27-04]

SUBCHAPTER 17. COMBINED PESTICIDE

**PART 1. COMMERCIAL, NON-COMMERCIAL, AND
PRIVATE CATEGORIES OF PESTICIDE APPLICATION**

35:30-17-1. License and Certification Categories

License and certification categories of pesticide application shall comply with the category specific competency standards of 40 CFR 171.103(d) and 40 CFR 171.105(a) as referenced in sections 6 and 7 of the state certification and training plan and are as follows:

- (1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.
- (2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.
- (3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.
- (4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas, except as defined under licensed categories 2, 3b-c, 7, and 8.
- (5) 3b: Interiorscape Category - Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting rooms, etc.) except as defined under licensed categories 3c, 7, and 8.
- (6) 3c: Nursery/Greenhouse Category - Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).
- (7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.

(8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.

(9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.

(10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure.

Applications to restaurants are permitted in this category.

(11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.

(12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.

(14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.

(15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.

(16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.

(17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.

(18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood

destroying organisms.

(20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.

(22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.

(23) 14: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru 13 when the pesticide to be used is classified as restricted.

(24) 15: Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

(25) 16: Private Applicator Category- Any person who uses or supervises the use of any restricted pesticide for purposes of producing any agricultural commodity on property owned or rented by the person, or employer, or on the property of another person if applied without compensation other than trading of personal services between producers of agricultural commodities.

(A) Private Applicator Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.

(B) Private Applicator Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 2307, eff 7-11-05 ; Amended at 31 Ok Reg 728, eff 9-12-14 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Amended at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-1.1. Applications and forms

All applications, examinations, certifications, licenses, charters, and other forms and blanks necessary to carry out the provisions in Chapter 30 shall be prescribed by the Board.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-1.2. Schedule of combined pesticide program fees

(a) The fees for issuance or renewal of pesticide applicators licenses shall be as follows:

- (1) Commercial applicator - One Hundred Dollars (\$100.00) per category, Five Hundred Dollars (\$500.00) maximum for each location.
- (2) Non-commercial applicator - Fifty Dollars (\$50.00) per category, Two Hundred Fifty Dollars (\$250.00) maximum for each location.
- (3) Duplicate issue - Ten Dollars (\$10.00) each.
- (4) Private applicator - Twenty Dollars (\$20.00) each.
- (5) For licenses that expire on September 30th of each year, failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of October shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of November shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.
- (6) For licenses that expire on December 31st of each year, failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in an additional One Hundred Dollar (\$100) penalty which shall be paid prior to license renewal.

(b) The issuance and annual registration fees for each pesticide and device label shall be as follows:

- (1) Pesticide - Two Hundred Ten Dollars (\$210.00) each.
- (2) Device - Two Hundred Ten Dollars (\$210.00) each.
- (3) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(c) The annual permit fee for a restricted use pesticide dealer shall be Fifty Dollars (\$50.00) for each location. Failure to remit the permit fee by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(d) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:

- (1) Written examination - Fifty Dollars (\$50.00).
- (2) Practical conducted - Fifty Dollars (\$50.00).

(e) Applicator certification fees shall be as follows:

- (1) Re-certification procedure - Fifty Dollars (\$50.00) for each.
- (2) Reciprocal certification procedure - One Hundred Dollars (\$100.00) for each.

(f) Identification card fees shall be as follows:

- (1) Service technician - Twenty Dollars (\$20.00) each.
- (2) Certified applicator - No charge.
- (3) Duplicate issue or transfers - Ten Dollars (\$10.00) each.

(g) The annual permit fee for pesticide producing facilities, including facilities that produce pesticidal devices, shall be One Hundred Dollars (\$100.00) for each location.

(1) All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually.

(2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.

(3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

(h) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 27 Ok Reg 903, eff 7-1-10 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-1.3. Commercial pesticide applicator license renewal

(a) Each license for commercial pesticide application for companies with names beginning with a number or with the letters A, B, C, D, E, F, G, H, I, J, K, and L shall expire on the 30th day of September following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of October of each year. If the application is not received by October 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by November 1, an additional penalty of One Hundred Dollars (\$100.00) shall be paid by the applicant prior to license renewal.

(b) Each license for commercial pesticide application for companies with names beginning with the letters M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z shall expire on the 31st day of December following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of January of each year. If the application is not received by January 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by February 1, an additional penalty of One Hundred Dollars (\$100.00) shall be paid by the applicant prior to license renewal.

[Source: Added at 39 Ok Reg 795, eff 9-12-22 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-2. Consultant license

(a) Any person who makes a pesticide or device recommendation for hire or compensation but does not purchase or apply the pesticide or device, or any person evaluating a pest situation or prescribing a mitigation plan of the identified pest using a pesticide or device shall be commercially licensed as a consultant in the category in which the recommendation is made.

(b) Any person recommending a pesticide or device that is incidental to their primary duty or duties and does not receive compensation for the

recommendation shall be exempt from the requirement to obtain a consultant license. This exemption shall include, but not be limited to:

- (1) a sales clerk employed by a pesticide dealer that routinely recommends pesticides and devices but does not receive compensation for the recommendation; or
- (2) an architect that recommends a building be pretreated for termites using a licensed applicator and a properly registered pesticide but does not receive compensation for the recommendation.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 33 Ok Reg 1170, eff 9-11-16]

35:30-17-3. Categories of pesticide dealer permits

A restricted use pesticide dealer permit includes the sale, offer for sale, or distribution within this state of any restricted use pesticide.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 24 Ok Reg 1773, eff 6-25-07 ; Amended at 26 Ok Reg 2807, eff 6-29-09 (emergency); Amended at 27 Ok Reg 907, eff 7-1-10]

35:30-17-3.1. Restricted use pesticide dealer permit required

(a) It shall be unlawful for any person to sell, offer for sale, or distribute within this state any restricted use pesticide without first obtaining a pesticide dealer's permit issued by the Board.

(b) The permit shall be issued only upon application on a form prescribed by the Board and the application shall contain information regarding the applicant's proposed operation and other information as specified by the Board.

[Source: Added at 24 Ok Reg 1773, eff 6-25-07 ; Amended at 26 Ok Reg 2807, eff 6-29-09 (emergency); Amended at 27 Ok Reg 907, eff 7-1-10]

35:30-17-3.2. Restricted use pesticide dealer permit

- (a) Each business location engaged in the sale or distribution of restricted use pesticides shall require a separate permit.
- (b) The annual permit fee for a restricted use pesticide dealer permit shall be Fifty Dollars (\$50.00) for each location.
- (c) The Board may require a certified applicator to be present at any location where the designated restricted use pesticide sales occur.
- (d) Every restricted use pesticide dealer shall keep accurate records pertaining to restricted use pesticide purchases and sales, as required by the Board. The records shall be kept intact at the principal business location in this state for at least two (2) years after their date of expiration. Copies shall be furnished to any authorized agent of the Board at any time during the regular business hours of the dealer, immediately upon request in person, or within seven (7) working days of a written request, in summary form, by mail, fax, email, web site, or any other electronic media customarily used.
- (e) It shall be the duty of the Board to audit the maintenance of records as necessary to carry out the provisions of the Oklahoma Agricultural Code.

[Source: Added at 24 Ok Reg 1773, eff 6-25-07]

**35:30-17-3.3. Non-restricted use pesticide dealer permit
[REVOKED]**

[Source: Added at 24 Ok Reg 1773, eff 6-25-07 ; Revoked at 26 Ok Reg 2807, eff 6-29-09 (emergency); Revoked at 27 Ok Reg 907, eff 7-1-10]

PART 2. PESTICIDE RULE ADVISORY COMMITTEE

35:30-17-3.4. Pesticide rule advisory committee

- (a) The State Board of Agriculture may appoint a pesticide rule advisory committee to serve as advisors to the Department regarding review and recommendations for revisions to pesticide rules.
- (b) The committee shall consist of:
 - (1) One member shall represent agribusiness retailers;
 - (2) One member shall represent vegetation managers;
 - (3) One member shall represent aerial pesticide applicators;
 - (4) One member shall represent commercial pest control applicators;
 - (5) One member shall represent restricted use pesticide dealers;
 - (6) One member shall represent manufacturers of pesticides;
 - (7) One member shall represent private pesticide applicators;
 - (8) Two members shall represent agricultural organizations;
 - (9) One member shall represent the general public, with an emphasis on consumer protection;
 - (10) One member shall represent Oklahoma State University or Oklahoma State University Cooperative Extension Service; and

- (11) One member shall represent the turfgrass industry.
- (c) Of the initial members, four (4) shall serve one (1) year terms, four (4) shall serve two (2) year terms, and four (4) shall serve three (3) year terms. Thereafter, all members shall serve for three (3) year terms; provided, all members shall serve at the pleasure of the Board.
- (d) The advisory committee shall meet at least annually to review and recommend proposed rules. The committee shall present written recommendations to the Department no later than October 1 of each year.
- (e) The advisory committee may create subcommittees to address specific areas of concern. The subcommittees may meet more frequently to discuss the specific areas of concern.

[Source: Added at 27 Ok Reg 2441, eff 7-25-10]

PART 3. CERTIFICATION, CONDUCT OF EXAMINATIONS, AND RECERTIFICATION

35:30-17-4. Examination of applicants for certification

- (a) The written examination for certification of commercial and noncommercial applicators shall include two (2) phases. Phase I shall consist of general knowledge common to all licensed categories and shall be successfully completed before examination is attempted in any license category. Phase II shall consist of specific knowledge for each licensed category. An applicant may test in as many different licensed categories as desired. An applicant shall successfully complete a Phase II examination within twelve (12) months of passing the Phase I examination. Failure to meet the twelve (12) month deadline shall require an applicant to re-take the Phase I examination.
- (b) The written examination for certification of commercial and noncommercial applicators shall comply with the competency standards provided in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.103 and shall be computer based and conducted at a site determined by the board.
- (c) A practical examination shall also be required for commercial and noncommercial applicators in the following categories: Structural Pest, General Pest, Fumigation, and Food Processing. An individual shall successfully complete the practical examination within twelve (12) months of passing the Phase II written examination in the above categories. Failure to meet the twelve (12) month deadline shall require an individual to re-take the Phase II written examination.
- (d) The practical examination shall be conducted at the training facility at Oklahoma State University and includes the successful completion of an approved training program which demonstrates a thorough knowledge in the handling of pesticides, labels and labeling requirements, storage, transportation, mixing, application, disposal, insect biology and safety. The facility at Oklahoma State University meets the following conditions for treatment in the Structural Pest Category: crawl space, voids, and a concrete floor, garage floor, or patio slab.

(e) A service technician shall be certified upon successful completion of a written service technicians examination. An individual shall not act, do business, or advertise as a service technician unless a service technician identification has been issued by the Board. A service technicians' identification shall be issued in the name of the licensed entity. The licensee shall return the service technician identification to the Board upon termination of the employee. A service technician identification shall be valid for five (5) years unless suspended, canceled, revoked, or the service technician is no longer employed by the licensed entity. Recertification may be required at any time by the Board. The Department may issue a service technician identification upon completion of the following:

- (1) A determination is made by the Department that the applicant has successfully completed the written examination;
- (2) The licensed entity provides a completed service technician identification application form at the time of testing; and
- (3) All appropriate fees are paid at the time of testing.

(f) The written examination for service technician shall be computer based and conducted at a site determined by the board.

(g) Private applicators shall complete a certification form and an education program or written examination as required by the Board. Private applicators in the Fumigation category shall be required to complete the certification form and a closed book written exam and successfully complete the Fumigation practical at the training facility at Oklahoma State University within twelve (12) months of passing the Fumigation written exam.

(h) The written examination for private applicators shall comply with the competency standards provided in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.105 and shall be computer based and conducted at a site determined by the board.

(i) An individual shall not act, do business, or advertise as a certified applicator unless all qualifications and standards required by the Board have been met. A certificate in any category shall be valid for five (5) years unless suspended, canceled, or revoked. Recertification may be required by the Board but shall not exceed one recertification in a five (5) year period.

(j) Successful completion of any written examination shall be a score of 70% or greater.

(k) The Department may require that an individual seeking a certified applicator or service technician certification demonstrate the capability to read and write with sufficient proficiency to comprehend the content and instructions of a pesticide label.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 18 Ok Reg 1444, eff 5-25-01 ; Amended at 20 Ok Reg 298, eff 12-5-02 (emergency); Amended at 20 Ok Reg 801, eff 5-12-03 ; Amended at 22 Ok Reg 2307, eff 7-11-05 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Amended at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 39 Ok Reg 795, eff 9-12-22 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

35:30-17-5. Conduct of examinations

(a) Written examinations may be conducted at locations within Oklahoma designated by the Board for groups of five (5) or more applicators,

provided that no less than ten (10) examinations shall be administered.
(b) Other examination locations, dates, and times shall be at the discretion of the Board upon request. A written request shall be made a minimum of thirty (30) calendar days in advance of the desired examination date.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 31 Ok Reg 728, eff 9-12-14]

35:30-17-5.1. Examination applicant requirements

(a) Examinations shall not be administered until the applicant provides the following documents to the testing proctor:

- (1) A completed and signed Record of Testing on a form provided by the Department;
- (2) A valid photo identification (ID); and
- (3) Payment of the appropriate testing fee or proof of payment issued by the Department.

(b) Applicants shall re-sign the official roster upon completion of the examination and return testing materials and any scratch paper to the testing proctor. Applicants that fail to re-sign the official roster and return testing materials or scratch paper shall receive a failing grade and may be subject to further administrative action.

[Source: Added at 34 Ok Reg 813, eff 9-11-17]

35:30-17-5.2. Prohibited at the examination site

(a) Cheating is prohibited. Cheating shall include, but is not limited to, talking to other applicants during the examination, looking at other applicants answer sheet, or using reference materials that are not provided by the testing proctor.

(b) Applicants shall not physically possess or have access to the following items while testing:

- (1) Cell phones or other electronic devices;
- (2) Study materials of any kind; or
- (3) Books, notebooks, or paper of any kind unless provided by the testing proctor.

(c) Applicants shall not engage in conversations, disruptions, or conduct that might disturb other applicants.

(d) Applicants shall not copy, record, or reproduce exam booklets or examination questions.

(e) Any person found in violation of this section shall receive a failing grade and may be subject to further administrative action.

[Source: Added at 34 Ok Reg 813, eff 9-11-17]

35:30-17-6. Recertification

(a) Each certified applicator shall seek recertification every five (5) years.

(b) Within twelve (12) months of expiration, a certified applicator shall either pass a Phase II examination or earn a specified number of Continuing Education Units (CEU) approved by the Department to successfully complete recertification. If a certified applicant elects to re-

examine and does not pass a Phase II examination within twelve (12) months of expiration, the applicant shall be required to re-take the Phase I and Phase II examinations and a practical examination, when applicable. If a certified applicant elects to earn CEU for recertification, approximately one (1) hour of education shall be the equivalent of one CEU. The CEU requirements for each category are as follows:

- (1) 1a - Agricultural Plant:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (2) 1b - Agricultural Animal:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
- (3) 2 - Forest:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (4) 3a - Ornamental and Turf Outdoor:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (5) 3b - Interiorscape:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in any one year - 5 CEU
- (6) 3c - Nursery/Greenhouse:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year - 7 CEU
- (7) 4 - Seed Treatment:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (8) 5 - Aquatic:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year 2 CEU
- (9) 6 - Right-of-Way:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in any one year 7 CEU
- (10) 7a - General Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (11) 7b - Structural Pest:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
- (12) 7c - Fumigation:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU
- (13) 7d - Food Processing:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (14) 8 - Public Health:
 - (A) Total in five years - 15 CEU
 - (B) Maximum in one year - 7 CEU
- (15) 9 - Regulatory:
 - (A) Total in five years - 10 CEU
 - (B) Maximum in one year - 5 CEU

- (16) 10 - Demonstration & Research in app. Category:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in one year - 10 CEU
 - (17) 11a - Bird & Vertebrate Animal Pest:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
 - (18) 11b - Predatory Animal
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
 - (19) 12 - Timber Treating (all subcategories):
 - (A) Total in five years - 5 CEU
 - (B) Maximum in one year - 2 CEU
 - (20) 13 - Antimicrobial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
 - (21) 14 - Specialty Category:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
 - (22) 15 - Aerial:
 - (A) Total in five years - 5 CEU
 - (B) Maximum in any one year - 2 CEU
 - (23) 16 - Private Applicator:
 - (A) Total in five years - 20 CEU
 - (B) Maximum in any one year - 10 CEU
- (c) No more than one-half (1/2) of the total credit units shall be accepted for any one Calendar year.
- (1) Credit units shall be obtained in at least three (3) of the five (5) years, in any combination, so that the total number obtained equals or exceeds the five (5) year requirement.
 - (2) The continuing education units may be prorated for any applicator whose recertification period is less than five (5) years.
 - (3) The Department may allow a CEU to be credited to more than one category.
- (d) The CEU shall be structured to provide the following information over the five (5) year period:
- (1) Laws and rules;
 - (2) Pesticides (formulations, registration, labeling and label comprehension, handling and storage, toxicity, and hazards);
 - (3) Application equipment and calibration;
 - (4) Pests and IPM;
 - (5) Identification of hazardous areas;
 - (6) Drift prevention;
 - (7) Endangered species;
 - (8) Groundwater; and
 - (9) Worker protection.
- (e) Any person may request approval of an education program as CEU.
- (1) The request for approval shall include the following:
 - (A) A list of proposed topics including a description of the content and their relative value for meeting the standards of continuing certification;
 - (B) A list of speakers and their qualifications; and

(C) Method used to verify attendance and evaluate the progress of participants.

(2) The Department and the Oklahoma State University Pesticide Coordinator shall review the request for approval to determine if it meets the criteria of CEU.

(A) If the education program is approved for CEU, the person requesting approval shall be notified of the number of assigned CEU.

(B) Awarded CEUs shall not be valid for more than five (5) years after the date of approval. After five (5) years, courses shall be resubmitted for review and approval.

(C) The person requesting approval may appeal the number of assigned CEU to a three- person review committee with a representative from each of the following:

- (i) Oklahoma State University;
- (ii) the Department; and
- (iii) certified applicators.

(3) Individuals seeking course approval for CEUs shall electronically submit course information and other required information for CEU approval through a website.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 23 Ok Reg 2167, eff 6-25-06 ; Amended at 31 Ok Reg 728, eff 9-12-14 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Added at 34 Ok Reg 813, eff 9-11-17 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 39 Ok Reg 795, eff 9-12-22]

PART 4. COMPLAINTS AND RESOLUTIONS OF COMPLAINTS

35:30-17-7. Receipt and resolution of complaint against licensee

Upon receipt of a written complaint, the Board shall notify the person filing the complaint in writing of its receipt and status within two (2) working days. The person whom the complaint is filed against shall be notified within two (2) working days. Notification that a complaint has been filed may also be given to the landowner or operator when appropriate. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent possible by the Department. The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 10 Ok Reg 3429, eff 6-7-93 (emergency); Added at 11 Ok Reg 2579, eff 6-13-94 ; Amended at 17 Ok Reg 1018, eff 5-11-00]

PART 5. PREREQUISITES FOR LICENSING

35:30-17-10. Application insurance requirements

(a) The Board shall not issue an applicator's license until the applicant or agent has furnished evidence of financial responsibility. A liability insurance policy or certification shall protect persons who may suffer legal damages as a result of the pesticide operations of the applicant. The policy need not apply to damages or injury to agricultural crops, plants, or land being worked on by the applicant.

(b) With the exception of aerial pesticide applicators, pesticide applicators obtaining liability insurance pursuant to this section shall file a certificate of insurance with the Department, verifying insurance in an amount of not less than \$50,000 bodily injury, \$100,000 bodily injury per occurrence, and \$50,000 property damage. The provisions of this section with regard to "per occurrence" are specifically intended to be interpreted per occurrence, rather than per claimant. The insurance obtained pursuant to this section shall insure against liability for damage, loss, or injury, including chemical drift or trespass, suffered by any person or persons, resulting from the application of any pesticide. A current certificate of insurance shall be filed with each initial and subsequent renewal registration.

(c) Aerial pesticide applicators obtaining liability insurance pursuant to this section shall file a certificate of insurance with the Department, verifying insurance in an amount of not less than \$100,000 bodily injury, \$300,000 bodily injury per occurrence, and \$100,000 property damage. The provisions of this section with regard to "per occurrence" are specifically intended to be interpreted per occurrence, rather than per claimant. The insurance obtained pursuant to this section shall insure against liability for damage, loss, or injury, including chemical drift or trespass, suffered by any person or persons, resulting from the application of any pesticide. A current certificate of insurance must be filed with each initial and subsequent renewal registration.

(d) Liability insurance shall be maintained at all times during the licensed period. The Board shall be notified by the insurer fifteen (15) days prior to any applicant's request for a reduction or cancellation of the liability insurance. The total and the aggregate of the insurer for all claims shall be limited to the face amount of the liability insurance policy. The Board may accept a liability insurance policy with a deductible clause in an amount not exceeding \$5,000 for all applicators. If the applicant has not satisfied the requirement of the deductible amount in any prior legal claim, the deductible clause shall not be accepted by the Board unless the applicant has furnished the Board with additional liability insurance which satisfies the amount of the deductible.

(e) The Department may approve a liability self-insurance policy with a deductible clause that exceeds the requirements of subsection (d) of this section if the applicant has:

- (1) Been continuously engaged in business for not less than three (3) years immediately preceding the application;
 - (2) At least one hundred (100) employees (all states included);
- and
- (3) At least One Million Dollars (\$1,000,000.00) in net assets.

(f) An applicant may request a waiver of some or all of the requirements of subsection (e) subject to a security deposit or other insurance requirements as determined by the Department.

(g) If the furnished liability insurance becomes unsatisfactory, the applicant shall upon notice immediately provide new liability insurance. Upon failure to do so, the Board shall cancel the license and give notice. It shall be unlawful to engage in the business of applying pesticides until the insurance is brought into compliance and the license is reinstated by the Board.

(h) Application of a pesticide specifically excluded on the insurance policy shall be considered working without a license.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 298, eff 12-5-02 (emergency); Amended at 20 Ok Reg 801, eff 5-12-03 ; Amended at 24 Ok Reg 1775, eff 6-25-07 ; Amended at 26 Ok Reg 1821, eff 7-1-09 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

35:30-17-11. Application for license required

(a) Prior to issuance of any license, an applicant shall properly complete a license application.

(b) An application for license shall be considered properly filed when the Board has received the following:

- (1) An application completed and signed prior to January 1 of the license year.
- (2) Cash, check, or money order in the proper amount.
- (3) Certificate of insurance.

(c) A commercial pesticide applicator operating under more than one business identity or name from a single business location shall be licensed separately for each business identity or name, including but not limited to any trade name, "d/b/a", website, alias, or other designation used in commerce for the purpose of offering services regulated by this subchapter.

(d) The application shall also list the natural person or legal entity lawfully permitted to do business in the State of Oklahoma using or operating under the licensed name.

(e) The Department shall issue a stop sale order and initiate license revocation proceedings against any person or legal entity that is not lawfully permitted to do business in the State of Oklahoma or is not permitted to do business in the State of Oklahoma under the business identity or name provided in the application.

(f) A commercial pesticide applicator with a single business identity or name but operating from more than one business location shall be licensed at each separate business location.

(g) If the name selected by an applicant for a license to act, operate, or do business or advertise as a commercial or noncommercial applicator in the State of Oklahoma is the same or so near the same as that of another licensee already doing business in the state as to cause confusion in the minds of the people or is likely to deceive the public, the Department may require the applicant to apply for a license under a different name that is distinguishable from the names of existing licensees. Any determination made pursuant to this rule shall be at the sole discretion of the Department.

(h) Each business location licensed shall have a minimum of one certified applicator at that location who is certified in each licensed category for which application is made.

(i) A franchised business shall have a separate license and a separate certified applicator at each business location.

(j) Established time periods for the issuance, renewal or denial of all certifications and licenses required by law shall be as follows:

(1) The Department shall review a new application within fifteen (15) working days from the date received.

(2) Any renewal application for certification or license received prior to the renewal date established by the Board shall be considered valid until a final determination is made.

(3) Following review, if it is determined that the requirements have been met, the appropriate certification or license shall be issued within ten (10) working days of the determination date.

(4) Following review, if it is determined that the requirements have not been met, the appropriate certification or license shall be denied. Notification of the denial shall be made in writing to the applicant within ten (10) working days of the determination. The notification shall state the reasons for the denial and identify steps necessary to meet the requirements for issuance.

[Source: Amended at 10 Ok Reg 37, eff 10-8-92 (emergency); Amended at 10 Ok Reg 1939, eff 5-27-93 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03 ; Amended at 22 Ok Reg 1034, eff 5-26-05 ; Amended at 33 Ok Reg 1170, eff 9-11-16]

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) (2023 Revision), Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.

(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

[Source: Added at 22 Ok Reg 696, eff 5-12-05 ; Amended at 24 Ok Reg 1775, eff 6-25-07 ; Amended at 25 Ok Reg 1050, eff 7-1-08 ; Amended at 26 Ok Reg 1385, eff 7-1-09 ; Amended at 27 Ok Reg 908, eff 7-1-10 ; Amended at 28 Ok Reg 2193, eff 7-25-11 ; Amended at 29 Ok Reg 584, eff 7-1-12 ; Amended at 30 Ok Reg 824, eff 7-1-13 ; Amended at 32 Ok Reg 1526, eff 9-11-15 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Added at 34 Ok Reg 813, eff 9-11-17 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 37 Ok Reg 971, eff 9-14-20 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 39 Ok Reg 795, eff 9-12-22 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-13.1. Establishments requiring permitting

(a) Any establishment where a pesticidal product is produced shall have a duty to submit the permit application, renewal applications, and a copy of the EPA pesticidal product report to the Department in a timely manner.

- (b) Permits for pesticide producing establishments expire on June 30 of each year. A renewal application shall be received no later than July 15 of each year. Any renewal application received after July 15 shall be subject to the renewal fee and a penalty of twice the amount of the renewal fee.
- (c) The Department shall assign a permit number to the establishment.
- (d) Failure to submit a pesticidal product report, application, renewal application, or permit fee may result in civil and criminal penalties and termination of the establishment's permit.
- (e) It shall be the duty of the permittee to provide written notification to the Department of any changes or additions on the EPA pesticidal product report or any information on the permit application or renewal form within thirty (30) calendar days of the change or addition.

[Source: Added at 22 Ok Reg 696, eff 5-12-05]

PART 7. IDENTIFICATION OF EQUIPMENT USED BY COMMERCIAL APPLICATORS

35:30-17-15. Vehicle identification

All vehicles, including nurse tanks and self-propelled ground applicators, used by a commercial applicator during the conduct of business shall be identified by displaying the name and license number of the licensee. The display shall be on both sides of the vehicle in letters not less than two (2) inches in height.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-16. Aircraft identification [REVOKED]

[Source: Amended at 17 Ok Reg 1018, eff 7-13-00 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 1034, eff 5-26-05]

PART 8. PESTICIDE REGISTRATIONS AND PERMITS

35:30-17-17. Pesticide registrations

(a) Pesticide registrations shall be issued for a period of one (1) year and shall expire annually as follows:

- (1) Companies whose names begins with the letters A, B, C, D, E, & F shall expire on March 31st of each year (group 1).
- (2) Companies whose names begins with the letters G, H, I, J, K, L, & M shall expire on June 30th of each year (group 2).
- (3) Companies whose names begins with the letters N, O, P, Q, R, & S shall expire on September 30th of each year (group 3).
- (4) Companies whose names begins with the letters T, U, V, W, X, Y, & Z shall expire on December 31st of each year (group 4).

(b) Pesticide registration applications shall be received no later than the fifteenth day of the month following the date of expiration.

(c) Unless provided otherwise, registrants shall be responsible for the registration of pesticides and devices and may be sanctioned by the Department if unregistered pesticides or devices are distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce by registrants, distributors or dealers.

(d) Pesticides and devices classified under sections 24(c) or 25(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 et seq. shall be registered with the Department and shall comply with all registration requirements established by the Department.

(e) Companies producing, packaging, labeling, and shipping pheromone lures, traps, and monitoring systems from Oklahoma shall be exempt from pesticide registration.

(f) The Department may waive the annual pesticide registration fee when granting experimental use permits. Before issuing an experimental use permit, the Department may require the registrant to provide a complete copy of the use plan, label, contact information for the person responsible in Oklahoma and any other information required for pesticide or device registration.

(g) Registrants shall submit a laboratory standard and an analytical method for each new pesticide product registered for which either/or both have not previously been submitted or has changed since the previous submission. Submissions shall be made to: Supervisor, ODAFF Pesticide Laboratory, 2800, N. Lincoln Blvd. Oklahoma City, Oklahoma.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03 ; Amended at 30 Ok Reg 824, eff 7-1-13 ; Amended at 31 Ok Reg 728, eff 9-12-14 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-17-17.1. Registration and renewal options.

Registrants shall renew a pesticide or device registration using one of the following methods:

(1) Registrants may electronically renew the registration for a pesticide or device at the website, www.kellysolutions.com/erenewals. Revised labels, material safety data sheets and uniform product codes may also be submitted during the electronic renewal process.

(2) Registrants may renew the pesticide or device registration by paying the annual registration fee and submitting a registration application directly to the Department on a form approved by the Department. Revised labels, material safety data sheets and uniform product codes may also be submitted during the renewal process. The registrant shall include an electronic copy of the existing or revised pesticide or device label in pdf format.

[Source: Added at 30 Ok Reg 824, eff 7-1-13]

35:30-17-17.2. Cancellation or discontinuance of a pesticide or device registration

A pesticide or device shall be considered unregistered upon the cancellation or discontinuance of the pesticide or device registration. The

registration of a pesticide or device that has been distributed, sold or offered for sale within this state or delivered for transportation or transported in intrastate or interstate commerce shall be cancelled or discontinued using one of the following methods.

(1) The registrant, distributors and dealers of the cancelled or discontinued pesticide or device shall recall the pesticide or device, remove the pesticide or device from the channels of trade, and submit a letter to the Department stating that the pesticide or device has been recalled and that the pesticide or device is not available in channels of trade. The Department may sanction the registrant, distributor or dealer if the unregistered pesticide or device is distributed, sold or offered for sale within this state after the cancellation or discontinuance of the pesticide or device registration.

(2) The registrant may submit a letter to the Department indicating the registrant's intent to cancel or discontinue the registration for the pesticide or device. The registrant shall conditionally maintain the product registration for two (2) years while the pesticide or device clears the channels of trade. During the two year period of conditional registration, the registrant, distributors, and dealers shall place no new cancelled or discontinued pesticides or devices into the channels of trade. The Department shall not sanction the registrant, distributor or dealer if the cancelled or discontinued pesticide or device is distributed, sold or offered for sale within this state after the two year conditional registration period unless the pesticide or device was placed into channels of trade after the registrant notified the Department of its intent to cancel or discontinue the registration of the pesticide or device.

[Source: Added at 30 Ok Reg 824, eff 7-1-13]

35:30-17-17.3. Pesticide and device labeling

The Department adopts the same requirements for pesticide and device labeling found at 40 CFR § 156.10.

(1) The Department shall accept a copy of the latest fully corrected label accepted by the United States Environmental Protection Agency (EPA) for federal registration of the pesticide provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(2) The Department shall accept a copy of the latest fully corrected label accepted by the EPA for federal registration of the device provided the label is compliant with labeling requirements existing when the label was submitted to the Department. Additionally, a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace.

(3) For pesticides exempt from federal registration pursuant 7 USC § 136w(b) (referred to as "FIFRA 25(b) products"), the Department shall accept a true and correct copy of the pesticide product label as it appears on the package or container in the marketplace and a copy of the safety data sheet (SDS) shall be submitted with each registration application.

(4) Notwithstanding the foregoing, Federally accepted labeling does not obligate the Department to register any pesticide or device for use in the State. The Department may refuse to register a product if the Department determines there is insufficient credible evidence concerning the formulation, efficacy, or suitability for use in Oklahoma.

(5) Before registering a pesticide or device for use in Oklahoma, the Department may require the submission of satisfactory data from the registrant supporting any claims about the formulation, efficacy, or suitability for use in Oklahoma.

[Source: Added at 33 Ok Reg 1170, eff 9-11-16]

35:30-17-17.4. Spray adjuvant

Labels for spray adjuvants shall include:

- (1) Product brand name;
- (2) Type or function of principal functioning agents. Terms used to describe adjuvant functions shall be consistent with ASTM International Standards E 1519 and E 609. If ASTM International has not defined a term, the Department will determine the appropriate term. Functions claimed shall be consistent with the principal functioning agents. If two (2) or more functions are claimed, the functions shall be listed in descending order starting with the primary function;
- (3) Ingredient statement that includes:
 - (A) Principal functioning agents listed by chemical name in descending order of composition with either individual or total percentages. If more than three (3) functioning agents are present, only the three (3) principal agents are required to be listed;
 - (B) Percentage of constituents ineffective as spray adjuvants; and
 - (C) Total percentage of all ingredients which shall equal one hundred percent (100%);
- (4) Directions for use that include a description of intended uses and recommended use rates;
- (5) Precautionary statements adequate to protect people and the environment that include:
 - (A) Statement "Keep Out of Reach of Children"; and
 - (B) Statement prohibiting aquatic use unless the registrant provides data to demonstrate that the proposed use will not cause unreasonable adverse effects to fish and aquatic invertebrates;
- (6) Appropriate storage and disposal statement;

- (7) Name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, the name shall be qualified by appropriate wording such as "Packaged for" or "Distributed by"; and
- (8) Weight or measure of the contents.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-17-18. Dealer permits

- (a) Dealer permits shall be issued for a period of one (1) year and shall expire annually on December 31 of each year.
- (b) Dealer permit applications must be received no later than the fifteenth day of the month following the date of expiration.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03 ; Added at 34 Ok Reg 813, eff 9-11-17]

**PART 9. MINIMUM STANDARDS FOR CONTRACTS
AND KEEPING OF RECORDS**

35:30-17-20. Contract contents

- (a) Contracts shall be issued for the commercial application of pesticides in the Structural Pest Category. Information on the contracts shall include:
- (1) Specific information from 2 O. S. Sections 3-81(11) and 3-83, and OAC 35:30-17-21.
 - (2) Minimum standards for termite work for existing structures and preconstruction applications. Any minimum requirements that will not be met shall be explained in the contract.
- (b) Visible termite damaged material, whether structural or superficial, that will not be replaced or repaired at the time of the original contract shall be in the contract in a clear statement, e.g. "No replacements of damaged material due to termites or other wood destroying organisms are to be made."
- (c) "Replaced" means to remove all visible damaged material and bring the area back to sound condition using new materials. The use of putty, paint, or similar materials shall not constitute replacement.
- (d) "Repaired" means to bring the area back to sound condition.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 21 Ok Reg 751, eff 4-26-04 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales

- (a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show:
- (1) Start and stop time of application.
 - (2) Total amount of pesticide used.

- (3) Name and address of the commercial or non-commercial company.
- (4) Name, certification number, and certification expiration date of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
- (5) Name and address of person for whom applied.
- (6) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (7) Date of application.
- (8) Application rate.
- (9) Dilution rate for mixing.
- (10) Total quantity tank mix used.
- (11) Complete trade name of pesticide product used.
- (12) EPA registration number of pesticide product used.
- (13) Name of adjuvants used when the label requires specific adjuvants.
- (14) Name of drifting agents used when the label requires specific drifting agents.
- (15) Target pest for the application.
- (16) Site where the pesticide was applied.
- (17) Size of the area treated.
- (18) Restricted Entry Interval as stated on the product label.
- (19) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
- (20) Copies of any contracts issued.
- (21) Copies of any wood infestation reports issued.
- (22) Other information as required by the Board.

(b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:

- (1) Start and stop time of application.
- (2) Total amount of pesticide used.
- (3) Name and address of the private applicator.
- (4) Name, certification number, and certification expiration date of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
- (5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
- (6) Date of application.
- (7) Application rate.
- (8) Dilution rate for mixing.
- (9) Total quantity tank mix used.
- (10) Complete trade name of pesticide product used.
- (11) EPA registration number of pesticide product used.
- (12) Name of adjuvants used when the label requires specific adjuvants.
- (13) Name of drifting agents used when the label requires specific drifting agents.

- (14) Target pest for the application.
 - (15) Site where the pesticide was applied.
 - (16) Size of the area treated.
 - (17) Restricted Entry Interval as stated on the product label.
 - (18) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
 - (19) Other information as required by the Board.
- (c) Restricted use pesticide dealers shall keep accurate records of restricted use pesticide sales, which, at a minimum show:
- (1) Complete brand name of the pesticide.
 - (2) EPA registration number of the pesticide.
 - (3) Date the pesticide was sold.
 - (4) Total amount of restricted use pesticide sold.
 - (5) Name and address of the residence or principal place of business of any person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.
 - (6) Name, address, license or certification number, and certification expiration date, or copy of the applicator's card of a certified or private applicator.
 - (7) The category(ies) in which the applicator is certified relevant to the pesticide(s) sold.
 - (8) Other information as required by the Board.
- (d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.
- (e) Records retained pursuant to this section shall be easily accessible for inspection by authorized agents of the Board during reasonable business hours.
- (f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.
- (g) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:
- (1) Name;
 - (2) Date of training; and
 - (3) Service technician number.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03 ; Amended at 21 Ok Reg 751, eff 4-26-04 ; Amended at 22 Ok Reg 696, eff 5-12-05 ; Amended at 24 Ok Reg 1773, eff 6-25-07 ¹; Amended at 24 Ok Reg 1775, eff 6-25-07 ¹; Amended at 25 Ok Reg 647, eff 1-15-08 (emergency); Amended at 25 Ok Reg 1050, eff 7-1-08 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 39 Ok Reg 795, eff 9-12-22 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

Editor's Note: ¹*The agency promulgated two permanent amended versions of this Section (35:30-17-21) with the same effective date in*

2007. Both versions were published in the 2007 OAC Supplement. The agency later reconciled the two versions through emergency rulemaking on 1-15-08 and permanent rulemaking on 7-1-08.

PART 10. MINIMUM STANDARDS FOR PESTICIDES

35:30-17-22. Restricted use pesticide

Any pesticide classified for restricted use by the U.S. Environmental Protection Agency, either by regulation (40 CFR 162.31) or through the registration process, shall also be classified as restricted use for 2 O.S. Section 3-81 et al.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-22.1. Pesticide tolerances

Pesticide tolerances on raw agricultural commodities over which the Board has jurisdiction are the same as those found in Part 180 of Title 40, Code of Federal Regulations.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-22.2. Pesticide enforcement

The Board is authorized to enter any premise during normal business hours for the purpose of:

- (1) Determining whether pesticides or devices comply with the provisions of the law.
- (2) Procuring samples of pesticides and devices.
- (3) Examining and obtaining copies of records and documents relative to the shipment, manufacture, application of, or sale of pesticides or devices.
- (4) Monitoring and evaluating the application and effects of application of any pesticide registered as a Special Local Need 24(c), Experimental Use Permit, or Emergency Exemption Section 18 of the Federal Pesticide Law (FIFRA).
- (5) Enforcing the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 21 Ok Reg 751, eff 4-26-04 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

35:30-17-22.3. Experimental use pesticides or devices

The registration of any pesticide or device for experimental use within this state shall be accompanied by a copy of the proposed experimental program including the name and address of the person responsible for the use and evaluation of the pesticide or device in the state.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-22.4. Time periods for application review

- (a) The registrant shall file with the Board a statement including:
- (1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.
 - (2) The name of the pesticide or device.
 - (3) A complete copy of the labeling accompanying the pesticide or device and a statement of all claims made including directions for use.
 - (4) Upon Board request, a full description of the tests made and the results used to verify the claims. In the case of renewal registration, a statement shall be required only with respect to information, which is different from that furnished when the pesticide or device was last registered.
- (b) Time periods shall be allocated for review of applications for pesticide product registration and restricted use pesticide dealers permits as follows:
- (1) The Department shall review a new application within fifteen (15) working days from the date received.
 - (2) Any renewal application for registration or permit received prior to the renewal date established by the Board shall be considered valid until a final determination is made.
 - (3) Following review, if it is determined that the requirements have been met, the appropriate registration or permit will be issued within ten (10) working days of the determination date.
 - (4) Following review, if it is determined that the requirements have not been met, the application for registration or permit shall be denied. Notification of the denial shall be made in writing to the applicant within ten (10) working days of the determination. The notification shall state the reason for the denial and identify steps necessary to meet the requirements for issuance.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03]

PART 11. STANDARDS FOR APPLICATION OF PESTICIDE

35:30-17-24. Approved chemicals and equipment

- (a) Only chemicals which are properly labeled as pesticide products and registered with the Department shall be approved for use as provided for in 2 O.S., Section 3-85.
- (b) Any use inconsistent with the pesticide product labeling, registered with the Department is prohibited unless prior written approval for the use has been obtained from the Board. Approval may be obtained by application with reference to:
- (1) Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(2) Section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, application procedures.

(3) Section 2(ee) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended, for commercial and noncommercial pesticide applications.

(c) To protect public health and the environment, failure to follow precautionary and recommended language included in the pesticide product label may be considered a use inconsistent with the label.

(d) Every applicator of pesticides shall employ an appropriate method to prevent the backflow of spray materials during filling, mixing, and/or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure that backflow shall not occur.

(e) No person shall use a mist blower or other type of air blasting or misting equipment for the application of hormone type herbicides within the State except where the following specific conditions exist:

(1) Forest nursery and timber production areas where the control of undesirable vegetation with a hormone type herbicide is necessary and the area cannot be covered by any other type of ground application equipment.

(2) Range, pasture, and crop areas where control of undesirable vegetation with a hormone type herbicide is necessary and a specific type of terrain feature such as a gully precludes the use of any other type of ground application equipment.

(f) Application of a hormone type herbicide under one of the exceptions given in paragraph (e) of this Section is subject to the following restrictions:

(1) At no time during the application shall the outlet point above horizontal.

(2) At no time shall an application be performed in a wind speed over 10 MPH.

(3) The person making the application shall keep records as required by law.

[Source: Added at 9 Ok Reg 1931, eff 5-4-93 (emergency); Amended at 10 Ok Reg 2565, eff 6-25-93 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 21 Ok Reg 751, eff 4-26-04 ; Amended at 33 Ok Reg 1170, eff 9-11-16]

35:30-17-24.1. Restricted use areas

(a) Applications of products containing 2,4-D esters or dicamba as an active ingredient to agricultural lands shall not be made in Greer, Harmon, and Kiowa counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(b) Applications of products containing 2,4-D, dicamba, picloram, triclopyr, or clopyralid as an active ingredient to agricultural lands shall not be made in Jackson and Tillman counties between 12:01 a.m. of May 1 of each calendar year through 11:59 p.m. of October 15 of each calendar year except in accordance with the provisions of this section.

(c) Any person intending to apply any of the herbicides listed in subsection (a) or (b) in the counties and during the times prohibited shall adhere to the following procedure:

(1) The person shall notify the Department of the intent to apply herbicides listed in subsection (a) or (b) prior to the application on a form provided by the Department.

(2) The person shall file a report with the Department on a form provided by the Department no later than seven (7) working days after the last application date provided in the original notification of the herbicide use.

(d) Failure to comply with this section shall be a violation.

(e) All records and notifications required by this section shall be in addition to any records required to be maintained by a commercial applicator pursuant to other rules.

(f) The provisions of this section shall not apply to applications of 2,4-DB.

[Source: Added at 22 Ok Reg 1007, eff 4-6-05 (emergency); Added at 23 Ok Reg 1199, eff 5-25-06 ; Amended at 33 Ok Reg 1170, eff 9-11-16]

35:30-17-25. Pesticide application by certified applicators, noncertified applicators, service technicians, and private applicators

(a) A certified applicator shall be on site to use any pesticide when required by the label or labeling.

(b) A certified applicator shall be on site to supervise any pesticide application by a non-service technician.

(c) A service technician shall be on site to make the actual application of any pesticide unless a certified applicator is present at the job site.

(d) A certified applicator may be a service technician in other categories for a licensed company without completing the service technician's examination.

(e) Certified applicators, noncertified applicators, service technicians, and private applicators shall be a minimum of eighteen (18) years of age to purchase restricted use pesticides and to make pesticide applications.

(f) "**Noncertified applicator**" means a person who has not met the exam qualifications of a certified applicator.

(g) "**Nonservice technician**" means a person who has not met the exam qualifications of a service technician.

(h) A noncertified applicator shall receive approved safety training from a certified applicator or qualified trainer prior to application of a restricted use pesticide as outlined in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 40 CFR Section 171.201.

(1) Employers of noncertified applicators shall keep the following records for a minimum of two (2) years:

(A) The printed name and signature of the noncertified applicator;

(B) The name of the person who provided the approved training;

(C) The date the training was completed; and

(D) The title or description of the training.

(2) The provisions of this subsection shall not apply to a noncertified applicator making an application of restricted use pesticide on a family farm.

(3) For the purposes of this section a "noncertified applicator" shall mean an applicator who is not a certified applicator, service technician, or private applicator.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 39 Ok Reg 795, eff 9-12-22 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

35:30-17-26. Labeling of pesticides

(a) Every container used to dispense (apply) pesticide (except bait boxes used for rodent control) shall be accompanied by a copy of a readable label for the pesticide within the container. The label shall either be attached to the container or be present on or in the vehicle used to transport the container.

(b) Every rodent control bait box in an accessible area which is not locked or secured against tampering shall have attached to it a readable statement containing the EPA registration number, active ingredient and recognized trade name of the pesticide, the appropriate signal information (caution, warning or danger - poison), and the name and address of the pesticide application company.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-27. Fluoroacetate compounds [REVOKED]

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 909, eff 7-1-10]

**PART 12. MINIMUM RESIDUE LEVELS FOR
TERMITICIDES APPLIED TO SOIL AND PERMITTED
TOLERANCES FOR PESTICIDE TANK MIX AND
CONCENTRATE SAMPLE ANALYSIS**

35:30-17-28. Soil residue levels, parts per million (ppm)

(a) Post construction termiticide treatments with sampling performed within 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products shall have a residue threshold level of 63 ppm.

(2) Tribute and other 24.5 % Esfenvalerate products shall have a residue threshold level of 150 ppm.

- (3) Prevail FT and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.
- (4) Demon TC and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.
- (5) Dragnet FT and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.
- (6) Premise and other Imidacloprid products shall have a residue threshold level of 10 ppm.
- (7) Termidor WG, Termidor SC and other Fipronil products shall have a residue threshold level of 12 ppm.
- (8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.
- (9) Permethrin TC, EPA Reg. No. 51036-287, Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.
- (10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.
- (11) Talstar One Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products shall have a residue threshold level of 11 ppm.
- (12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products shall have a residue threshold level of 11 ppm.

(b) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

- (1) Torpedo and other 25.6 % Permethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 90 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 63 ppm.
- (2) Tribute and other 24.5 % Esfenvalerate products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 204 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 150 ppm.
- (3) Prevail FT and other 24.8% Cypermethrin products:
 - (A) Shall have a residue threshold level within 30 days of treatment of 64 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 46 ppm.
- (4) Demon TC and other 25.3% Cypermethrin products:

- (A) Shall have a residue threshold level within 30 days of treatment of 41 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 28 ppm.
- (5) Dagnet FT and other 36.8% Permethrin products:
- (A) Shall have a residue threshold level within 30 days of treatment of 97 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 85 ppm.
- (6) Premise and other Imidacloprid products:
- (A) Shall have a residue threshold level within 30 days of treatment of 10 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 10 ppm.
- (7) Termidor WG, Termidor SC and other Fipronil products:
- (A) Shall have a residue threshold level within 30 days of treatment of 12 ppm.
 - (B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 12 ppm.
- (8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:
- (A) Shall have a residue threshold level within thirty (30) days of treatment of 64 ppm.
 - (B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 46 ppm.
- (9) Permethrin TC, EPA Reg. No. 51036-287, Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:
- (A) Shall have a residue threshold level within thirty (30) days of treatment of 97 ppm.
 - (B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 85 ppm.
- (10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products:
- (A) Shall have a residue threshold level within thirty (30) days of treatment of 41 ppm.
 - (B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 28 ppm.
- (11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products:
- (A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.
 - (B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.
- (12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(c) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the horizontal barriers for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 68 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 47 ppm.

(2) Tribute and other 24.5 % Esfenvalerate products:

(A) Shall have a residue threshold level within 30 days of treatment of 153 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 113 ppm.

(3) Prevail FT and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 48 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 35 ppm.

(4) Demon TC and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 31 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 21 ppm.

(5) Dragnet FT and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within 30 days of treatment of 73 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 64 ppm.

(6) Premise and other Imidacloprid products:

(A) Shall have a residue threshold level within 30 days of treatment of 5 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 5 ppm.

(7) Termidor WG, Termidor SC and other Fipronil products:

(A) Shall have a residue threshold level within 30 days of treatment of 9 ppm.

(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 9 ppm.

(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 48 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 35 ppm.

(9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 73 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 64 ppm.

(10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 31 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 21 ppm.

(11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(d) Any distributor product, as defined by 40 C.F.R. § 152.132, or any product with an alternate brand name and identical registration number shall be subject to the residue threshold levels for the related primary registration or brand name contained in this section.

(e) Any product not listed in this section shall have the residue threshold levels as established either through independent research projects accepted by the Department or through accepted documentation provided to the Department by the manufacturer.

(1) Any residue threshold levels established pursuant to this subsection shall be communicated to the public through the Department's website.

(2) The Department shall maintain a list of all records, studies, and correspondence utilized to establish residue threshold levels pursuant to this subsection.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 17 Ok Reg 3567, eff 9-7-00 (emergency); Amended at 18 Ok Reg 1444, eff 5-25-01 ; Amended at 23 Ok Reg 2168, eff 6-25-06 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-29. Tank mix sample tolerances

(a) The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide tank mix samples. Values above or below the concentration stated by the applicator that do not fall within the permitted tolerances listed shall be a use unsuitable, unsafe, or inconsistent with the label.

(1) Stated concentration of an active ingredient is less than 0.51%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 150% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 60% of the stated concentration.

(2) Stated concentration of an active ingredient is not less than 0.51% and not more than 1.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 70% of the stated concentration.

(3) Stated concentration of an active ingredient is not less than 1.0% and not more than 5.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 80% of the stated concentration.

(4) Stated concentration of an active ingredient is not less than 5.0% and not more than 10.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 130% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 84% of the stated concentration.

(5) Stated concentration of an active ingredient is not less than 10.0% and not more than 50.0%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 125% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 88% of the stated concentration.

(6) Stated concentration of an active ingredient is not less than 50.0% and not more than 100%.

(A) The maximum amount of active ingredient in the tank mix sample shall not exceed 115% of the stated concentration.

(B) The minimum amount of active ingredient in the tank mix sample shall not be less than 92% of the stated concentration.

(b) No pesticide shall be formulated into a tank mix at a concentration in excess of that permitted by the pesticide label.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-30. Concentrate sample tolerances

(a) The values expressed shall establish the maximum and minimum tolerance for the analysis of pesticide concentrate samples. Values above or below the concentration of active ingredient stated on the product label that do not fall within the permitted tolerances listed shall be "adulterated".

(1) Stated concentration of an active ingredient on the product label is less than 0.51%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 150% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 80% of the stated concentration.

(2) Stated concentration of an active ingredient on the product label is not less than 0.51% and not more than 1.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 85% of the stated concentration.

(3) Stated concentration of an active ingredient on the product label is not less than 1.0% and not more than 5.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 140% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 90% of the stated concentration.

(4) Stated concentration of an active ingredient on the product label is not less than 5.0% and not more than 10.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 130% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 92% of the

stated concentration.

(5) Stated concentration of an active ingredient on the product label is not less than 10.0% and not more than 50.0%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 125% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 94% of the stated concentration.

(6) Stated concentration of an active ingredient on the product label is not less than 50.0% and not more than 100%.

(A) The maximum amount of active ingredient in the concentrate sample shall not exceed 115% of the stated concentration.

(B) The minimum amount of active ingredient in the concentrate sample shall not be less than 96% of the stated concentration.

(b) The values expressed shall establish the minimum content for the analysis of fertilizer or pesticide mixtures, pressed blocks, and non-uniform bait samples. Values below the concentration of active ingredient stated on the product label that do not equal or exceed the minimum content listed shall be "adulterated".

(1) When the stated concentration of an active ingredient on the product label is less than 1.26%, the minimum amount of active ingredient in the sample shall not be less than 67% of the stated concentration.

(2) When the stated concentration of an active ingredient on the product label is not less than 1.26% and not more than 5.0%, the minimum amount of active ingredient in the sample shall not be less than 80% of the stated concentration.

(3) When the stated concentration of an active ingredient on the product label is more than 5.0%, the minimum amount of active ingredient in the sample shall not be less than 85% of the stated concentration.

(c) The values expressed shall establish the minimum content for the analysis of rotenone, pyrethrin, and other natural product formulation samples. Values below the concentration of active ingredient stated on the product label that do not equal or exceed the minimum content listed shall be "adulterated".

(1) When the stated concentration of an active ingredient on the product label is less than 0.51%, the minimum amount of active ingredient in the sample shall not be less than 70% of the stated concentration.

(2) When the stated concentration of an active ingredient on the product label is not less than 0.51% and not more than 1.25%, the minimum amount of active ingredient in the sample shall not be less than 80% of the stated concentration.

(3) When the stated concentration of an active ingredient on the product label is more than 1.25%, the minimum amount of active ingredient in the sample shall not be less than 85% of the stated concentration.

[Source: Added at 17 Ok Reg 1018, eff 5-11-00]

PART 13. RESTRICTED AREAS FOR THE APPLICATION OF HORMONE TYPE PESTICIDES [REVOKED]

35:30-17-31. Hormone type pesticide defined [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-32. Cut-off dates [REVOKED]

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-33. Special permit restrictions [REVOKED]

[Source: Amended at 10 Ok Reg 49, eff 10-8-92 (emergency); Amended at 10 Ok Reg 1955, eff 5-27-93 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 20 Ok Reg 801, eff 5-12-03 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-34. Cut-off times [REVOKED]

[Source: Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-35. Restricted areas of Harmon County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 21 Ok Reg 751, eff 4-26-04 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-36. Restricted areas of Coal County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-37. Restricted areas of Bryan County [REVOKED]

[Source: Revoked at 12 Ok Reg 3438, eff 7-11-95 (emergency); Revoked at 13 Ok Reg 1891, eff 6-14-96]

35:30-17-38. Restricted areas of Love County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-39. Restricted areas of Alfalfa County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-40. Restricted areas of Canadian County [REVOKED]

[Source: Amended at 9 Ok Reg 845, eff 1-6-92 (emergency); Amended at 9 Ok Reg 2245, eff 6-25-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-41. Restricted areas of Rogers County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-42. Restricted areas of Grady County [REVOKED]

[Source: Revoked at 12 Ok Reg 3440, eff 7-11-95 (emergency); Revoked at 13 Ok Reg 1893, eff 6-14-96 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-43. Restricted areas of Tillman County [REVOKED]

[Source: Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-44. Restricted areas of Jackson County [REVOKED]

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-45. Restricted areas of Kiowa County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-46. Restricted areas of Okmulgee County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-47. Restricted areas of Custer County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-48. Restricted areas of Pottawatomie County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-49. Restricted areas of Osage County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-50. Restricted areas of Atoka County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-51. Restricted areas of Jefferson County [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

35:30-17-52. Restricted areas of Nowata County [REVOKED]

[Source: Added at 9 Ok Reg 43, eff 10-12-91 (emergency); Added at 9 Ok Reg 1747, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Revoked at 13 Ok Reg 3871, eff 3-25-96 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Revoked at 13 Ok Reg 4073, eff 10-25-96]

35:30-17-53. Restricted areas of Pontotoc County [REVOKED]

[Source: Added at 8 Ok Reg 3555, eff 1-6-92 (emergency); Amended at 9 Ok Reg 2247, eff 6-25-92 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 697, eff 5-12-05]

PART 15. MINIMUM STANDARDS FOR TERMITE WORK FOR EXISTING STRUCTURES

35:30-17-54. Minimum standards for termite work

The minimum standards for termite work at existing structures shall be followed, unless the exceptions contained in Section 35:30-17-69.2 apply.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 701, eff 5-12-05 ; Added at 34 Ok Reg 813, eff 9-11-17]

35:30-17-55. Access

Where new or modified access openings are necessary, they shall be a minimum of 14" X 16" to permit entrance under all crawl spaces. No wood of any access opening shall be in contact with the soil.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-56. Debris and form boards

Wood or other cellulose material that can be caught with a rake shall be removed from the ground in the crawl area. Visible form boards shall be removed. Form boards that are buried in concrete shall be removed if practical. Visible stumps and any other cellulose materials that are not removed shall be treated.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-57. Clearance under buildings

(a) Where necessary for proper treatment, all soil less than twelve inches (12") from the bottom edge of the floor joist or less than five inches (5") from the stringer, but not below the top of the footing of foundation walls, shall be removed. If foundation footings are less than twelve inches (12") below the bottom of the joist, a bank of soil twelve inches (12") to eighteen inches (18") wide shall be left adjacent to the footing for support.

(b) The clearance between floor joists and stringers and the soil are minimums.

(c) Where the footing is exposed at soil level, trench and treat along the edge of the footing but not below the bottom of the footing.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-58. Shelter tubes

Remove all accessible shelter tubes.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-59. Piers and stiff-legs

Stiff-legs, wood steps, or other wood supports shall be treated according to label directions.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-60. Outside wood steps [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-61. Dampness [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-62. Replacements [REVOKED]

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-63. Skirting and lattice work [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-64. Frame siding [REVOKED]

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-65. Stucco, frame siding, or similar type materials

Where stucco, frame siding, or similar type materials extend to or below grade, termiticide shall be applied in trenches dug below and under the bottom edge to assure treatment of the soil. Where concrete slabs prevent trenching, the soil beneath shall be treated through holes drilled in the slab.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-66. Soil treatment under buildings

- (a) Soil treatment under a building shall include the following:
- (1) Termiticides shall be applied underneath the structure as specified on the label.
 - (2) For inaccessible crawl spaces where making a new access opening is not feasible, soil shall be treated by an alternate method pursuant to the label.
 - (3) Termiticide shall not be applied to soil intended for a plenum air space unless permitted by the label.
 - (4) An overall broadcast application of termiticide shall not be made in a crawl space unless permitted by the label.
 - (5) Treatment of the backfill of the trench is permitted, and shall be stated in the contract.
 - (6) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label of the termiticide.
- (b) These minimum standards shall not be written out of a contract.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-67. Void treatment

- (a) Voids shall be drilled or otherwise entered and treated. Drill holes shall be securely plugged after treatment except in crawl spaces, unless required by the label. Application pressure shall not exceed 25 psi.
- (b) Masonry veneer voids shall be entered and treated.
- (1) Veneer resting on unbroken concrete that extends more than twelve inches (12") above the outside grade shall not require treatment.
 - (2) Masonry veneer shall be treated by drilling at intervals no greater than sixteen inches (16") and applying termiticide into the void at the label rate.
 - (3) The treatment holes shall be no higher than the level of the top of the slab.

- (c) Voids in a given row of a concrete block wall, except those sitting on an unbroken concrete slab floor, shall be drilled or entered and treated.
- (1) Drilling may follow the grade contour, but shall not be made in the bottom row of blocks. The concrete blocks that sit on an unbroken concrete slab floor shall not be drilled and treated. Where termite activity is present, the floor slab shall be drilled or rodded underneath.
 - (2) Where concrete block foundations have adequate openings at the top, treatment may be applied at the opening in lieu of drilling so long as stated in the contract.
- (d) Chimneys shall be treated in all critical areas.
- (1) Critical areas to be treated are the expansion joints between the floor slab and stem wall, the fireplace and chimney base and stemwall, and the outer voids.
 - (2) The fireplace and chimney base and stemwall may be treated by long rodding.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-68. Soil treatment outside of building

The exterior soil along the foundation or veneer wall shall be trenched or trenched and rodded through the bottom of the trench. Treatment of the backfill of the trench is permitted. Rod holes shall not be spaced more than twelve inches (12") apart. The size of the trench shall be consistent with product label requirements.

- (1) Where the footing is exposed at ground level, trench or trench and rod through the bottom of the trench along the outside edge of the footing.
- (2) Where trenching or trenching and rodding is not possible due to presence of masonry walls, gutters, terraces, sidewalks, and other similar locations, holes shall be drilled at not more than twelve inch (12") intervals and the soil shall be treated adjacent to the structure.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-69. Concrete slabs for existing structures

(a) The minimum standard for existing structure concrete slabs shall include the following:

- (1) Termiticide shall be injected immediately under and adjacent to the slab at the rate specified on the label by drilling and treating to create a continuous barrier between the soil and the outside perimeter walls of the structure. Use of a sub-slab injector or similar device to prevent backflow is recommended. All drill holes shall be securely plugged. Application pressure shall not exceed 25 psi. Monolithic, supported slab with thickened perimeter or post tension slabs, with or without footing, shall be treated by drilling only in areas where known cracks exist.

(2) Where evidence of termite infestation exists on interior walls, the slab shall be treated by drilling the slab and treating the soil under the slab at the base of the wall where the termite activity is present and continue for a minimum of three (3) feet in at least two (2) directions from the termite activity. The treatment may be performed on either side of the wall if construction elements prevent treatment on the side of termite activity, so long as the reason for treating only one side of the treatment is discussed on the contract and the customer consents in writing.

(3) Maximum spacing for drilling shall be twelve inches (12") except where long rodding of the perimeter is performed.

(4) Termiticide shall not be applied to any area intended as a plenum air space unless permitted by the label.

(5) Soil applied termiticide shall not be used to treat any structure containing a well or cistern unless allowed by the label.

(6) Basement concrete slab floors shall not be drilled and treated unless there is evidence of termite infestation in the basement area.

(7) Where wooden parts are resting on known cracked concrete or expansion joints, including but not limited to garage floor, patio, porches, or interior, holes shall be drilled on one or both sides of the wooden part and the soil below treated. Where wood parts extend into or through concrete slab or are adjacent to an expansion joint, the slab adjacent to the wood part shall be drilled at a maximum of twelve inch (12") intervals on one or both sides and treated.

(8) Dirt filled porches, entry platforms, sidewalks, patios, and other similar areas shall be treated by drilling or rodding. If drilled, holes shall not be in excess of twelve inches (12") apart.

(b) These minimum standards shall not be written out of a contract.

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ; Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-69.1. Perimeter termite treatments

(a) These minimum standards are intended to address perimeter termite treatments with termiticides which allow perimeter treatments.

(b) Perimeter treatments can not be performed using any pesticide which does not allow this type treatment as stated on the product label.

(1) Perimeter Termite Treatments shall be considered a complete structural treatment unless limited by the label.

(2) The exterior open ground area along the foundation wall shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the footing at no more than twelve inch (12") intervals. The trench shall be a minimum of six inches (6") in depth and six inches (6") wide. The trench shall be backfilled and the backfill treated at label rate. If physical obstructions prevent trenching then rodding can be performed at twelve inch (12") intervals.

(3) All concrete slabs adjoining the structure shall be drilled and treated at no more than twelve inch (12") intervals.

(4) With an accessible crawl space, all piers, pipes and interior support walls shall be trenched or trenched and rodded through the bottom of the trench to the bottom of the footing at no more than twelve inch (12") intervals. The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(5) If termites are found in an inaccessible crawl space the soil shall be treated in accordance with label directions.

(6) Treatment of a garage shall be performed around all garage door supports and along any wall or portion of wall that has not been treated in accordance with this section. The drilling shall be at twelve inch (12") intervals.

(7) Basements shall be trenched or trenched and rodded through the bottom of the trench to a depth of at least four feet (4'). The trench shall be a minimum of six inches (6") in depth and six inches (6") wide.

(8) The contract shall specifically identify the exact location where a spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The spot treatment shall be at least three feet (3') in two (2) or more directions.

[Source: Added at 27 Ok Reg 2441, eff 7-25-10 ; Amended at 37 Ok Reg 971, eff 9-14-20]

35:30-17-69.2. Exceptions to minimum standards

(a) Exceptions to minimum standards for a complete treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard was not performed. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract; and

(2) The termiticide label specifically allows for a variation and the variation is stated in the contract.

(b) Exceptions to minimum standards for a spot or partial treatment shall include the following:

(1) The property owner agrees with the written explanation in the contract as to why the standard is not performed, or the termiticide label specifically allows for a variation and the variation is stated in the contract. Sections 35:30-17-66 and 35:30-17-69 shall in no case be written out of the contract.

(2) The contract shall include the statement, "This is a SPOT/PARTIAL treatment," or otherwise clearly convey that the treatment is not a complete termite treatment.

(3) The contract shall specifically identify the exact location where the spot treatment is performed and the treatment shall meet all minimum standards for the specific location identified. The identified spot treatment location shall be at least three feet (3') in two (2) or more directions but shall not be equal to the entire structure.

- (4) The contract shall not contain any misrepresentations or false claims regarding the effectiveness of a spot or partial treatment.
- (c) The Board of Agriculture may grant an exception to existing rules or minimum standards if:
- (1) The registered pesticide allows for the use or application method that is currently prohibited under rule or minimum standards; and
 - (2) The manufacturer provides verifiable research data to the Board concerning the efficacy of the chemical or methodology.

[Source: Added at 27 Ok Reg 2441, eff 7-25-10 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Added at 34 Ok Reg 813, eff 9-11-17 ; Amended at 37 Ok Reg 971, eff 9-14-20]

PART 16. MINIMUM STANDARD FOR THE PERFORMANCE OF SPOT/PARTIAL TREATMENTS OF TERMITE WORK FOR EXISTING STRUCTURES (SPOT TREATMENTS) [REVOKED]

35:30-17-70. Exceptions to minimum standards [REVOKED]

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 701, eff 5-12-05 ; Revoked at 27 Ok Reg 2441, eff 7-25-10]

PART 17. MINIMUM STANDARDS FOR TERMITE WORK FOR PRECONSTRUCTION (PRETREATS) AND NEW CONSTRUCTION

35:30-17-73. Concrete Slabs

(a) All pretreatment pesticide applications shall follow the pesticide label instructions including the application rates and methods. Treatments using less than label recommended concentrations at higher volume or higher concentrations at reduced volume applications are prohibited for pre-construction treatments. A written contract shall be provided that conforms with all requirements for contracts issued in the Structural Pest Category. In addition, the contract shall include the total square footage treated, the total linear feet treated, and any additional information required.

(b) Pretreatment of main slab areas (including attached garages) is as follows:

- (1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions to the entire area to be covered by concrete, for the establishment of horizontal and/or vertical barriers.
- (2) Horizontal barriers shall be established.
- (3) Vertical barriers shall be established by trenching or trenching and rodding through the bottom of the trench and at the rate prescribed by the label. When trenching cannot be performed due

to elements of construction (i.e. coarse aggregate fill, rebar, etc.) the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(4) Treatment shall not be made when the soil or fill is excessively wet or when rain is imminent.

(5) Precautions shall be taken to prevent disturbance of the treated areas by human or animal contact or prolonged exposure to the weather.

(6) Immediately after completion of treatment to the main slab area, each termite pretreatment shall be stenciled or a sticker or tag permanently affixed to one of the stubouts in an area which will be readily accessible. The stencil, sticker, or tag shall identify the company, date of treatment, and termiticide used.

(c) Pretreatment of adjacent slabs, i.e., porches, patios, entrance pads, walkways, driveways, etc., shall be as follows:

(1) Termiticide shall be applied at the rate specified on the label and in accordance with label instructions for application, to the adjacent slabs which abut the main structure.

(2) Treatment and precautions shall meet the requirements in (b) (2) and (b)(3) of this Section.

(d) Pretreatment of outside foundations shall be as follows:

(1) Treatment shall be applied to the soil by trenching or trenching and rodding into the bottom of the trench around the entire outside foundation of the structure after the final grade has been established. This treatment shall be performed within 30 days of notification of completion of landscaping or one year from the date of completion of construction, whichever comes first.

(2) Where trenching is not possible due to rocks, concrete, gutters, etc., the treatment may be accomplished by rodding the chemical at a rate specified on the label and shall be stated in the contract.

(3) Where outside foundations (stem walls) have 12" or more of exposed concrete extending above the outside final grade, the outside foundation treatment may be omitted.

(e) Pretreatment of crawl space construction shall be made in the same manner as described in the minimum standards for existing structures (SEE PART 15 of this Chapter).

(f) Any pretreatment that does not meet all of the minimum standards for pretreatments under concrete slab or crawl space is considered "Partial Pretreats" and is not acceptable. If a portion of a structure is not treated through no fault of the applicator, it will be stated in the pretreat documentation and the contract signed by the contractor (home builder), and include specific reasoning why the area was not treated.

(g) Pesticide applicators conducting pretreatment applications shall issue Form NPCA-99b to the builder as an attachment to the contract.

(h) Before a concrete slab is poured, each new construction baiting system site shall be identified by a sticker or tag permanently affixed to one of the stubouts in an area which is readily accessible. The sticker or tag shall include the company name and the name of the baiting system that will be installed.

(i) All new construction pesticide applications shall be made within three (3) months after completion of construction with baiting systems approved by the Department which meet minimum specification requirements for the treatment. All new construction treatments shall follow pesticide label instructions, including application rates and methods, and the Minimum Standards Parts 9 and 18.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 26 Ok Reg 1385, eff 7-1-09 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

PART 18. MINIMUM STANDARDS FOR THE USE OF TERMITE BAITS AND BAITING SYSTEMS FOR NEW CONSTRUCTION AND EXISTING STRUCTURES

35:30-17-75. Definitions

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"Station monitoring" means the act of inspecting a termite bait station per the manufacturer's label or as required by the Board.

"Termite bait" means any substance designed for ingestion by termites for the purpose of controlling termites in or around a structure.

"Termite baiting system" means any system of components used to control termites in or around a structure.

"Termite baiting system station" means any component of the termite baiting system that holds or delivers active ingredients to termites in or around a structure.

[Source: Added at 19 Ok Reg 13, eff 9-28-01 (emergency); Added at 19 Ok Reg 949, eff 5-13-02]

35:30-17-75.1. General requirements for application

(a) Commercial and noncommercial applicators applying termite bait or termite baiting systems shall have a valid Oklahoma license in the structural pest category.

(b) Application shall be performed by a certified applicator, certified in the structural pest category or under the terms of "Direct Supervision" as defined in 2 O.S. § 3-81(15).

(c) Any certified applicator or any person working under the supervision of a certified applicator who applies termite bait or termite baiting systems shall be trained in the use of termite baits or termite baiting systems prior to any application. The manufacturer shall give prior notice to the Board of the time, location, and agenda of certification and training programs. The Board may attend and observe certification and training programs. The manufacturer shall identify all trained certified applicators and service technicians in writing to the Board.

(d) A written contract pursuant to 2 O.S. § 3-81(11) and OAC 35:30-17-20 shall be completed prior to a termite bait or termite baiting system application, and shall also include the following:

- (1) A term for at least one year with an option for renewal by the parties.
 - (2) A block for the consumer to initial verifying a consumer information sheet on the termite bait or termite baiting system was provided.
- (e) Termite bait or baiting systems may be used as a new construction treatment in place of a preconstruction treatment.
- (f) Above-ground bait stations shall be used according to their label when the presence of subterranean termites are detected in a structure. Above-ground bait stations shall be monitored no less than quarterly.
- (g) Records of contracts, graphs, monitoring, and bait applications shall be kept according to the minimum standards.
- (h) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:
- (1) Name;
 - (2) Date of training; and
 - (3) Service technician number.

[Source: Added at 19 Ok Reg 13, eff 9-28-01 (emergency); Added at 19 Ok Reg 949, eff 5-13-02 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-75.2. Recordkeeping

- (a) In addition to other recordkeeping requirements contained in OAC 35:30-17-21, the applicator shall maintain the following records:
- (1) Date, time, and location of all monitoring of a termite baiting system, including termite activity in non-baited stations and baited stations;
 - (2) Linear feet of perimeter of a treated structure;
 - (3) Number of monitored or baited ground and above-ground bait stations installed around a structure;
 - (4) Inspection diagram; and
 - (5) Any bait application in or around the termite baiting system stations.
- (b) A consumer information sheet, supplied by the manufacturer and approved by the Board, shall be obtained by the applicator. At the time of sale, the applicator shall supply a copy of the approved consumer information sheet to the consumer. The consumer information sheet shall, at a minimum, include the following:
- (1) Product function;
 - (2) Monitoring intervals of both baited and non-baited termite baiting system stations; and
 - (3) Indicate if the product is an immediate stop to termite feeding activity when known termite activity is present at the structure.

[Source: Added at 19 Ok Reg 13, eff 9-28-01 (emergency); Added at 19 Ok Reg 949, eff 5-13-02 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-17-75.3. Manufacturer's label instructions

- (a) Termite bait or termite baiting systems shall be used according to the manufacturer's label.

(1) Monitoring of termite bait system stations shall be used to detect the presence of subterranean termites. Both baited and non-baited termite baiting system stations shall be monitored according to the manufacturer's label. If the manufacturer's label does not address monitoring of baited and non-baited termite baiting system stations, they shall be monitored no less than once per month during the entire length of the contract.

(2) Termite bait system stations shall be placed according to manufacturer's label. Where the manufacturer's label does not address termite baiting system station placement, they shall be placed no more than twenty (20) feet apart around the perimeter of the structure as practicable. If bait system stations cannot be installed according to the manufacturer's label or at a maximum of twenty (20) feet apart due to concrete or other obstructions, stations may be placed outside of the obstructions so long as the span between structure and station does not exceed twenty (20) feet. If the span between structure and station exceeds twenty (20) feet, an alternate method of treatment shall be utilized for that section of the structure.

(3) Any deviation from the manufacturer's label or the twenty (20) feet maximum shall require a disclosure signed by the consumer prior to the termite bait or termite baiting system treatment. The disclosure shall include full identification of areas excluded and specify all reasons for not applying the termite bait or termite baiting system according to the manufacturer's label or the twenty (20) foot maximum and shall include all additional supplemental treatment rendered.

(b) Upon termination of the termite bait or termite baiting system contract, the applicator shall make reasonable efforts to remove all components of termite bait or termite baiting systems.

(c) The Board reserves the right to evaluate termite bait or termite baiting systems prior to registration in Oklahoma.

[Source: Added at 19 Ok Reg 13, eff 9-28-01 (emergency); Added at 19 Ok Reg 949, eff 5-13-02]

35:30-17-75.4. Replacements

A clear statement shall be contained in the contract if structural or superficial material with visible termite damage will not be replaced or repaired pursuant to the initial contract. The clear statement shall use the following or similar language, "No replacements of damaged material due to termites or other wood destroying organisms are to be made."

[Source: Added at 19 Ok Reg 13, eff 9-28-01 (emergency); Added at 19 Ok Reg 949, eff 5-13-02]

35:30-17-75.5. Requirements for combination liquid spot and bait and baiting systems treatments

(a) A contract shall identify the specific location where a spot treatment will be performed and the treatment shall meet all minimum standards for the specific location. The spot treatment shall be at least three (3) feet in two (2) or more directions unless the label requires a distance

greater than three (3) feet.

(b) Combination of liquid spot and bait and baiting systems treatments shall be used according to label and the minimum standards. Above-ground bait stations shall be monitored no less than quarterly.

(c) Records of contracts, graphs, monitoring, and applications shall be retained. Upon termination of a contract, the pest control operator shall make an attempt to remove all components of bait and baiting systems.

(d) If property under a combination liquid spot and bait and baiting systems treatment contract becomes infested with subterranean termites, the operator shall treat the property according to the minimum standards.

[Source: Added at 38 Ok Reg 1657, eff 9-11-21]

PART 19. MINIMUM FUMIGATION STANDARDS FOR STRUCTURES

35:30-17-76. Ethylene Dibromide [REVOKED]

[Source: Added at 17 Ok Reg 1018, eff 5-11-00 ; Revoked at 22 Ok Reg 1034, eff 5-26-05]

35:30-17-77. Persons present at the time of releasing the fumigant and during the initial ventilation

There shall be at least two persons, one of whom must be a certified applicator in the fumigation category, present at the time of the releasing of the fumigant and during the initial ventilation. During the interim, the premises shall be adequately safeguarded against entry by any human being.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-78. Notification of local law enforcement officials, etc.

Prior to fumigation of any building or enclosed space, other than a fumigating vault, the certified applicator shall notify and provide the local law enforcement and fire department with the address of the fumigation job, time of gas release, kind of gas to be used, and beginning time of the aeration of the premises.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-79. Premises sealed

Premises to be fumigated shall be sealed in a manner that confines the fumigant to the space intended to be fumigated.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-80. Inspection of premises prior to releasing fumigant

Immediately before releasing the fumigant, the fumigator shall conduct a thorough inspection of the premises to verify that no human beings or pets remain, and that effective precautions have been taken to safeguard occupants of neighboring buildings as set forth below.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-81. Fumigation of apartments within a multiple unit apartment building

Fumigation of apartments within a multiple unit apartment building may be fumigated only after proper sealing of the area being fumigated and after all adjacent apartments beside, above, and below, are vacated, and all the adjacent units shall be properly ventilated during the entire exposure period.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-82. Notification of all dwellings or places of business within 10 feet of building being fumigated

All dwellings or places of business within 10 feet of the building being fumigated must be notified in writing in advance of the fumigation, and all premises within 10 feet must be vacated during the fumigation and aeration periods.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-83. Warning signs

Warning signs shall be posted conspicuously at all entrances of the premise to be fumigated and at the entrances of all adjacent multiple units and structures within 10 feet and kept there during the entire fumigation and ventilation period. Signs shall be a minimum size of 8½ inches by 11 inches and color to be conspicuous and bearing the word "poison" and display the skull and cross-bones, the name of the fumigant used, and the name, address and telephone number of the fumigator. Before the fumigant is released, all entrances leading directly to the fumigated space shall be closed, sealed, and locked except exits to be used by fumigating crew. These exits shall be closed, sealed, and locked promptly after the fumigant has been released.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 21 Ok Reg 751, eff 4-26-04]

35:30-17-84. Masks worn; antidotes

All members of the fumigating crew must be equipped with a serviceable mask of a type approved by the U.S. Mines, Safety, and Health Administration with correct canister for the type of gas used, and shall wear these masks while in the enclosed space during and after release of the gas, and until initial ventilation is completed. Appropriate antidotes shall be available during every fumigation.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-85. Re-entering fumigated premises

No one other than the fumigator shall be permitted to re-enter the fumigated premises until the fumigator has ascertained by personal inspection, with gas mask and with the suitable test, that the premises are safe for occupancy.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-86. Exceptions

This subchapter does not apply to fumigants used to control insects or other pests outside of buildings, or for spot fumigations, or restrictive treatments inside a building. During the ventilation period of a spot or restrictive fumigation, the premises shall not be occupied by anyone except the fumigator. A warning gas is recommended where the fumigant is comparatively odorless.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

PART 20. MINIMUM STANDARDS FOR BED BUG TREATMENTS

35:30-17-87. General requirements

(a) When used in this section, "Heat as a method of pest control" shall mean performing heat treatments for the purpose of treating and controlling bed bugs or other insects.

(b) Heat as a method of pest control may be used by a licensed commercial or noncommercial entity to treat and control bed bugs or other insects in:

- (1) A whole structure;
- (2) An apartment unit, room, or portion of a room;
- (3) A compartment containing furniture and possessions; and
- (4) Modes of transportation including, but not limited to, vehicles, compartment trailers, buses and RV's.

(c) Prior to and when conducting heat as a method of pest control, applicators shall:

- (1) Comply with applicable fire codes and local ordinances regarding the use of portable heaters, fire suppression systems, and other heat treatment related concerns;
- (2) Only use equipment designed and tested for use as an insect control device for a whole structure, whole room, or apartment unit bed bug heat treatment;
- (3) Carefully inspect heat equipment before use to ensure that it is in proper working order and no foreseeable fire hazards exist;
- (4) When conducting whole room heat treatment, ensure that the equipment has the capacity to raise and hold the temperature in the treated area to a level lethal to bed bugs of at least one hundred twenty (120) degrees Fahrenheit;

- (5) Ensure, through the use of heat sensors, that bed bug harborage areas are raised to a lethal temperature of at least one hundred twenty (120) degrees Fahrenheit and held for a sufficient period of time to kill all bed bugs and eggs depending on the size of the area being treated;
- (6) Place sensors in areas that are insulated or slower to heat to ensure the lethal temperature is reached; and
- (7) Monitor ambient air and surface temperature to avoid damage to heat sensitive items.

[Source: Added at 38 Ok Reg 1657, eff 9-11-21]

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

35:30-17-89. Purpose

These standards are in accordance with the Oklahoma Controlled Industrial Waste Disposal Act, in 63 OS, Section 1-2001 et seq., FIFRA, and Resource Conservation and Recovery Act (RCRA). These standards are intended to provide for the coordination of activities between the Oklahoma Department of Agriculture and the Oklahoma Department of Environmental Quality in the areas of generation, storage, treatment, and disposal of pesticide wastes. In some circumstances, both agencies may exercise jurisdiction over a particular operation.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) (2023 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

(b) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

[Source: Added at 24 Ok Reg 1777, eff 6-25-07 ; Amended at 25 Ok Reg 1050, eff 7-1-08 ; Amended at 26 Ok Reg 1385, eff 7-1-09 ; Amended at 27 Ok Reg 908, eff 7-1-10 ; Amended at 28 Ok Reg 2193, eff 7-25-11 ; Amended at 29 Ok Reg 584, eff 7-1-12 ; Amended at 30 Ok Reg 824, eff 7-1-13 ; Amended at 32 Ok Reg 1526, eff 9-11-15 ; Amended at 33 Ok Reg 1170, eff 9-11-16 ; Added at 34 Ok Reg 813, eff 9-11-17 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 37 Ok Reg 971, eff 9-14-20 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 39 Ok Reg 795, eff 9-12-22 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-90. Definitions

In addition to terms defined in the Oklahoma Pesticide Applicator Law the following words or terms, when used in this part, shall have the

following meaning, unless the context clearly indicates otherwise:

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Disposal" means the final disposition of controlled industrial waste and shall include any discharge, deposit, injection, dumping, spilling, leaking, or placing of waste into or on the land or water so that the waste or any constituent may enter the environment, be emitted to the air, or be discharged to any waters, including ground waters.

"Generator" means any person, by geographic location, whose act or process produces controlled industrial waste or recyclable materials identified or listed in Appendix A or whose act first causes a controlled industrial waste or recyclable material to become subject to this subchapter.

"Hazardous materials" means those materials of commerce or manufacture which, if discarded, would be classified as controlled industrial waste.

"Incompatible wastes" means two (2) or more separate and distinct wastes which, when allowed to come into contact with each other, will mix or react so as to generate steam, toxic gases, pressure, extreme heat, flammable volatile gasses or liquids, shock-sensitive substances, or cause fire, explosion, or violent reactions.

"Industrial waste" means a collective term which may include both controlled industrial waste, controlled industrial waste to be recycled, and other industrial wastes.

"Operation" means the receiving, handling, treating, storing, or disposing of controlled industrial wastes in daily operations and the closing of controlled industrial waste facilities during closure operations.

"Other industrial waste" means refuse products which are designated by the Department of Environmental Quality to require special handling, but are not designated as "controlled industrial waste."

"Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of controlled industrial waste, recyclable materials, or hazardous materials which when spilled become controlled industrial waste into or on any land or water.

"Surface impoundment" or **"impoundment"** means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

"Tank" means a stationary device designed to contain an accumulation of controlled industrial waste, which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-91. General requirements for pesticide waste

A commercial applicator of pesticides who generates wastes in excess of the quantities listed in Appendix A of this Chapter in any given month or who accumulates wastes in excess of those quantities at any time is also a generator of controlled industrial waste and is subject to rules adopted by the Oklahoma Department of Environmental Quality. Storage of wastes for more than 90 days by the generator, disposal, or other activities, including treatment, requires a permit from the Department of Environmental Quality.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-92. Handling spills

(a) All uncontained spills of more than ten (10) gallons liquid or twenty-five (25) pounds dry weight of pesticide concentrate or fifty (50) gallons of an application mixture (tank mix) shall be reported within twenty-four (24) hours by telephone and by written notice within three (3) days to Oklahoma Department of Environmental Quality, 405-702-5100 or 800-522-0206, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677 and Pesticide Section, Oklahoma Department of Agriculture, Food, and Forestry, 405-521-3864, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804.

(b) All uncontained spills or backflow of any amount into a public water supply system, as defined by 27A O.S. § 2-6-101(10), shall be reported within twenty-four (24) hours to the Oklahoma Department of Agriculture, Food, and Forestry.

(c) Any person shall be responsible for all costs associated with cleanups resulting from pesticide spills in that person's operation.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 26 Ok Reg 1385, eff 7-1-09 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-17-93. Handling pesticide containers by commercial applicators

The following procedure governs handling of pesticide containers other than bulk pesticide containers by commercial applicators:

(1) Full or partially full containers:

(A) Pesticide containers shall be stored in a secure and locked enclosure.

(B) Pesticide containers shall be free of leaks.

(C) The storage area shall be maintained in good condition without unnecessary debris.

(D) Storage areas shall be identified by signs.

(2) Empty containers. Empty containers shall be stored in a secured area and kept for no more than ninety (90) days following use.

(3) Metal, glass, and plastic containers :

(A) All metal, glass, and plastic containers shall be triple-rinsed or pressure rinsed immediately after the pesticide is removed by the following or equivalent procedures:

(i) Using water or a detergent as a rinse capable of removing the pesticide, each container shall be

filled with rinse equal to approximately ten percent (10%) of the volume of pesticides originally in the container.

(ii) The rinse shall be agitated thoroughly on all interior surfaces of the container. Agitation shall be accomplished by use of agitation equipment approved by the Department or by manual agitation of the rinse.

(iii) The rinsing procedure shall be repeated three times.

(iv) If the rinsate containing the rinse can be used in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, the rinsate may be placed in the containment tank specified for that pesticide. If the rinsate is not classified as a controlled industrial waste upon disposal, it shall be placed in an approved surface impoundment.

(B) Upon completion of the triple-rinsing or pressure rinsing procedures, containers shall be disposed of as follows:

(i) Disposal in any permitted solid waste facility or sanitary landfill so long as all metal and plastic containers are pierced in each end;

(ii) Return, if possible, to the pesticide sales agent or the pesticide manufacturer pursuant to prior agreement; or

(iii) Resale to a third party for recycling or reconditioning.

(C) All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Paper and plastic containers shall be disposed of as follows:

(i) Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface. Shake any pesticides remaining in the opened container into the pesticide mix.

(ii) After cutting and flattening the pesticide containers, dispose of containers in a solid waste facility or sanitary landfill.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 1034, eff 5-26-05 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-17-94. Unused portions of pesticides and rinsate of pesticides which, upon disposal, are classified as hazardous waste

(a) Procedures for constructive recycling by commercial applicators of unused portions of pesticides and rinsate of pesticides that, upon disposal, are classified as hazardous wastes under EPA regulations shall include the following:

(1) Applicators of pesticides may recover and constructively reuse any unused portions of the pesticides and any rinsate by one of the following methods:

(A) Immediate reapplication of the unused portion of the pesticide and rinsate in accordance with label and labeling requirements;

(B) Transferring to a closed containment system meeting the requirement of 35:30-17-95; or

(C) Disposal in a permitted controlled industrial waste facility.

(2) All unused pesticides and rinsate from pesticides classified as a controlled industrial waste upon disposal shall be removed from containment tanks less than ninety (90) days after generation, unless the applicator has obtained a permit from the Oklahoma Department of Environmental Quality for longer periods of storage.

(3) In less than ninety (90) days after the final application for the season of a pesticide classified as a hazardous waste upon disposal, the applicator shall remove the contents of each containment tank, triple rinse or pressure rinse the containment tank by appropriate procedures, and apply the tank contents and rinsate in accordance with label and labeling requirements governing the initial application of the pesticide.

(b) A farmer disposing of waste pesticides from their personal use which are hazardous wastes shall triple rinse or pressure rinse each emptied pesticide container in accordance with 40 CFR 261.33 (c) and dispose of the pesticide residues in a manner consistent with the disposal instructions of the pesticide label.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 1034, eff 5-26-05]

35:30-17-95. Closed containment systems and commercial applicators

Any commercial applicator who elects to install a closed containment system for pesticides classified as a controlled industrial waste upon disposal, shall have the system completed and operational before the issuance of the certification or license. Requirements for the systems are:

(1) **Containment tanks:**

(A) Different containment tanks shall be installed for different pesticides and rinsate of pesticides. The same containment tanks shall only be used for two or more pesticides when the pesticides are physically and chemically compatible and when the mixing is not prohibited by the labels.

(B) Each containment tank shall:

(i) Be constructed of material of sufficient strength and compatible with the pesticide and rinsate placed within the tank.

- (ii) Be free of leaks, cracks, holes, or other deterioration.
- (iii) Be in good operating order.
- (iv) Be designed to allow drainage of the entire contents and be triple rinsed or pressure rinsed.
- (v) Be equipped with stopcocks at appropriate locations to prevent any leakage of the contents during storage or transfer of the contents.

(C) File final plans and specifications for approval by the Board for the construction of a closed containment system prior to the start of construction. The Board shall consult with and seek the advice of the Oklahoma Department of Environmental Quality prior to approval.

(2) Containment tank foundation:

(A) The containment tank foundation shall be solidly constructed of a material sufficiently impervious to contain leaks, spills, and accumulated pesticides and rinsate of pesticides.

(B) The foundation covering shall be free of cracks.

(C) The foundation shall be sloped to facilitate cleanup of inadvertent spills.

(D) The foundation shall be constructed with a rim of sufficient height to contain run-off from cleanup activities or inadvertent spills and be protected from flood waters.

(E) The foundation shall be constructed to discharge all liquids into a sump.

(F) Tanks shall be located at a sufficient elevation to allow visual detection of leakage of the contents.

(3) Containment systems shall be located a suitable distance from any adjacent buildings, property lines, or public access roads, shall be in a secured area, and shall be protected from flood waters. Site plans showing location of the containment system shall be submitted for the approval of the Board prior to construction.

(4) Final plans and specifications for the construction of a closed containment system shall be submitted to the Board for approval and shall be subject to the approval of the Oklahoma Department of Environmental Quality prior to the start of construction.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00 ; Amended at 22 Ok Reg 1034, eff 5-26-05]

35:30-17-96. Surface impoundments of commercial applicators; unused portions of pesticides and/or rinsate of pesticides which, upon disposal, are not classified as hazardous wastes

(a) Unused portions of pesticides and/or rinsate resulting from the application of pesticides not classified under EPA regulations as a hazardous waste upon disposal should be handled by one of the following methods:

(1) By subsequent, immediate reapplication in accordance with label and labeling requirements for the pesticide.

(2) By deposit in a closed containment system which meets the requirements of 35:30-17-95.

(3) By disposal in surface impoundments which meet the requirements of this Subchapter.

(4) By any methods approved by the Board.

(b) Surface impoundments of commercial applicators must rest on a foundation or base capable of providing:

(1) Adequate support for the required liners.

(2) Sufficient resistance to pressure gradients above and below the liners to prevent failure of the liners due to settlement, compression, or uplift.

(3) Double liners shall be entirely above the seasonal water table.

(c) Surface impoundment liners are defined as a continuous layer of material, beneath and on the sides of a surface impoundment, which restricts the downward or lateral escape of pesticides, pesticide rinsate, and/or any leachate.

(1) The bottom and all sides of the surface impoundment shall be constructed with two liners separated by a barrier of sand or other porous material which is at least one (1) foot thick.

(2) Liners shall have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrologic forces), physical contact with pesticides and/or pesticide residues, rinsate and/or leachate to which they are exposed, stress of installation, and/or stress of daily operation.

(3) Liners shall have tight seams and joints and cannot contain tears, punctures, or blisters.

(4) Liners shall extend to the top of the dike required under (e) of this Section.

(d) A leachate detection system approved by the Department shall be placed between the liners required in (c) of this Section.

(1) The leachate detection system shall be placed above the lower liner at the lowest point of the excavation to assure that any seepage from the upper layer will percolate to this point.

(2) The leachate detection system shall be constructed to permit sampling from an accessible surface location.

(3) The leachate detection system shall be monitored weekly by the owner or operator; if a leak is detected, the impoundment shall be closed as required in 35:30-17-98.

(e) Surface impoundments shall be surrounded by levees (dikes) that are designed, constructed, and maintained with sufficient structural integrity to prevent any failure of the levees (dikes).

(1) The base of the levee (dike), at land surface level, shall be of sufficient width to support the height of the levee (dike).

(2) The height of the levee (dike) shall be at least two feet (2') above the 100 year flood plain specified by the U.S. Geological Survey.

(f) Surface impoundments shall be of sufficient depth to permit a minimum free-board of at least two feet (2') below the top surface of the

dike.

(g) Surface impoundments shall be equipped with a cover of translucent material and shall be constructed in compliance with all applicable local building codes. Surface impoundments shall be enclosed within a fence of sturdy material, at least six feet (6') in height, with a locked gate. At the option of the owner or operator, containment tanks and container storage may be placed in the same enclosure.

(h) Surface impoundments shall be located 100 feet within property lines, and at least 300 feet from personal dwellings and public facilities.

(i) Site plans shall be submitted for approval by the Board prior to any new construction of surface impoundments. These plans may be rudimentary; the purpose of the submission is to avoid unnecessary expense by the applicator.

(j) File final plans and specifications for approval by the Board for the construction of surface impoundments prior to the start of construction. The Board may consult with and seek the advice of Waste Management of the Oklahoma Department of Environmental Quality prior to approval.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-97. Schedule for implementation of surface impoundments by commercial applicators

(a) Commercial applicators may continue to use existing surface impoundments

(1) Which, upon monitoring, are approved by the Board.

(2) Which meet all requirements of 35:30-17-96.

(b) Plans and specifications for modifications to existing surface impoundments shall be filed with, and approved by, the Board, prior to the start of construction. The Board may consult with and seek the advice of Waste Management of the Oklahoma Department of Environmental Quality prior to approval.

(c) Surface impoundments in operation at the effective date of this Subchapter which, upon monitoring, are not approved by the Board and/or which cannot be brought into compliance with the requirements of 35:30-17-96 shall be permanently closed no later than December 31, 1984. The contents of these surface impoundments shall be left undisturbed to evaporate; any solid residues remaining after evaporation of all liquids shall be removed and disposed of at a permitted controlled industrial waste disposal facility; and the excavation shall be filled under the supervision or with the prior approval of the Board.

[Source: Amended at 12 Ok Reg 3408, eff 7-11-95 (emergency); Amended at 13 Ok Reg 1863, eff 6-14-96 ; Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-98. Closing of a surface impoundment

Whenever violative levels of pesticides classified as a controlled industrial waste upon disposal are detected in any sample taken from a surface impoundment, whether the surface impoundment was in operation at the effective date of this subchapter or installed after the effective date of this subchapter, the surface impoundment may be immediately and permanently closed and, if closed, all contents shall be

removed and disposed of at a permitted controlled industrial waste disposal facility. The financial responsibility of closing a surface impoundment belongs to the commercial applicator and/or property owner.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

35:30-17-99. Controlled industrial pesticide waste generated by commercial applicator

Commercial applicators who generate controlled industrial pesticide waste and do not comply with this subchapter shall be subject to the rules governing controlled industrial pesticide waste under the jurisdiction of the Oklahoma Department of Environmental Quality.

[Source: Amended at 17 Ok Reg 1018, eff 5-11-00]

PART 22. WOOD INFESTATION REPORTS

35:30-17-100. Compliance and violations

- (a) Any wood infestation report (WIR) issued that is not in compliance with these rules shall be inaccurate, misleading, or fraudulent.
- (b) Any person who issues a WIR that fails to comply with the provisions of these rules shall be in violation for failure to perform work according to minimum standards.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03]

35:30-17-101. General requirements for WIRs

- (a) "Wood destroying insect" means any insects, other than termites, which damage or destroy wood or other cellulose materials, including but not limited to carpenter ants, carpenter bees, and powder post beetles. This term shall not include fungi which inhabit or destroy wood or other cellulose materials, health hazard molds, or stain fungi.
- (b) WIRs shall be based on a thorough visual inspection and provide an accurate written disclosure of the presence or absence of termites and other wood destroying insects and the presence or absence of damage caused by termites or other wood destroying insects.
- (c) Each WIR shall be made on a form prescribed by the Board.
- (d) Copies of the WIR shall be provided to each of the following:
 - (1) The person purchasing the WIR.
 - (2) The files of the business responsible for the WIR.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03 ; Amended at 25 Ok Reg 1818, eff 7-1-08]

35:30-17-102. Uses of the WIR

- (a) A WIR used as a basis for recommendations for remedial treatment for termites or other wood destroying insects shall disclose the following:
 - (1) Presence of live termites or other wood destroying insects.

- (2) Evidence of a previous infestation and no visible evidence of a treatment to address it.
- (b) A WIR used as a basis for recommendation of preventive treatment for termites or other wood destroying insects shall identify the presence of substantial conditions conducive to infestation by termites or other wood destroying insects.
- (c) The WIR shall include a statement indicating if the report is used as the basis for remedial or preventive treatment.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03 ; Amended at 25 Ok Reg 1818, eff 7-1-08]

35:30-17-103. Qualifications

- (a) Any person performing an inspection for a WIR shall be a certified applicator or a certified service technician.
- (b) Any person issuing a WIR shall be a certified applicator, certified in structural pest control.
- (c) The business responsible for the WIR shall have a current license in structural pest control.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03]

35:30-17-104. Minimum information required for a WIR

- (a) A WIR shall include, but not be limited to, the following:
 - (1) The address or location of the property inspected.
 - (2) The type of construction as determined by visual inspection, including, but not limited to, the following:
 - (A) Specify the type of stemwall, whether brick, concrete blocks, or any other type.
 - (B) Specify the type of floor, whether wood, concrete slab, or any other type.
 - (C) Specify any areas under the floor, whether a crawl space, basement, or any other area.
 - (D) Specify the type of exterior, whether wood, wood veneer, stucco, fiberboard, brick or stone, concrete block, aluminum or vinyl siding, or any other type, including combinations of types.
 - (E) Specify the type of piers, whether wood, concrete blocks, or any other type.
 - (3) A description of any inaccessible or visually obstructed areas.
 - (4) A description of any visible conditions conducive to termites or other wood destroying insects, including wood to ground contact, remaining form boards, excessive moisture, debris under or around the structure, visible wood flooring over slab, stucco siding, crawl space clearance resulting in insufficient separation between soil and wood, expansion joints or cracks in slabs, decks in contact with the structure, dense foliage in contact with the structure, wood piles in contact with the structure, or any other condition.
 - (5) A description of visible evidence of termite activity, including live termites, termite tubes or frass, evidence of previous

infestation or treatment, or winged adults.

(6) A description of visible evidence of termite damage.

(7) A description of visible evidence of damage or activity by other wood destroying insects.

(8) If no visible evidence is present, the WIR shall so state.

(b) Each page of the WIR shall indicate the address or location of the property and the date of the inspection.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03 ; Amended at 25 Ok Reg 1818, eff 7-1-08]

35:30-17-105. WIR inspections

(a) Areas to be inspected shall include, but not be limited to, the following:

(1) All structures on the property, unless specifically identified on the WIR.

(2) Areas around the plumbing in bathrooms, kitchens, laundry areas, or any other areas with plumbing.

(3) Window and door frames and sills.

(4) Baseboards, flooring, walls, and ceilings.

(5) Floored attics.

(6) Entrance steps and porches.

(7) Exteriors of slabs or foundations walls.

(8) Exteriors of all structures.

(9) Crawl spaces, including but not limited to, support piers or stiff legs, floor joists, sub floors, sill plates, or foundation walls.

(10) Fireplaces.

(b) Inaccessible areas are not required to be inspected for the WIR, and may include, but are not limited to, the following:

(1) Areas of attics with no flooring.

(2) Interiors of hollow walls, floors, or ceilings.

(3) Structural segments that cannot be accessed without defacing or tearing out lumber, masonry, or finished work, such as enclosed bay windows, buttresses, and other similar areas.

(4) Areas behind or beneath stoves, refrigerators, furniture, built in cabinets, insulation, or floor coverings.

(5) Areas where storage, locks, or other conditions render an inspection impracticable.

(6) Insufficient clearance for inspection of a crawl space.

(c) Any structures on the property not included in the inspection shall be identified on the WIR as not inspected.

(d) Any subsequent inspections shall be considered a follow up inspection.

(e) An ODAFF-1 Form shall be completed on all property transactions or when contesting a WIR issued on a property. An ODAFF-1 Form is not required for routine termite inspections not involving property transactions.

(f) Any routine report not intended for a property transaction shall contain a disclaimer stating it is not intended for a property transaction.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03 ; Amended at 24 Ok Reg 1775, eff 6-25-07 ; Amended at 27 Ok Reg 2441, eff 7-25-10]

35:30-17-106. Posting of notice

(a) Upon completion of an inspection for a WIR, the inspector shall post a durable sign adjacent to the water heater or electric breaker box, beneath the kitchen sink, or in the bath trap that includes the name and address of the inspector, the date of inspection, the purpose of the inspection, and a statement indicating the posted notice shall not be removed under penalty of law.

(b) Any person removing or defacing a posted inspection notice shall be in violation of this section.

(c) The sign shall have a minimum size of two (2) inches by four (4) inches and shall be self sticking.

[Source: Added at 20 Ok Reg 1537, eff 6-12-03]

35:30-17-107. Forms

(a) Form ODAFF-1 [Oklahoma Official Termite and Wood Destroying Insect Report] shall be the official and required form for WIRs and is available for inspection or copy at the offices of the Plant Industry and Consumer Services Division, Oklahoma Department of Agriculture, Food, and Forestry.

(b) The official form may be preprinted by a business, however no alterations or additions to the form shall occur, other than the following:

(1) Name of the business.

(2) Business structural pest control license number.

(3) Business address and telephone number.

(c) Additional documents or addenda shall be listed and attached to the WIR.

(d) Each official form including more than one page, whether printed on the front and back or on separate pages, shall include the total number of pages in the WIR and the page number of each individual page, i.e. "Page One of Three."

[Source: Added at 20 Ok Reg 1537, eff 6-12-03 ; Amended at 25 Ok Reg 1818, eff 7-1-08 ; Amended at 37 Ok Reg 971, eff 9-14-20]

SUBCHAPTER 19. VEGETABLE PLANTS [REVOKED]

35:30-19-1. Definitions [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-19-2. Production of sweet potato plants [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-19-3. Inspection of sweet potato plants [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 21. ORGANIC FOOD [REVOKED]

35:30-21-1. Definitions [REVOKED]

[Source: Amended at 17 Ok Reg 1840, eff 6-12-00 ; Revoked at 20 Ok Reg 55, eff 10-29-02 through 7-14-03 (emergency)¹; Revoked at 21 Ok Reg 347, eff 12-8-03 (emergency); Revoked at 21 Ok Reg 1178, eff 5-27-04]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking a Section, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 35:30-21-1 reverted back to the permanent text that became effective 6-12-00, as was last published in the 2001 Edition of the OAC, and remained as such until revoked again by emergency action on 12-8-03.*

35:30-21-1.1. Organic Program Provisions [EXPIRED]

[Source: Added at 20 Ok Reg 55, eff 10-29-02 through 7-14-03 (emergency)¹; Added at 21 Ok Reg 347, eff 12-8-03 through 7-14-04 (emergency)²]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-03 (after the 7-14-03 expiration of this emergency action), Section 35:30-21-1.1 was no longer effective, and remained as such until added again by emergency action on 12-8-03. For the official text of the emergency rule that was effective from 10-29-02 through 7-14-03, see 20 Ok Reg 55.*

Editor's Note: ²*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-04 (after the 7-14-04 expiration of this emergency action), Section 35:30-21-1.1 was no longer effective. For the official text of the emergency rule that was effective from 12-8-03 through 7-14-04, see 21 Ok Reg 347.*

35:30-21-2. Crop management, fertility practices [REVOKED]

[Source: Amended at 17 Ok Reg 1840, eff 6-12-00 ; Revoked at 20 Ok Reg 55, eff 10-29-02 through 7-14-03 (emergency)¹; Revoked at 21 Ok Reg 347, eff 12-8-03 (emergency); Revoked at 21 Ok Reg 1178, eff 5-27-04]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking a Section, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 35:30-21-2 reverted back to the permanent text that became effective 6-12-00, as was last published in the 2001 Edition of the OAC, and remained as such until revoked again by emergency action on 12-8-03.*

35:30-21-3. Certification, transitional periods [REVOKED]

[Source: Amended at 17 Ok Reg 1840, eff 6-12-00 ; Revoked at 20 Ok Reg 55, eff 10-29-02 through 7-14-03 (emergency)¹; Revoked at 21 Ok Reg 347, eff 12-8-03 (emergency); Revoked at 21 Ok Reg 1178, eff 5-27-04]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking a Section, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 35:30-21-3 reverted back to the permanent text that became effective 6-12-00, as was last published in the 2001 Edition of the OAC, and remained as such until revoked again by emergency action on 12-8-03.*

35:30-21-4. Recordkeeping, separation of produce [REVOKED]

[Source: Amended at 17 Ok Reg 1840, eff 6-12-00 ; Revoked at 20 Ok Reg 55, eff 10-29-02 through 7-14-03 (emergency)¹; Revoked at 21 Ok Reg 347, eff 12-8-03 (emergency); Revoked at 21 Ok Reg 1178, eff 5-27-04]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action revoking a Section, the last effective permanent text of the Section is reinstated. Therefore, on 7-15-03 (after the 7-14-03 expiration of the emergency action), the text of 35:30-21-4 reverted back to the permanent text that became effective 6-12-00, as was last published in the 2001 Edition of the OAC, and remained as such until revoked again by emergency action on 12-8-03.*

SUBCHAPTER 23. ORNAMENTAL PRUNERS [REVOKED]

35:30-23-1. Display of license [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-23-2. Grafting exemption [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-23-3. Pruning [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

35:30-23-4. Cutting back [REVOKED]

[Source: Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-1. Purpose

The rules of this subchapter establish the licensing requirements and regulation of the Oklahoma Industrial Hemp Program pursuant to the Oklahoma Agricultural Code, 2 O.S. § 3-401 et seq. The licensing requirements and regulation of the Oklahoma Industrial Hemp Program shall be administered by the Department and shall conform to the Administrative Procedures Act, 75 O.S. § 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture in Title 35 of the Oklahoma Administrative Code.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 38 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Acceptable Hemp THC Level" means when a laboratory tests a sample, it shall report the total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis and the measurement of uncertainty. The acceptable hemp THC level, for the purpose of compliance with the requirements of the state hemp plan, is when the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol content concentration level on a dry-weight basis produces a distribution or range that includes 0.3% or less.

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

"Cannabis" means the plant that, depending upon its THC concentration level, is further defined as either "hemp" or "marijuana". Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species and Cannabis indica and Cannabis

ruderalis are subspecies thereof. Cannabis refers to any form of the plant where the total delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined. The term "Cannabis" is important in describing regulations that apply to plant production, sampling, or handling prior to determining the plant's THC content.

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

"Controlled Substances Act (CSA)" means the federal statutes, codified at 21 U.S.C. 801-971, establishing federal U.S. drug policy under which the manufacture, importation, exportation, possession, use, and distribution of certain substances is regulated. Because cannabis containing THC concentration levels of higher than 0.3 percent is deemed to be marijuana, a schedule I controlled substance, its regulation falls under the authorities of the CSA. The requirements of the CSA are relied upon for the disposal of cannabis that contains THC concentrations above 0.3 percent.

"Cultivation" means the act of planting, growing, or harvesting industrial hemp and any related agricultural activities.

"Cultivation site" means the contiguous field, building, storage area, or processing area in which one or more varieties of industrial hemp may be lawfully cultivated, stored, or processed.

"Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THCA) into total delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums total delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

"Delta-9 tetrahydrocannabinol", "Delta-9 THC" or "THC" means the primary psychoactive component of cannabis. Hemp production shall be verified as having THC concentration levels of 0.3 percent or less on a dry weight basis.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Growing area" means the portion of a contiguous field or building in which a single variety of industrial hemp is planted, grown, and harvested.

"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. Handling includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process industrial hemp to the premises of another licensed person.

"Industrial hemp" means the plant, *Cannabis sativa* L., and any part of the plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

"Key Participants" means a person or persons who have a direct or indirect financial interest in an entity producing hemp, such as an owner or a partner in a partnership. Executive level corporate employees, including chief executive officer, chief operating officer, and chief financial officer shall be considered Key Participants. Management level positions such as farm, field, and shift managers shall not be considered Key participants.

"License" means authorization by the Department for any person to grow and cultivate industrial hemp on a registered land area as part of the Oklahoma Industrial Hemp Program.

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program. A licensee shall have the ability to remediate noncompliant industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than one percent (1.0%) on a dry-weight basis for retesting as set forth by the Department as long as the noncompliant industrial hemp has a total delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry-weight basis after retesting, and the option to remediate the industrial hemp through the reasonable destruction of the flower or plant that is above three-tenths of one percent (0.3%) on a dry-weight basis. All noncompliant hemp must be tracked and documented. The State Board of Agriculture shall have jurisdiction over such remediation, with includes, but is not limited to, destruction through composting, burning, or other regulated disposal methods if the industrial hemp is not remediated into a final product before processing below three-tenths of one percent (0.3%) on a dry-weight basis.

"Postdecarboxylation" means testing methodologies for THC concentration levels in hemp, where the total potential total delta-9-tetrahydrocannabinol content, derived from the sum of the THC and THCA content, is determined and reported on a dry weight basis. The postdecarboxylation value of THC can be calculated by using a chromatograph technique using heat, known as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The result of this test calculates total potential THC. The postdecarboxylation value of THC can also be calculated by using a high-performance liquid chromatograph technique, which keeps the THCA intact, and requires a conversion calculation of that THCA to calculate total potential THC.

"Processing" means converting industrial hemp into a marketable form, including the production of all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers.

"Processing area" means any physical location in which entire harvested plants are altered by any manner of mechanical, chemical, or other processing techniques. The processing area need not be located on

or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Produce" refers to the propagation of cannabis to produce hemp.

"Storage area" means any physical location in which harvested plants or plant parts are stored. The storage area need not be located on or near the contiguous field or building in which industrial hemp is cultivated but shall be considered as part of the cultivation site.

"Subcontractor" means a person or business entity that has contracted with an institutional licensee and provides supplies, labor, land, or expertise related to the institutional licensee's participation in the Oklahoma Industrial Hemp Program.

"USDA" means the United States Department of Agriculture.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 38 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-3. Application

(a) Any person, eighteen (18) years of age or older, or business entity may participate in in the Oklahoma Industrial Hemp Program by filing an application with the Department for a license:

- (1) Not less than thirty (30) days prior to the planting, cultivation, handling, or processing of any industrial hemp crop; or
- (2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

(b) An applicant shall submit a separate application, pay separate application and inspection fees, and obtain a separate license for each cultivation site.

(c) The application shall be on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name and address of the applicant;
- (2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;
- (3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;
- (4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;
- (5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;
- (6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;

- (7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:
- (A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;
 - (B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and
 - (C) If applicable, a copy of the property lease for the entire duration of the license;
- (8) If the application identifies a contiguous field as the cultivation site:
- (A) A legal description (Section, Township, Range) of the contiguous field;
 - (B) The global positioning location coordinates at the approximate center of the contiguous field; and
 - (C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;
- (9) If the application identifies a building as the cultivation site:
- (A) The physical address of the building;
 - (B) The global positioning location coordinates of the building; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;
- (10) A description of any areas used to store or process plants or plant parts, including but not limited to:
- (A) The physical address or location of any storage areas or processing areas;
 - (B) The global positioning location coordinates of any storage areas or processing areas; and
 - (C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;
- (11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;
- (12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;

(13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and

(14) Acknowledgement and agreement with the following terms and conditions:

(A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;

(B) Any information provided by the applicant or subcontractors may be released by the Department to law enforcement agencies without notice to the applicant or its subcontractors;

(C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling; and

(D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.

(15) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

(d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) EIN number, if the applicant is a business entity, along with the names and email addresses of key participants; and

(3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.

(4) Current criminal history reports for all key participants dated within sixty (60) days prior to the application submission date. A license application shall not be considered complete without all required criminal history reports.

(e) Each applicant and subcontractor shall fully cooperate with the Department, grant the Department physical access to any part of a cultivation site, and allow the Department to conduct inspection and sampling.

(f) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.

(g) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.

(h) Any person, eighteen (18) years of age or older, or business entity that intends to conduct research using industrial hemp shall submit a summary of the research that will be conducted with the application to the Oklahoma Department of Agriculture, Food, and Forestry for

approval.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 38 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-4. Grounds for denial of application

- (a) The Department may consider a number of factors when deciding to grant or deny a license including, but not limited to, the location of the cultivation site; the criminal history of the applicant, subcontractor, or employees thereof; and prior administrative actions taken by the Department against the applicant, subcontractors, or employees thereof.
- (b) The Department's denial of a license may be contested in the manner provided by this subchapter.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 38 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-5. License

- (a) A separate license shall be required for each cultivation site operated by a licensee.
- (b) All licenses expire on December 31 of the year in which the license was issued. Any industrial hemp that is not harvested on or before December 31 shall be declared for inclusion in a subsequent license or destroyed by the licensee.
- (c) Every license issued by the Department shall remain the property of the Department. Possession of a license does not confer any property right or exemption from criminal liability under the Uniform Controlled Dangerous Substances Act to the licensee, subcontractor, or officials or employees thereof that is not expressly described in this subchapter.
- (d) The Department may restrict, limit, or impose conditions on any license that are not similarly imposed on other licensees or cultivation sites.
- (e) Licenses shall not be assigned, transferred, pledged, or otherwise disposed of, alienated, or encumbered.
- (f) Unless the context expressly indicates otherwise, a subcontractor's compliance with the Oklahoma Industrial Hemp Program and the rules of this subchapter shall be sufficient to satisfy the obligations of the licensee to comply with the Oklahoma Industrial Hemp Program and the rules of this subchapter.
- (g) All applications for outdoor cultivation sites shall be submitted on or before July 1.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 38 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-5.1. Land use restrictions

- (a) A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used for residential purposes.
- (b) A licensee shall not grow, handle, process, or store industrial hemp in any outdoor field or site that is located within one thousand (1,000) feet

of a school, daycare, or similar public area frequented by children as determined by the Department.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Added at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-5.2. Restrictions on sale, transfer, and storage

(a) A licensee shall not sell or transfer or permit the sale or transfer of living industrial hemp plants, viable plant parts, or seeds to any person in the state who does not hold an industrial hemp license issued by the Department.

(b) Licensees may transfer up to one (1) pound of industrial hemp plants or plant parts per transfer to testing laboratories, both within and outside the state for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the licensee to ensure compliance with the laws of other states.

(c) A licensee shall not store live industrial hemp plants or propagating stock at any location that has not been approved by the Department on that licensee's application.

(d) Storage of hemp shall be locked and secured.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Added at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-5.3. Establishing records with USDA Farm Service Agency

Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency ("FSA") and shall provide the FSA, at a minimum, the following information:

- (1) FSA-578 Report;
- (2) Name of the producer, which must match the name on the hemp license;
- (3) Acreage report that includes the producer's license number;
- (4) Location and number of lots intended to be planted; and
- (5) Each variety or strain must be reported as a separate lot;
- (6) Research lots may be grown for research purposes only;
- (7) Research lots will report the average planting date if field was planted over several days;
- (8) Greenhouse, Warehouse, or similar indoor facility must follow the same guidance as traditional growers. They must report: location, subfield(s), and planting date(s) for all varieties and end-uses; and
- (9) Crops used for propagation purposes to sell to other producers will report the crop using Se as the intended use when it is seeded in the greenhouse or similar facility. Crop may be reported using the same method as a research grower.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Added at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-6. Continuing obligation to provide information

(a) Every licensee shall have a continuing obligation to provide current information to the Department and FSA. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.

(b) The licensee shall file an amendment to the licensee's application with the Department and FSA no less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.

(c) The licensee shall immediately notify the Department and FSA of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.

(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-6.1. Transportation

Upon the request of the Department or any authorized law enforcement officer, any person transporting industrial hemp shall produce the following documents for inspection:

- (1) Copy of current hemp grower's license;
- (2) Current approved certificate of analysis for the harvested hemp crop; and
- (3) Processor/Handlers license number, name, address, and contact information.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-7. Fees

(a) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable application fee at the rate of Five Hundred Dollars (\$500.00).

(b) Each new, subsequent, or renewed application for a license to cultivate industrial hemp at a particular cultivation site shall require the payment of a nonrefundable site inspection fee calculated at the rate of Five Dollars (\$5.00) per acre on a contiguous field or Thirty-Three Cents (\$0.33) per square foot in a building.

(c) An hourly inspection rate consisting of Thirty-Five Dollars (\$35.00) per hour per inspector for actual time devoted to the inspection of a cultivation site shall be charged following routine or unannounced inspections. The calculation of the hourly inspection rate shall include the inspectors' travel time from the inspectors' duty station to the cultivation site, the time devoted to inspection of the cultivation site, and the inspectors' travel time returning from the cultivation to the

inspectors' duty station.

(d) Application amendments or notifications of material change to the information provided in an application shall not require the payment of additional application fees but may, at the discretion of the Department, require additional inspections and the payment of additional site inspection fees and fees assessed at the hourly inspection rate at the same rate charged for a new application.

(e) Each new, subsequent, or renewed application for a license to process or handle industrial hemp shall require the payment of a nonrefundable application fee as follows:

- (1) One Thousand Dollars (\$1,000.00) for annual sales less than and including Fifty Thousand Dollars (\$50,000.00);
- (2) Two Thousand Five Hundred Dollars (\$2,500.00) for annual sales less than and including Two Hundred Fifty Thousand Dollars (\$250,000.00) but more than Fifty Thousand Dollars (\$50,000.00); and
- (3) Five Thousand Dollars (\$5,000.00) for annual sales greater than Two Hundred Fifty Thousand Dollars (\$250,000.00).

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-8. Hemp seed

Any person who sells hemp seed shall:

- (1) Include a statement on the label which offers a copy of the current Certificate of Analysis and shall provide a copy of the current Certificate of Analysis upon request; and
- (2) Comply with the provisions of the Oklahoma Seed law and rules.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-9. Harvest reports

(a) Not less than thirty (30) days prior to harvest, the licensee shall file a harvest report on a form provided by the Department and shall, at a minimum, contain the following information:

- (1) The name of the licensee and any associated subcontractors;
- (2) The location of the cultivation site or parts thereof wherever situated;
- (3) A description of each variety of industrial hemp growing at the cultivation site;
- (4) The expected date or dates of harvest for each variety of industrial hemp growing at the cultivation site;
- (5) The expected yield for each variety of industrial hemp planted at the cultivation site along with a description of the growing area in which each variety was planted sufficient to calculate the growing area in acres for outdoor cultivation or square feet for indoor cultivation;
- (6) A description of the intended use and disposition of the industrial hemp product, including but not limited to:

- (A) Whether the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of industrial hemp;
 - (B) Whether individual plant parts rather than the whole plant will be sold or otherwise transferred to a third party with sufficient additional information for the Department to identify the price for a specific quantity of plant parts along with a description of the plant parts sold or transferred;
 - (C) A general description of any mechanical, chemical, or other processing techniques applied to the whole plant before sale or transfer to a third party;
 - (D) The name and contact information of the person or business entity to which the whole plant or plant parts will be sold or transferred; and
 - (E) Whether the whole plant or any part thereof will be destroyed after harvest;
- (7) A description of fertilizers, pesticides, or other chemicals applied to each variety of industrial hemp planted at the cultivation site;
 - (8) A description of irrigation or water management practices applied to each variety of industrial hemp planted at the cultivation site;
 - (9) A description of tillage or ground preparation practices applied to each variety of industrial hemp planted at the cultivation site; and
 - (10) A description of the environmental impacts and viability of each variety of industrial hemp planted along with any supporting documentation.
- (b) On or before December 1, the licensee shall supplement the harvest report and declare the actual yield for each variety of industrial hemp planted at the cultivation site and any material change to the information supplied in the harvest report.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-10. Records

- (a) The licensee shall retain the following records for no less than three
- (3) years from the date the record is obtained or generated:
 - (1) All records relating to information supplied in the application for a license;
 - (2) All records relating to the use and disposition of industrial hemp harvested or any plant parts thereof;
 - (3) All records relating to the storage or processing of industrial hemp or any plant parts thereof; and
 - (4) All records relating to the destruction of industrial hemp harvested or any plant parts thereof, including but not limited to, any affidavits, notifications, and electronic records required by this subchapter.

(b) The processor/handler licensee shall retain the following records for three (3) years from the date the record is obtained or generated:

- (1) License number of the grower;
- (2) Copy of the Certificate of Analysis; and
- (3) Amount of hemp purchased from grower.

(c) The licensee shall produce or allow inspection of records at the request of the Department.

(d) The licensee's obligation to retain and produce records shall be satisfied if the subcontractor retains or produces records.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-11. Inspection and testing

(a) The Department shall utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.

(b) The Department may develop laboratory testing methodologies to verify the concentration of total delta-9 tetrahydrocannabinol in industrial hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department. If the Department contracts with another laboratory, the contracted laboratory shall meet the following minimum requirements:

- (1) Analytical testing of samples for total delta-9 tetrahydrocannabinol concentration shall use post-decarboxylation or other similarly reliable methods;
- (2) Testing methodology shall account for the potential conversion of total delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test results shall reflect the total available THC derived from the sum of the THC and THCA content;
- (3) Total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on dry weight basis; and
- (4) A measurement of uncertainty shall be estimated and reported with the lab results. The laboratory shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty.

(c) The Department shall inspect and take samples from any cultivation site and mature Cannabis sativa L. plants located thereon, as follows:

- (1) Within thirty (30) days prior to the anticipated harvest of cannabis plants, a sample from the flower material shall be collected to determine the total delta-9 tetrahydrocannabinol concentration.
- (2) The Department shall send notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing. The licensee, subcontractor, or representative shall be present during routine inspections and grant unrestricted access to the Department.

(3) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.

(4) A producer shall not harvest the cannabis plants prior to collection of samples.

(d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the industrial hemp does not exceed the acceptable hemp THC level.

(e) Industrial pre-harvest hemp sampling shall be conducted according to the Department standard field operating procedures.

(f) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

(g) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-11.1. Allowable testing thresholds

(a) Hemp and processed hemp shall meet the allowable laboratory testing thresholds for medical marijuana and medical marijuana products established by the Oklahoma State Department of Health at 310:681-8-1 and Appendix A.

(b) Processors shall not process, sell, or otherwise transfer any hemp products from any hemp production batch unless samples of the production batch have passed all tests in accordance with this section.

(c) The provisions of this section shall not apply to hemp produced for seed or fiber production.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

35:30-24-12. Violations

(a) The Department may deny, suspend, or revoke a license or fine a licensee upon a finding by the Department that the licensee has violated the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter.

(b) Violations committed by subcontractors or officials and employees thereof shall be considered violations of the licensee.

(c) The fine for violating the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall not exceed Ten Thousand Dollars (\$10,000.00) per violation per day or occurrence.

(d) A violation of the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall be subject to enforcement in accordance with Title 2 O.S. §§ 3-401 *et seq.*

(e) A violation of the provisions of the Oklahoma Industrial Hemp Program and the rules of this subchapter may result in civil action.

(f) If the Department determines that a licensee has negligently violated the Oklahoma Industrial Hemp Program and the rules of this subchapter,

the Department may issue a corrective action plan to the licensee.

- (1) A corrective action plan shall include, but not be limited to:
 - (A) A reasonable date by which the licensee shall correct the negligent violation, which may include destruction of hemp crops in accordance with the rules of this subchapter;
 - (B) A requirement that the licensee shall periodically report to the Department on the compliance status of the licensee with the corrective action plan for a period of not less than two (2) years after the violation; and
 - (C) Any reasonable steps the Department determines necessary to address each negligent violation.
- (2) A licensee shall not have committed a negligent violation if the licensee has made reasonable efforts to grow hemp and the cannabis (marijuana) does not have a delta-9 tetrahydrocannabinol concentration of more than 1.0 percent on a dry weight basis.
- (3) The Department shall monitor and conduct inspections as necessary to determine if the corrective action plan has been implemented as required.

(g) If the Department determines that a licensee has violated the Oklahoma Industrial Hemp Program and rules of this subchapter with a culpable mental state greater than negligence, the Department shall immediately report the licensee to the United States Attorney General and the Oklahoma Attorney General and the violations shall be subject to enforcement in accordance with applicable law.

(h) Violations of the Oklahoma Industrial Hemp Program and the rules of this subchapter shall include, but not be limited to, the following conduct:

- (1) Providing false, misleading, or incorrect information or otherwise engaging in fraud or deception to secure or retain a license;
- (2) Failure to timely, accurately, and truthfully complete and submit any application, report, or request for information from the Department;
- (3) Failure to retain records required by this subchapter or produce such records at the request of the Department;
- (4) Failure to be present or send a representative for a routine inspection;
- (5) Interference with the inspection process, including, but not limited to, refusal to grant unrestricted access to a cultivation site, impeding the sampling of plants, or refusal or failure to fully cooperate with the Department's inspections;
- (6) Failure to timely pay any fee or invoice issued by the Department;
- (7) Planting, growing, harvesting, storing, or processing the plant, *Cannabis sativa L.*, in locations other than the cultivation site described in the application for license or amendments thereto;
- (8) Commingling hemp plant material from one lot with hemp plant material from another lot;

- (9) Refusal or failure to comply with orders of the Department or the rules of this subchapter requiring the destruction of hemp, *Cannabis sativa* L. plants, with a total delta-9 tetrahydrocannabinol concentration of exceeding three-tenths of one percent (0.3%) on a dry weight basis, or any plant parts thereof;
- (10) Handling, processing, or selling non-compliant hemp which enters the stream of commerce;
- (11) Failure to disclose different varieties of *Cannabis sativa* L. plants in a single growing area;
- (12) Failure to follow transportation rules as provided within this subchapter; and
- (13) Processing or handling hemp grown without a license.

[Source: Added at 35 Ok Reg 627, eff 5-16-18 (emergency); Added at 36 Ok Reg 1363, eff 9-14-19 ; Amended at 37 Ok Reg 779, eff 5-22-20 (emergency); Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-13. Destruction

- (a) The licensee shall destroy all *Cannabis sativa* L. plants or plant parts if required by the rules of this subchapter or by order of the Department.
- (b) Destruction of plants shall be conducted pursuant to the USDA Remediation and Disposal Guidelines for Hemp Growing Facilities .
- (c) The licensee shall document the destruction of *Cannabis sativa* L. plants or plant parts in a corrective action plan, as follows:
 - (1) The licensee shall submit a notification of intended destruction, including the time and date of destruction, to the Department not less than five (5) days prior to the date that the licensee intends to undertake the destruction of the *Cannabis sativa* L. plants or plant parts;
 - (2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the *Cannabis sativa* L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than three (3) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete; and
 - (3) An officer or employee of the licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.
- (d) Destruction by incineration shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.
- (e) If a producer has produced cannabis exceeding the acceptable hemp THC level, the material shall be disposed of in accordance with USDA

Remediation and Disposal Guidelines for Hemp Growing Facilities. The material shall be disposed of by one of the following methods: plowing under, mulching or composting, disking, bush mower or chopper, deep burial, or burning.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Added at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-24-14. Hearings and contests

- (a) All administrative actions brought by the Department seeking the imposition of a penalty for the violation of this subchapter and all contests brought by a licensee or subcontractor shall be considered individual proceedings and shall comply with the Administrative Procedures Act, 75 O.S. § 250 et seq., and the rules of the Department.
- (b) The Department shall grant subcontractors legal standing to participate in individual proceedings if the subcontractor is authorized to do so by the licensee that is the subject of the individual proceeding.
- (c) The Department shall initiate an individual proceeding by serving a notice of violation on the licensee and any associated subcontractor listed in the Department's records for the cultivation site in question. An individual proceeding initiated by the Department shall be required for the Department to suspend or revoke a license or impose a fine. The Department shall not be required to initiate an individual proceeding for the denial of an application for a license or to enforce the rules of this subchapter, including but not limited to, ordering the destruction of *Cannabis sativa L.* plants as specified herein.
- (d) A licensee or authorized subcontractor may initiate an individual proceeding contesting the denial of an application, conditions or limitations placed on a license, or order of destruction by filing a petition with the Department. The petition shall state with particularity the factual grounds, arguments, and citation of legal authorities for the contest.
- (e) All individual proceedings shall be heard by an administrative law judge. All evidence and legal arguments shall be offered to the administrative law judge consistent with the regular practices and rules of the Department. The findings and recommendation of the administrative law judge shall be presented to the State Board of Agriculture for a final decision. No new evidence or arguments shall be presented to the State Board of Agriculture.

[Source: Added at 37 Ok Reg 779, eff 5-22-20 (emergency); Added at 38 Ok Reg 1657, eff 9-11-21]

35:30-24-15. Unlicensed growers

- (a) Any person found growing hemp without a license shall be required to destroy all *Cannabis sativa L.* plants and plant parts.
- (b) Destruction of plants by the grower shall be conducted pursuant to the provisions of this act unless the Department provides written authorization for an alternate method of destruction.
- (c) If an unlicensed grower fails to destroy *Cannabis sativa L.* plants as required, the Department shall destroy the plants and pursue legal action against the grower, if necessary, to recover expenses incurred in

destruction of the plants.

[Source: Added at 38 Ok Reg 1657, eff 9-11-21]

SUBCHAPTER 25. SEED

35:30-25-1. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Grower's declaration" or **"Shipper's declaration"** means a written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

"Hybrid" means, when applied to kinds of varieties of seed, the first generation seed of a cross produced by controlling the pollination and by combining: two or more inbred lines; one inbred or a single cross with an open pollinated variety; or two selected clones, seed lines, varieties, or species.

"Mixture" means seed consisting of more than one kind or variety each present in excess of five percent (5%) of the whole. When so mixed, the label should be marked with the word "mixed" or "mixture".

"Retail Seed Dealer" means any person who sells or offers for sale, agricultural seed to consumers for planting.

"Wholesale Seed Dealer" means any person who sells or offers for sale, agricultural seed to retailers, distributors, brokers, or other wholesalers for resale.

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00 ; Amended at 35 Ok Reg 772, eff 9-14-18]

35:30-25-2. Labeling requirements

(a) **Agricultural Seed.** Labeling requirements for agricultural seed are as follows:

- (1) The word "trace" or other nonspecific word is prohibited from the label in expressing any required labeling point.
- (2) Noxious weeds shall be expressed on the label in "Name and Number Per Pound", subject to the limitations in Section 35:30-24-4. The name and number per gram or per ounce cannot be used in expressing noxious weeds. The words "None in Excess" or similar phrases are prohibited in the labeling of noxious weeds.
- (3) Unacceptable abbreviations in labeling seed are not permissible.
- (4) The percent of germination, hard or firm seed, shall be expressed in whole figures.
- (5) Noncertified seed labeled a variety which has been restricted for sale to certified class only by the Federal Seed Act and U.S. Plant Variety Protection Act shall be considered falsely labeled.
- (6) The name of the laboratory testing the seed is not required on the label. Phrases such as "State Tested" or "Tested by Oklahoma Seed Laboratory" are not permitted on the label.

(7) Variety labeling requirements are as follows:

(A) The following kinds of agricultural seeds are generally labeled as to variety and shall be labeled to show the variety name or the words "variety not stated":

- (i) Alfalfa
- (ii) Bahiagrass
- (iii) Barley
- (iv) Bean, field
- (v) Beet, field
- (vi) Brome, smooth
- (vii) Broomcorn
- (viii) Clover, crimson
- (ix) Clover, red
- (x) Clover, white
- (xi) Corn, field
- (xii) Corn, pop
- (xiii) Cotton
- (xiv) Cowpea
- (xv) Fescue, tall
- (xvi) Flax
- (xvii) Lespedeza, striate
- (xviii) Millet, foxtail
- (xix) Millet, pearl
- (xx) Oat
- (xxi) Pea, field
- (xxii) Peanut
- (xxiii) Rice
- (xxiv) Rye
- (xxv) Safflower
- (xxvi) Sorghum
- (xxvii) Sorghum-sudangrass, hybrid
- (xxviii) Soybean
- (xxix) Sudangrass
- (xxx) Sunflower
- (xxxi) Tobacco
- (xxxii) Trefoil, birdsfoot
- (xxxiii) Wheat, common
- (xxxiv) Wheat, durum

(B) If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety". The percentages in this case, which may be shown as "pure seed", shall apply only to seed of the variety named. If separate percentages for the kind and variety are shown, the name of the kind and the name of the variety shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5 percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.

(8) When type is designated, the designation may be associated with the name of the kind but shall in all cases be clearly

associated with the word "type". The percentage, which may be shown as "pure seed", shall apply only to the type designated. If separate percentages for the kind and the type are shown, the percentages shall be clearly associated with the name of the kind and the name of the type.

(A) If the type designation does not include a variety name, it shall include a name descriptive of a group of varieties of similar character; and the pure seed shall be at least 90 percent of one or more varieties all of which conform to the type designation.

(B) If the name of a variety is used as a part of the type designation, the seed shall be of that variety and may contain an admixture of seed of other indistinguishable varieties of the same kind and of similar character; or an admixture of indistinguishable seeds having genetic characteristics dissimilar to the variety name by reason of cross-fertilization with other varieties. In either case, at least 90 percent of the pure seed shall be of the variety named or upon growth shall produce plants having characteristics similar to the variety named. No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 90 percent hybrid seed.

(9) No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than (90) percent hybrid seed.

(10) Agricultural seeds other than those included in the percentage or percentages of kind, hybrid, variety, or type may be expressed as "other crop seeds" or "other crop", but the percentage shall include collectively all kinds, hybrids, varieties, or types not named upon the label.

(b) **Vegetable Seed.** For vegetable seeds which contain other crop, weed seed, or noxious weed seed, labeling shall be attached showing:

- (1) Percent of pure seed
- (2) Percent of inert matter
- (3) Percent of other crop
- (4) Percent of weed seed

(c) **Standard of germination.** The standard of germination for vegetable seed, including hard seed, is as follows:

- (1) Artichoke - 60%
- (2) Asparagus - 70%
- (3) Asparagus bean - 75%
- (4) Bean, garden - 70%
- (5) Bean, lima - 70%
- (6) Bean, runner - 75%
- (7) Beet - 65%
- (8) Broadbean - 75%
- (9) Broccoli - 75%
- (10) Brussels sprouts - 70%
- (11) Burdock, great - 60%
- (12) Cabbage - 75%
- (13) Cabbage, tronchuda - 75%
- (14) Cantaloupe (see Muskmelon)

- (15) Cardoon - 60%
- (16) Carrot - 55%
- (17) Cauliflower - 75%
- (18) Celeriac - 55%
- (19) Celery - 55%
- (20) Chard, Swiss - 65%
- (21) Chicory - 65%
- (22) Chinese cabbage - 75%
- (23) Chives - 50%
- (24) Citron - 65%
- (25) Collards - 80%
- (26) Corn, sweet - 75%
- (27) Cornsalad - 70%
- (28) Cowpea - 75%
- (29) Cress, garden - 75%
- (30) Cress, upland - 60%
- (31) Cress, water - 40%
- (32) Cucumber - 80%
- (33) Dandelion - 60%
- (34) Eggplant - 60%
- (35) Endive - 70%
- (36) Kale - 75%
- (37) Kale, Chinese - 75%
- (38) Kohlrabi - 75%
- (39) Leek - 60%
- (40) Lettuce - 80%
- (41) Muskmelon - 75%
- (42) Mustard, India - 75%
- (43) Mustard, Spinach - 75%
- (44) Okra - 50%
- (45) Onion - 70%
- (46) Onion, Welsh - 70%
- (47) Pak-Choi - 75%
- (48) Parsley - 60%
- (49) Parsnip - 60%
- (50) Pea - 80%
- (51) Pepper - 55%
- (52) Pumpkin - 75%
- (53) Radish - 75%
- (54) Rhubarb - 60%
- (55) Rutabaga - 75%
- (56) Salsify - 75%
- (57) Sorrel - 65%
- (58) Soybean - 75%
- (59) Spinach - 60%
- (60) Spinach, New Zealand - 40%
- (61) Squash - 75%
- (62) Tomato - 75%
- (63) Tomato, husk - 50%
- (64) Turnip - 80%
- (65) Watermelon - 70%

(d) **Marijuana seed.** Labeling requirements for marijuana seed are as follows:

- (1) Company/grower's name
- (2) Company/grower's OMMA license number, if licensed
- (3) Company/grower's seed license number
- (4) Seed name (marijuana)
- (5) Strain name (if unknown, labeled as unknown)
- (6) Origin
- (7) Lot number (number or name identifier)
- (8) Harvest date (date of seed's actual harvest)
- (9) Net weight (g/oz.) or number of seeds

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00 ; Amended at 37 Ok Reg 971, eff 9-14-20]

35:30-25-3. Noxious weed list

The following is the noxious weed list:

- (1) Balloonvine (*Cardiospermum halicacabum*)
- (2) Bindweed, Field (*Convolvulus arvensis*)(*Solanum elaeagni folium*)
- (3) Bindweed, Hedge (*Convolvulus sepium*)
- (4) Blueweed, Texas (*Helianthus ciliaris*)
- (5) Buckwheat, Wild (*Polygonum convolvulus*)
- (6) Cheat or Chess (*Bromus secalinus*)
- (7) Cocklebur (*Xanthium spp.*)
- (8) Corncockle (*Agrostemma githago*)
- (9) Darnel (*Lolium temulentum*)
- (10) Dock (*Rumex spp.*)
- (11) Dodder (*Cuscuta spp.*)
- (12) Foxtail, Giant (*Setaria faberi*)
- (13) Goatgrass, Jointed (*Aegilops cylindrica*)
- (14) Horsenettle (*Solanum carolinense*)
- (15) Johnsongrass (*Sorghum halepense*) Includes *Sorghum aluum* and other indistinguishable seeds.
- (16) Knapweed, Russian (*Centaurea picris*)
- (17) Moonflower or Giant Morningglory (*Calonyction muricatum*)
- (18) Morningglory, Wild (*Ipomoea spp.*)
- (19) Musk Thistle (*Carduus nutans L.*)
- (20) Mustard, Wild (*Brassica spp.*)
- (21) Nightshade, Purple
- (22) Nutgrass (*Cyperus rotundus*)
- (23) Oat, Wild (*Avena fatua*, *Avenasterilis* and other wild, non-cultivated *Avena spp.*)
- (24) Onion, Wild or Garlic (*Allium spp.*)
- (25) Plantain, Bracted (*Plantago aristata*)
- (26) Plantain, Buckhorn (*Plantago lanceolata*)
- (27) Quackgrass (*Agropyron repens*)
- (28) Red Horned Poppy (*Glaucium corniculatum*)
- (29) Sericea Lespedeza (*Lespedeza Cuneata*)
- (30) Scotch Thistle (*Onoprodum acanthium*)
- (31) Serrated Tussock (*Nassella trichotoma*)

- (32) Sicklepod (*Cassia obtusifolia*)
- (33) Sorrel, Sheep or Red (*Rumex acetosella*)
- (34) Thistle, Canada (*Cirsium arvense*)
- (35) Whitetop or Hoary Cress (*Cardaria draba*)
- (36) Yerba De Tajo (*Eclipta alba*)

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-4. Limitations on noxious weed seeds

It is unlawful to sell, offer for sale, or expose for sale any agricultural or vegetable seed in Oklahoma if the noxious weed seed per pound is in excess of the following limitations:

- (1) Bindweed, Field (*Convolvulus arvensis*) - Prohibited
- (2) Yerba De Tajo (*Eclipta alba*) - Prohibited
- (3) Red Horned Poppy (*Claucium corniculatum*) - Prohibited
- (4) Knapweed, Russian (*Centaurea picris*) - Prohibited
- (5) Musk Thistle (*Carduus nutans L.*) - Prohibited
- (6) Nutgrass (*Cyperus rotundus*) - Prohibited
- (7) Scotch Thistle (*Onoprodum acanthium*) - Prohibited
- (8) Serrated Tussock (*Nassella trichotoma*) - Prohibited
- (9) Sicklepod (*cassia obtusifolia*) - Prohibited
- (10) Thistle, Canada (*Cirsium arvense*) - Prohibited
- (11) Whitetop or Hoary Cress (*Cardaria draba*) - Prohibited
- (12) Wild Oat (*Avena fatus*, *Avena sterilis*, and other wild noncultivated *Avena* spp., (In Wheat Only) - Prohibited
- (13) Cocklebur (*Xanthium* spp.) - 3 per lb.
- (14) Jointed Goatgrass (*Aegilops cylindrica*) - 5 per lb.
- (15) Moonflower or Giant Morningglory (*Calonyction muricatum*) - 5 per lb.
- (16) Balloonvine (*Cardiospermum halicacbum*) - 9 per lb.
- (17) Sericea Lespedeza (*Lespedeza Cuneata*) - 9 per lb.
- (18) Wild Oat (*Avena fatua*, *Avena sterilis*, and other wild noncultivated *Avena* spp., Except in Wheat) - 9 per lb.
- (19) Wild Buckwheat (*Polygonum convolvulus*) - 18 per lb.
- (20) Onion, Wild or Garlic (*Allium* spp.) - 18 per lb.
- (21) Wild Morningglory (*Ipomoea* spp.) - 27 per lb.
- (22) Bindweed, Hedge (*Convolvulus sepium*) - 27 per lb.
- (23) Johnsongrass (*Sorghum halepense*) - 45 per lb.
- (24) Quackgrass (*Agrophyron repens*) - 45 per lb.
- (25) Blueweed, Texas (*Helianthus ciliaris*) - 45 per lb.
- (26) Wild Mustard (*Brassica* spp.) - 45 per lb.
- (27) Corncockle (*Agrostemma githago*) - 45 per lb.
- (28) Plantain, Bracted (*Plantago aristata*) - 45 per lb.
- (29) Giant Foxtail (*Setaria faberi*) - 54 per lb.
- (30) Dodder (*Cuscuta* spp.) - 90 per lb.
- (31) Darnel (*Lolium temulentum*) - 90 per lb.
- (32) Dock (*Rumex* spp.) - 90 per lb.
- (33) Horsenettle (*Solanum carolinense*) - 90 per lb.
- (34) Nightshade, Purple (*Solanum elaeagnifolium*) - 90 per lb.
- (35) Plantain, Buckhorn (*Plantago lanceolata*) - 90 per lb.

- (36) Sorrel, Sheep or Red (*Rumex acetosella*) - 90 per lb.
- (37) Cheat or Chess (*Bromus secalinus*) - 200 per lb.
- (38) Sum total noxious weeds (Subject to above limitations) - 200 per lb. (Except in Yellow bluestem, Caucasian bluestem, and chaffy grasses, the sum total noxious weeds shall not exceed 500 per lb.)

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-5. Standard of germination and purity

- (a) Agricultural seed is prohibited from being sold, offered, or exposed for sale in Oklahoma if:
- (1) The percentage germination, including hard seed, is below 70.
 - (2) The percentage mechanical purity is below 90, except hybrid, or when seed is sold and labeled as a mixture.
 - (3) The percentage of inert matter is more than 10.
 - (4) The percentage of weed seed is more than 2
- (b) This section does not apply to Buffalograss, Johnsongrass, or chaffy grasses of the following kinds: Bluegrass spp., Bluestem spp., Bromus spp., Dallisgrass, Fescue spp. (except Tall Fescue), Grama spp., Orchardgrass, Wheatgrass, and Yellowgrass Indiangrass, also any other chaffy grasses or other special seed that are commonly marketed below the above standards.

35:30-25-6. Date of test

The date of test on the tag or label for agricultural and vegetable seeds shall not be more than nine (9) months prior to sale, except hermetically sealed containers may be thirty-six (36) months. This means all carry-over seed, for which the date of test is more than nine (9) or thirty-six (36) months old, whichever applies, shall be retested. The person upon whose premises the seed is located shall be held responsible for obtaining a new test and subsequently relabeling the seed.

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-7. Variety labeling

- (a) correct varietal labeling is the responsibility of the person labeling the seed unless that person holds a valid "Grower's or Shipper's Declaration" showing signature and address of grower or shipper, date and quantity of purchase, state and county where grown, grower's or shipper's lot number, purchaser's receiving lot number, date and place of delivery, and other information necessary to ensure the identity of the variety declared. Any shipper's declaration as to variety shall be substantiated by a valid grower's declaration or shipper's declaration. A valid grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed like invoice and labels.
- (b) If incorrect varietal labeling is determined by field or laboratory test and the retail or wholesale seed dealer holds a valid grower's or shipper's declaration, the responsibility for misrepresentation as to variety rests with the grower or shipper signing the declaration.

(c) Retail or wholesale seed dealers who blend several lots of the same variety purchased from different growers shall be responsible for correct varietal labeling unless bulking records, grower's or shipper's declarations, and file samples are kept on each lot going into the blend.

(d) Grower's or shipper's declarations shall be obtained prior to labeling.

(e) The grower who signs a "Grower Declaration" as to variety is required under the State and Federal Seed Act to keep a sample of seed, a copy of the grower's declaration on the seed sold as to variety; also tags, labels, and/or invoice of parent seed which was the basis for his declaring the variety.

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00 ; Amended at 35 Ok Reg 772, eff 9-14-18]

35:30-25-8. Sampling and analyzing seed

The methods of sampling, analyzing and testing of seed, tolerances, and methods of determination applied under the Oklahoma Seed Law shall be those adopted in the "Rules for Seed Testing of Association of Official Seed Analysts" or under the Federal Seed Act Rules and Regulations by the United States Department of Agriculture and as each may be subsequently amended, except that no tolerance is permitted for Prohibited Noxious Weed Seed.

35:30-25-9. Laboratory sample requirements

- (a) Official seed samples drawn by inspectors in the enforcement of the State Seed Law shall have first priority for testing in the Seed Laboratory.
- (b) Service samples incident to tagging and labeling for compliance with the Seed Law shall have priority in the order received. All other service samples shall be analyzed as time and facilities permit.
- (c) The State Seed Laboratory shall not be obligated to analyze uncleaned, unprocessed, and other time-consuming samples, or samples which obviously do not meet State Seed Law requirements, except as time and facilities shall permit.
- (d) All service samples submitted for analysis shall be charged according to the set Laboratory fee schedule.

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-10. Identification and size of samples

Identification and size of seed samples submitted for analysis shall comply with the following:

(1) Identification of Samples:

(A) Samples sent common carrier should be addressed to the: Oklahoma Department of Agriculture Agricultural Laboratory, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105-4298 or samples sent U.S. Mail should be addressed to the: Oklahoma Dept of Agriculture Agricultural Laboratory, P O Box 528804, Oklahoma City, Oklahoma 73152-8804.

(B) Information accompanying the samples should state the test desired, such as "Complete Analysis (purity and germination)", "Germination Only", "Purity Analysis Only", "Noxious Weed", or "Phenol". Samples which do not indicate the test desired shall be given a complete analysis and charged accordingly.

(C) Treated seed shall show the name of the treatment. No purity analysis on treated seed shall be made.

(D) Samples should show the kind and variety of seed.

(E) Samples should be identified with a lot number.

(F) Samples should show the name, phone number, and complete mailing address of the sender.

(2) **Size of samples:** When sending samples to the State Seed Laboratory, the following are the minimum weights to be submitted for a complete analysis.

(i) White, Small hop, or Alsike clover and small grass seeds - 2 oz.

(ii) Alfalfa, Korean lespedeza, Foxtail millet, Annual - ryegrass, 5 oz.

(iii) Sudangrass, Sorghum, and Proso millet - 1 lb.

(iv) Wheat, Barley, Oat, and - Rye 2 lbs. Corn, Bean, Pea, Cowpea, Soybean, Hairy vetch, and Cotton - 2 lbs.

[Source: Amended at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-11. Special requirements on hybrid sorghum, hybrid sorghum × sudangrass, and hybrid sudangrass seed sold in Oklahoma [REVOKED]

[Source: Amended at 14 Ok Reg 2385, eff 4-2-97 (emergency); Amended at 14 Ok Reg 2463, eff 6-26-97 ; Revoked at 15 Ok Reg 1373, eff 4-27-98]

35:30-25-12. Special requirements on hybrid wheat seed sold in Oklahoma [REVOKED]

[Source: Revoked at 14 Ok Reg 2385, eff 4-2-97 (emergency); Revoked at 14 Ok Reg 2463, eff 6-26-97]

35:30-25-13. Special requirements on rye labeled as to variety sold in Oklahoma Dept. of Agriculture [REVOKED]

[Source: Revoked at 17 Ok Reg 1843, eff 6-12-00]

35:30-25-14. Seed advertisements

Any person that places or causes to be placed a seed advertisement in any statewide or local publication or bulletin shall include the retail or wholesale seed dealer's license number in the advertisement.

[Source: Added at 22 Ok Reg 2309, eff 7-11-05 ; Amended at 35 Ok Reg 772, eff 9-14-18]

35:30-25-15. Schedule of seed program fees

- (a) The annual license fee shall be Twenty Five Dollars (\$25.00) for each retail seed dealer, One Hundred Dollars (\$100.00) for each wholesale seed dealer, and One Hundred Dollars (\$100.00) for each medical marijuana seed dealer. Each license shall expire on June 30 of each year.
- (b) Wholesale seed dealers need only secure a single wholesale dealer's license to engage in both retail and wholesale sales.
- (c) Failure to remit a retail, wholesale, or medical marijuana seed dealer license renewal application within thirty (30) days after the renewal date shall result in a penalty equal to the cost of an additional license.
- (d) A semi-annual inspection fee of eight cents (\$0.08) per hundred pounds shall be paid by every person responsible for labeling and distributing seed to a retail seed licensee in Oklahoma, or each retail seed licensee who processes and sells seed to the consumer on which the inspection fee has not been paid.
- (1) The minimum semi-annual inspection fee shall be Ten Dollars (\$10.00).
 - (2) A semi-annual affidavit, stating the number of pounds of seed sold for the preceding six (6) months, shall be filed no later than the last day of January and July and the semi-annual inspection fee shall be paid upon filing of the affidavit.
 - (3) Failure to submit the semi-annual affidavit and inspection fee on time shall result in an inspection fee penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater.
- (e) If the State Board of Agriculture finds any deficient semi-annual inspection fees due as a result of an audit of the records of any person subject to the provisions of Sections 8-21 through 8-28 of Title 2 of the Oklahoma Statutes, the Board shall assess a penalty fee of ten percent (10%), not to exceed Two Thousand Dollars (\$2,000.00) of the amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient semi-annual inspection fees due and payment of the entire amount shall be made within thirty (30) calendar days of notice of the deficiency.

[Source: Added at 27 Ok Reg 903, eff 7-1-10 ; Amended at 35 Ok Reg 772, eff 9-14-18 ; Amended at 39 Ok Reg 795, eff 9-12-22]

35:30-25-16. Marijuana seed

- (a) Marijuana seed shall be sold to medical marijuana adult patient licensees at dispensaries licensed by the Oklahoma Medical Marijuana Authority (OMMA).
- (b) Marijuana seed shall be sold by wholesale seed dealer licensees to:
- (1) Wholesale seed dealer licensees;
 - (2) Dispensaries licensed by the OMMA; and
 - (3) Growers licensed by the OMMA.
- (c) All sales of marijuana seed shall comply with OMMA administrative rules relating to product sales.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

SUBCHAPTER 27. FEED

PART 1. COMMERCIAL FEED

35:30-27-1. Commercial feed terminology

(a) The names and definitions for commercial feeds shall be the Official Definitions of Feed Ingredients adopted by the Association of American Feed Control Officials (AAFCO), except as the Board designates in specific cases.

(b) The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, except as the Board designates in specific cases.

(c) The following commodities are declared exempt from the definition of commercial feed, under the Oklahoma Commercial Feed Law: raw meat; and hay, loose salt, straw, stover, silages, cobs, husks, and hulls when unground and when not mixed or intermixed with other materials. Provided that these commodities are not adulterated within the meaning of Section 8-41.7(1) of the Oklahoma Commercial Feed Law.

(d) The term "Quantity Statement" means the net weight (mass), net volume (liquid or dry), or count.

[Source: Amended at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00 ; Amended at 18 Ok Reg 1444, eff 5-25-01]

35:30-27-2. Label format of feed

(a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this subchapter and in the following general format.

(1) Product name and brand name, if any, as stipulated in 35:30-27-3(a)(1).

(2) If a drug is used, label as stipulated in 35:30-27-3(a)(2).

(3) Purpose Statement as stipulated in 35:30-27-3(a)(3).

(4) Guaranteed analysis as stipulated in 35:30-27-3(a)(4).

(5) Feed ingredients as stipulated in 35:30-27-3(5).

(6) Name and principal mailing address of the manufacturer or person responsible for distributing the feed as stipulated in 35:30-27-3(a)(7).

(7) Directions for use and precautionary statements as stipulated in 35:30-27-3(6).

(8) Net weight or mass net volume or count and metric equivalent.

(b) The presentation of information and the label format shall meet the requirements of applicable State and Federal packaging regulations. "Uniform Packaging and Labeling Regulation" as adopted by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology (NIST) Handbook 130 and amendments.

- (1) The information required within 35:30-27-2(a)(1)-(5) and (7)-(8) shall appear entirely on one side of the label or on one side of the container.
 - (2) Additional information besides that required within 35:30-27-2 may be placed on a supplemental label.
- (c) Customer-formula feed shall be accompanied with the information prescribed in this subchapter using labels, invoices, delivery tickets, or other shipping documents bearing the following information:
- (1) The name and address of the manufacturer.
 - (2) The name and address of the purchaser.
 - (3) The date of sale or delivery.
 - (4) The customer-formula feed name and brand name, if any.
 - (5) The product name and net weight of each commercial feed and each other ingredient used in the mixture; except when approved by the Board, the manufacturer may affix the statement "Customer-formula on file" in lieu of ingredient list. This formula shall be made available to the feed purchaser upon request.
 - (6) The directions for use and precautionary statements as required by 35:30-27-6 and 35:30-27-7.
 - (7) If a drug containing product is used:
 - (A) The purpose of the medication (claim statement).
 - (B) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with 35:30-27-4(d).

[Source: Amended at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-3. Label information

- (a) Commercial feed, other than customer-formula feed, shall be labeled with the information prescribed in this rule.
- (1) Product name and brand name, if any.
 - (A) The brand or product name shall be appropriate for the intended use of the feed and shall not be misleading. If the name indicates the feed is made for a specific use, the character of the feed shall conform to that use. A commercial feed for a particular animal class shall be suitable for that purpose.
 - (B) Commercial, registered brand, or trade names are not permitted in guarantees or ingredient listings and only in the product name of feeds produced by or for the firm holding the rights to the name.
 - (C) The name of a commercial feed shall not be derived from one or more ingredients of a mixture to the exclusion of other ingredients and shall not be one representing any components of a mixture unless all components are included in the name: provided, that if any ingredient or combination of ingredients is intended to impart a distinctive characteristic to the product which is of significance to the purchaser, the name of that ingredient or combination of ingredients may be used as part of the

brand name or product name if the ingredients or combination of ingredients is quantitatively guaranteed in the guaranteed analysis, and the brand or product name is not false or misleading.

(D) The word "protein" shall not be permitted in the product name of a feed that contains added non-protein nitrogen.

(E) When the name carries a percentage value, it shall be understood to signify protein and/or equivalent protein content only, even though it may not explicitly modify the percentage with the word "protein": provided, that other percentage values may be permitted if they are followed by the proper description and conform to good labeling practice. Digital numbers shall not be used in a manner as to be misleading or confusing to the customer.

(F) Single ingredient feeds shall have a product name in accordance with the designated definition of feed ingredients as recognized by the Association of American Feed Control Officials except as the Board designates.

(G) The word "vitamin", a contraction of vitamin, or any word suggesting vitamin can be used only in the name of a feed which is represented to be a vitamin supplement, and which is labeled with the minimum content of each vitamin declared, as specified in 35:30-27-4(c).

(H) The term "mineralized" shall not be used in the name of the feed except for "TRACE MINERALIZED SALT". When so used, the product shall contain significant amounts of trace minerals which are recognized as essential for animal nutrition.

(I) The terms "meat" and "meat by-products" shall be qualified to designate the animal species from which the meat and meat by-products are derived. All products of this nature derived from ruminant sources shall bear the **"WARNING STATEMENT: DO NOT FEED TO CATTLE OR OTHER RUMINANTS"** per Section 409, the Federal Food, Drug and Cosmetic Act.

(2) If a drug is used:

(A) The word "medicated" shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.

(B) Purpose statement as required in 35:30-27-3(a)(3) (A)&(B).

(C) The purpose of medication (claim statement) as stated on the label.

(D) An active ingredient statement listing the active drug ingredients by their established name and the amounts in accordance with 35:30-27-4(d).

(3) Purpose Statement

(A) The purpose statement shall identify the specific species and animal class(es) for which the feed is intended as defined in AAFCO Model Regulation 3,(a),(4) as may be

amended.

(B) The manufacturer shall have flexibility in describing in more specific and common language the defined animal class, species, and purpose while being consistent with the category of animal class defined in AAFCO Model Regulation 3(a)(4), as may be amended, which may include, but is not limited to, weight range(s), sex, or ages of the animal(s) for which the feed is manufactured.

(C) The purpose statement may be excluded from the label if the product name includes a description of the species and animal class(es) for which the product is intended.

(D) The purpose statement of a premix for the manufacture of feed may exclude the animal class and species and state "For Further Manufacture of Feed" if the nutrients contained in the premix are guaranteed and sufficient for formulation into various animal species feeds and premix specifications are provided by the end user.

(E) The purpose statement of a single purpose ingredient blend, like a blend of ingredients of mammalian origin are restricted to non-ruminant feeds unless exempted by 21 CFR 599.200 of the Federal Food, Drug and Cosmetic Act, animal protein products, milk products, fat products, roughage products, or molasses products may exclude the animal class and species and state "For Further Manufacture of Feed" if the label guarantees of the nutrients contained in the single purpose nutrient blend are sufficient to provide for formulation into various animal species feeds.

(4) The sequence of nutritional guarantees shall be crude protein, non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber, calcium, phosphorous, salt, and sodium shall be used when the guarantee is stated. Other required guarantees shall follow the guidelines of the current AAFCO Model Bill requirements and/or the provisions of the AAFCO Publication.

(b) The label format for the required components of a commercial feed shall conform to the guidelines established within Regulation 3(a)(4)(I thru XI) of the AAFCO Model Bill as amended.

(c) All other commercial feeds, except those specifically described within the AAFCO Model Bill shall bear a label stating the following information and guarantees, unless exempted, and in the order listed.

(1) Animal classes and species for which the product is intended.

(2) Guaranteed analysis for the following items.

(A) Minimum percentage of crude protein.

(B) Maximum or minimum percentage of equivalent crude protein from non-protein nitrogen as required in 35:30-27-4(e).

(C) Minimum percentage of crude fat.

(D) Maximum percentage of crude fiber.

(E) Minerals, in formula feeds to include, in the following order:

- (i) minimum and maximum percentages of calcium (Ca),
- (ii) minimum percentage of phosphorus (P),
- (iii) minimum and maximum percentages of salt (NaCl), and
- (iv) minimum and maximum percentage of total sodium shall be guaranteed only when total sodium exceeds that furnished by the maximum salt guarantee, and
- (v) other minerals.

(F) Minerals in feed ingredients, as specified by the official definitions of the Association of American Feed Control Officials.

(G) Vitamins in the terms as specified in 35:30-27-4(c).

(H) Total sugars as invert on dried molasses products being sold primarily for their sugar content.

(I) Viable lactic acid producing microorganism for use in silages in terms specified in 35:30-27-4(g).

(J) Exemptions

(i) A mineral guarantee for feed, excluding those feeds manufactured as complete feeds and for feed supplements intended to be mixed with grain to produce a complete feed for swine, poultry, fish, and veal and herd milk replacers, is not required when:

(I) The feed or feed ingredient is not intended or represented or does not serve as a principal source of that mineral to the animal; or

(II) The feed or feed ingredient is intended for non-food producing animals and contains less than 6.5% total mineral content.

(ii) Guarantees for vitamins are not required when the commercial feed is neither formulated for nor represented in any manner as a vitamin supplement.

(iii) Guarantees for crude protein, crude fat, and crude fiber are not required when the commercial feed is intended for purposes other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, like drug premixes, mineral or vitamin supplements, and molasses.

(iv) Guarantees for microorganisms are not required when the commercial feed is intended for a purpose other than to furnish these substances or they are of minor significance relating to the primary purpose of the product, and no specific label claims are made.

(v) The indication for animal class(es) and species is not required on single ingredient products if the ingredient is not intended, represented, or defined for a specific animal class(es) or species.

(5) Feed ingredients, collective terms for the grouping of feed ingredients, or appropriate statements as provided under the provisions of 8-41.5(1)(d) of the Oklahoma Commercial Feed Law.

(A) The name of each ingredient as defined in the Official Publication of the Association of American Feed Control Officials, common or usual name, or one approved by the Board.

(B) Collective terms for the grouping of feed ingredients as defined in the Official Definitions of Feed Ingredients published in the Official Publication of the Association of American Feed Control Officials in lieu of the individual ingredients; provided that:

(i) When a collective term for a group of ingredients is used on the label, individual ingredients within that group shall not be listed on the label.

(ii) The manufacturer shall provide the feed control official, upon request, with a list of individual ingredients, within a defined group, that are or have been used in manufacturing facilities distributing in or into Oklahoma.

(6) Directions for use and precautionary statements or reference to their location if the detail feeding directions and precautionary statements required by 35:30-27-7 and 35:30-27-8 appear elsewhere on the label.

(7) Name and principal mailing address of the manufacturer or person responsible for distributing the feed. The principal mailing address shall include the street address, city, state, and zip code; however, the street address may be omitted if it is shown in the current city directory or telephone directory.

[Source: Amended at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-4. Expression of guarantee

(a) The guarantees for crude protein, equivalent protein from non-protein nitrogen, amino acids, crude fat, crude fiber, acid detergent fiber and mineral guarantees (when required) of commercial feeds shall be in terms of percentage as stated within 35:30-27-3(b) and (c).

(b) Mineral guarantees shall be as follows:

(1) When the calcium and salt guarantees are given in the guaranteed analysis, they shall be stated and conform to the following:

(A) When the minimum is below 2.5%, the maximum shall not exceed the minimum by more than 0.5 percentage point.

(B) When the minimum is 2.5% but less than 5.0%, the maximum shall not exceed the minimum by more than one percentage point.

(C) When the minimum is 5.0% or greater, the maximum shall not exceed the minimum by more than 20% of the minimum and in no case shall the maximum exceed the minimum by more than five percentage points.

(2) When required, guarantees for minimum and maximum total sodium and salt; minimum potassium, magnesium, sulfur, phosphorus and maximum fluoride shall be stated in terms of percentage. Other minimum mineral guarantees shall be stated in parts per million (ppm) when the concentration is less than 10,000 ppm and in percentage when the concentration is 10,000 ppm (1%) or greater.

(3) Products labeled with a quantity statement (e.g., tablets, capsules, granules, or liquid) shall state mineral guarantees in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with the quantity statement and direction for use.

(c) Guarantees for minimum vitamin content of commercial feeds and feed supplements, when made, shall be stated on the label in milligrams per pound of feed except that:

(1) Vitamin A, other than precursors of Vitamin A, shall be stated in International or USP units per pound.

(2) Vitamin D, in products offered for poultry feeding, shall be stated in International Chick Units per pound.

(3) Vitamin D for other uses shall be stated in International or USP units per pound.

(4) Vitamin E shall be stated in International or USP Units per pound.

(5) Concentrated oils and feed additive premixes containing Vitamins A, D and/or E may, at the option of the distributor, be stated in units per gram instead of units per pound.

(6) Vitamin B-12, in milligrams or micrograms per pound.

(7) All other vitamin guarantees shall express the vitamin activity in milligrams per pound in terms of the following menadione; riboflavin; d-pantothenic acid; thiamine; niacin; vitamin B-6; folic acid, choline, biotin, inositol; p-amino benzoic acid; ascorbic acid; and carotene.

(d) Guarantees for drug in commercial feed shall be stated in terms of percent by weight, except:

(1) Antibiotics present at less than 2,000 grams per ton total, of commercial feed shall be stated in grams per ton of commercial feed.

(2) Antibiotics present at 2,000 or more grams per ton total, of commercial feed shall be stated in grams per pound of commercial feed.

(3) Labels for commercial feeds containing growth promotion and/or feed efficiency levels of antibiotics, which are to be fed continuously as the sole ration, are not required to make quantitative guarantees except as specifically noted in the Federal

Food Additive Regulations for certain antibiotics, wherein, quantitative guarantees are required regardless of the level or purpose of the antibiotic.

(4) The term "milligrams per pound" may be used for drugs or antibiotics in those cases where a dosage is given in "milligrams" in the feeding directions.

(e) Commercial feeds containing any added non-protein nitrogen shall be labeled as follows:

(1) For ruminants:

(A) Complete feeds, supplements, and concentrates containing added non-protein nitrogen and containing more than 5% protein from natural sources shall be guaranteed as follows: Crude Protein, minimum, % (This includes not more than % equivalent crude protein from non-protein nitrogen.)

(B) Mixed feed concentrates and supplements containing less than 5% protein from natural sources may be guaranteed as follows: Equivalent Crude Protein from Non-Protein Nitrogen, minimum, %

(C) Ingredient sources of non-protein nitrogen like Urea, DiAmmonium Phosphate, Ammonium Polyphosphate Solution, Ammoniated Rice Hulls, or other basic non-protein nitrogen ingredients defined by the Association of American Feed Control Officials shall be guaranteed as follows: Nitrogen, minimum, % Equivalent Crude Protein from Non-Protein Nitrogen, minimum, %

(2) For non-ruminants:

(A) Complete feeds, supplements, and concentrates containing crude protein from all forms of non-protein nitrogen added shall be labeled as follows: Crude Protein, minimum, % (This includes not more than % equivalent crude protein which is not nutritionally available to (species of animal for which feed is intended).)

(B) Premixes, concentrates or supplements intended for non-ruminants containing more than 1.25% equivalent crude protein from all forms of non-protein nitrogen added shall contain adequate directions of use and a prominent statement: "WARNING: This feed shall be used only in accordance with directions furnished on the label".

(f) Mineral phosphatic materials for feeding purposes shall be labeled with the guarantee for minimum and maximum percentage of calcium (when present), the minimum percentage of phosphorus, and the maximum percentage of fluorine.

(g) Guarantees for microorganisms shall be stated in colony forming units per gram (CFU/g) when directions are for using the product in grams, or in colony forming units per pound (CFU/lb) when directions are for using the product in pounds. A parenthetical statement following the guarantee shall list each species in order of predominance.

35:30-27-4.1. Suitability

- (a) A commercial feed, other than a customer formula feed, shall be nutritionally suitable for its intended purpose as represented by its labeling.
- (b) If the Board has reasonable cause to believe a commercial feed is not nutritionally suitable, the Board may request the feed manufacturer to either submit an "Affidavit of Suitability" or an alternative procedure. The alternative method may include verification by a recognized source on Animal Nutrition.
- (c) If the Affidavit of Suitability, or the alternative method of verification is not submitted to the Board by the manufacturer within 30 days of written notification the feed may be deemed adulterated under the Oklahoma Commercial Feed Law and be ordered by the Board for removal from the market place.

[Source: Added at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00 ; Amended at 18 Ok Reg 1444, eff 5-25-01]

35:30-27-5. Ingredients

- (a) The name of each ingredient or collective term for the grouping of ingredients, when required to be listed, shall be the name as defined in the Official Definitions of Feed Ingredients as published in the Official Publications of the Association of American Feed Control Officials, the common or usual name, or one approved by the Board.
- (b) The name of each ingredient shall be shown in letters or type of the same size.
- (c) No references to quality or grade of an ingredient shall appear in the ingredient statement of a feed.
- (d) The term "dehydrated" may precede the name of any product that has been artificially dried.
- (e) A single commercial product defined by the Association of American Feed Control Officials is not required to have an ingredient statement.
- (f) Tentative definitions for commercial feed ingredients shall not be used until adopted as official, unless no official definition exists or the ingredient has a common accepted name that requires no definition, (i.e. sugar).
- (g) When the word "iodized" is used in connection with a feed ingredient, the feed ingredient shall contain not less than 0.005% iodine, uniformly distributed.

[Source: Amended at 17 Ok Reg 2842, eff 7-13-00 ; Amended at 18 Ok Reg 1444, eff 5-25-01]

35:30-27-6. Directions for use and precautionary statements

- (a) Directions for use and precautionary statements on the labeling of all commercial feeds and customer-formula feeds containing additives (including drugs, special purpose additives, or non-nutritive additives) shall:
 - (1) Be adequate to enable safe and effective use for the intended purposes by users with no special knowledge of the purpose and use of the articles; and,

(2) Include, but not be limited to, all information described by all applicable regulations under the Federal Food, Drug, and Cosmetic Act.

(b) Adequate directions for use and precautionary statements are required for feeds containing non-protein nitrogen as specified in 35:30-27-7.

(c) Adequate directions for use and precautionary statements necessary for safe and effective use are required on commercial feeds distributed to supply particular dietary needs or for supplementing or fortifying the usual diet or ration with any vitamin, mineral, or other dietary nutrient or compound.

[Source: Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-7. Non-protein nitrogen

(a) Urea and other non-protein nitrogen products defined in the Official Publication of the Association of American Feed Control Officials are acceptable ingredients only in commercial feeds for ruminant animals as a source of equivalent crude protein. If the commercial feed contains more than 8.75% of equivalent crude protein from all forms of non-protein nitrogen added, or the equivalent crude protein from all forms of non-protein nitrogen, added as such, exceeds one-third of the total crude protein, the label shall bear adequate directions for the safe use of feeds and a precautionary statement: "**CAUTION: USE AS DIRECTED**". The directions for use and the caution statement shall be in type of a size so placed on the label that they shall be read and understood by persons purchasing and using the product.

(b) Non-protein nitrogen defined in the Official Publication of the Association of American Feed Control Officials, when so indicated, are acceptable ingredients in commercial feeds distributed to non-ruminant animals as a source of nutrients other than equivalent crude protein. The maximum equivalent crude protein from non-protein nitrogen sources when used in non-ruminant rations shall not exceed 1.25% of the total daily ration.

(c) On labels for medicated and added non-protein nitrogen feeds, which bear adequate feeding directions and/or warning statements about the presence of added drugs and/or non-protein nitrogen, shall not require a duplication of the feeding directions. The precautionary statements shall include sufficient information to ensure the safe and effective use of these products.

[Source: Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-8. Drug and feed additives

(a) Prior to approval of a license application and/or approval of a label for commercial feed which contain additives (including drugs, other special purpose additives, or non-nutritive additives) the distributor may be required to submit evidence to prove the safety and efficacy of the commercial feed when used according to the directions furnished on the label.

(b) Satisfactory evidence of safety and efficacy of a commercial feed may be:

- (1) When the commercial feed contains these additives, the use of which conforms to the requirements of the applicable regulation in the Code of Federal Regulations, Title 21, or which are "prior sanctioned" or "informal review sanctioned" or "generally recognized as safe" for that use, or
- (2) When the commercial feed is itself a drug as defined in the Oklahoma Commercial Feed Law and is generally recognized as safe and effective for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21 U.S.C. 360(b).

[Source: Amended at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-9. Adulterants

(a) The terms "poisonous or deleterious substances" include, but are not limited to, the following:

- (1) Fluorine and any mineral or mineral mixture which is to be used directly for the feeding of domestic animals and in which the fluorine exceeds 0.20% for breeding and dairy cattle; 0.30% for slaughter cattle; 0.30% for sheep; 0.35% for lambs; 0.45% for swine; and 0.60% for poultry.
- (2) Fluorine bearing ingredients when used in amounts that raise the fluorine content of the total ration (exclusive of roughage) above the following amounts: 0.004% for breeding and dairy cattle; 0.009% for slaughter cattle; 0.006% for sheep; 0.01% for lambs; 0.015% for swine and 0.03% for poultry.
- (3) Fluorine bearing ingredients incorporated in any feed that is fed directly to cattle, sheep or goats consuming roughage (with or without) limited amounts of grain, that results in a daily fluorine intake in excess of 50 milligrams of fluorine per 100 pounds of body weight.
- (4) Soybean meal, flakes, or pellets or other vegetable meals, flakes, or pellets which have been extracted with trichlorethylene or other chlorinated solvents.
- (5) Sulfur dioxide, Sulfurous acid, and salts of Sulfurous acid when used in or on feeds consisting of feed ingredients which are considered or reported to be a significant source of Vitamin B₁ (Thiamine).

(b) All screenings or by-products of grains and seeds containing weed seeds, when used in commercial feed or sold as commercial feed to the ultimate consumer, shall be ground fine enough or treated to destroy the viability of the weed seeds so that the finished product shall not exceed the limits established in 35:30-25-4.

[Source: Amended at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-9.1. Aflatoxin contaminated corn as a feed ingredient

(a) Aflatoxin contaminated corn when unblended may be used as a feed ingredient pursuant to the following action levels:

(1) Less than 20 ppb total aflatoxins may be utilized as a feed ingredient intended for dairy animals, immature animals, animals not listed below, or other undesignated uses.

(2) One (1) to 100 ppb total aflatoxins may be utilized as a feed ingredient intended for breeding cattle, breeding swine, and mature poultry.

(3) One (1) to 200 ppb total aflatoxins may be utilized as a feed ingredient intended for finishing swine over 100 pounds.

(4) One (1) to 300 ppb total aflatoxins may be utilized as a feed ingredient intended for finishing beef cattle in confinement.

(b) A commercial handler of whole corn may blend lots of whole corn originally containing more than 300 ppb but not more than 500 ppb of total aflatoxins, pursuant to the following restrictions:

(1) The final lot of blended corn shall contain less than 200 ppb total aflatoxins as determined by a commercial laboratory using approved Association of Analytical Chemists International (AOACI) methods, or the Oklahoma Department of Agriculture, Food, and Forestry laboratory.

(2) The blended corn shall only be used as a feed ingredient intended for finishing beef cattle in confinement even if the final blended product contains less than 20 ppb.

(3) The blended corn shall be prohibited from distribution into interstate commerce or conversion to any other use.

(4) The facility shall maintain records indicating the amount of corn blended, the aflatoxin laboratory test results, and distribution records for a minimum of two (2) years and the records shall be made available to the Department upon request.

(c) The label requirements for corn containing aflatoxin shall be the following:

(1) Whole, unblended corn containing total aflatoxins of 20 ppb or more shall be accompanied by a label bearing the range of aflatoxin contamination (i.e. if the test indicates 50 ppb the range should be 20 - 100 ppb), the intended species in accordance with the listed action levels, and the appropriate warning statement pursuant to the general format listed below:

(A) Feed corn.

(B) This product contains between ____ and ____ ppb aflatoxin. May be fed to _____.

(C) WARNINGS: This product may not be fed to dairy animals or immature animals. Not for human use.

(D) Supplier's name, address, and city/state/zip.

(E) Net wt. ____ lb. (____ kg).

(2) The blended corn shall be accompanied by a label indicating that the corn is blended, the level of total aflatoxins in the final blended product, the date of laboratory analysis, the intended use, and the appropriate warning statement pursuant to the general format listed below:

(A) Blended corn.

(B) For finishing beef cattle in confinement only.

- (C) This product contains ____ ppb aflatoxin, as determined by laboratory analysis on _____.
- (D) WARNINGS: Feed only to finishing beef cattle fed in confinement. Not for human use.
- (E) Manufactured by: Manufacturer's name, address, and city/state/zip.
- (F) Net wt. ____ lb. (____ kg).

[Source: Added at 27 Ok Reg 99, eff 8-31-09 (emergency); Added at 27 Ok Reg 1119, eff 7-1-10]

35:30-27-10. Good manufacturing practices

For the purposes of enforcement of Section 8-41.7(4) of the Oklahoma Commercial Feed Law, the Board adopts the following as current good manufacturing practices:

- (1) The regulation prescribing food manufacturing practices for Type B and Type C medicated feeds as published in the Code of Federal Regulations, Title 21, Part 225, Sections 225.1 - 225.202.
- (2) The regulations prescribing good manufacturing practices for Type A medicated articles as published in the Code of Federal Regulations, Title 21, Part 226, Sections 226.1 - 226.115.

[Source: Amended at 18 Ok Reg 1444, eff 5-25-01]

35:30-27-11. Schedule of feed program fees

- (a) Each application to obtain a license to manufacture or distribute commercial feed products within the state shall be accompanied by a license fee of Fifty Dollars (\$50.00). License renewal applications received thirty (30) days after the due date shall be subject to a late filing fee of Fifty Dollars (\$50.00).
- (b) An inspection fee of fifteen cents (\$0.15) per ton shall be paid on commercial feeds and/or feed ingredients. The minimum semi-annual inspection fee shall be Ten Dollars (\$10.00). Inspection fees which are due and have not been remitted to the Board within fifteen (15) days following the date due shall have a penalty fee of ten percent (10%) or Fifty Dollars (\$50.00) minimum added to the amount due when payment is finally made.
- (c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Commercial Feed Law, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars (\$2,000.00) of amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

[Source: Added at 13 Ok Reg 701, eff 11-6-95 (emergency); Added at 13 Ok Reg 2339, eff 6-28-96 ; Amended at 21 Ok Reg 754, eff 4-26-04 ; Amended at 27 Ok Reg 903, eff 7-1-10 ; Amended at 35 Ok Reg 772, eff 9-14-18]

35:30-27-12. Prohibited animal protein products

The distribution or use of any rendered or processed animal protein products, regardless of species, from Europe or other known countries

listed as Bovine Spongiform Encephalopathy (BSE) positive, is prohibited.

[Source: Added at 18 Ok Reg 2306, eff 4-13-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02]

PART 3. PET FOOD

35:30-27-31. Definitions [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-32. Label format and labeling of a pet food [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-33. Brand and product names of pet food [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-34. Pet food expression of guarantee [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-35. Pet food ingredients [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-36. Drugs and pet food additives [REVOKED]

[Source: Revoked at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-51. Definitions and terms

The definitions in the Association of American Feed Control Officials (AAFCO) Model Bill and Model Feed Regulations shall apply in addition to the following:

"All life stages" means gestation/lactation, growth, and adult maintenance life stages.

"Immediate container" means the unit, can, box, tin, bag, or other receptacle or covering in which a pet food or specialty pet food is displayed for sale to retail purchasers, but does not include containers used as shipping containers.

"Ingredient statement" means a collective and contiguous listing on the label of the ingredients of which the pet food or specialty pet food is composed.

"Principal display panel" means the part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-52. Label format and labeling

(a) Pet food and specialty pet food shall be labeled with the following information:

- (1) Product name and brand name, if any, on the principal display panel as stipulated in 35:30-27-53;
- (2) The species of pet or specialty pet for which the food is intended conspicuously designated on the principal display panel;
- (3) Quantity statement as defined in 35:30-27-2(a)(8) on the principal display panel;
- (4) Guaranteed analysis as stipulated in 35:30-27-54;
- (5) Ingredient statement as stipulated in 35:30-27-55;
- (6) A statement of nutritional adequacy or purpose if required under 35:30-27-57;
- (7) Feeding directions if required under 35:30-27-58; and
- (8) Name and address of the manufacturer or distributor as stipulated in 35:30-27-61.

(b) When a pet food or specialty pet food enclosed in an outer container or wrapper is intended for retail sale, all required label information shall appear on the outer container or wrapper.

(c) A vignette, graphic, or pictorial representation on a pet food or specialty pet food label shall not misrepresent the contents of the package.

(d) The use of the word "proven" in connection with a label claim for a pet food or specialty pet food is not permitted unless the claim is substantiated by scientific or other empirical evidence.

(e) No statement shall appear upon the label or labeling of a pet food or specialty pet food which makes false or misleading comparisons between that product and any other product.

(f) A personal or commercial endorsement is permitted on a pet food or specialty pet food label provided the endorsement is not false or misleading.

(g) A statement on a pet food or specialty pet food label stating "Improved", "New", or similar designation shall be substantiated and limited to six (6) months production.

(h) A statement on a pet food or specialty pet food label stating preference or comparative attribute claims shall be substantiated and limited to one (1) year production, after which the claim shall be removed or re-substantiated.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-53. Brand and product names

(a) The words "100%", "All", or words of similar designation shall not be used in the brand or product name of a pet food or a specialty pet food if the product contains more than one ingredient, not including water sufficient for processing, decharacterizing agents, or trace amounts of preservatives and condiments.

(b) An ingredient or a combination of ingredients may form a part of the product name of a pet food or specialty pet food:

(1) When the ingredient(s) derived from animals, poultry, or fish constitutes at least 95% of the total weight of the product. Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 70% of the total product weight.

(2) When any ingredient(s) constitutes at least 25% of the weight of the product, provided that:

(A) Water sufficient for processing may be excluded when calculating the percentage; however, the ingredient(s) shall constitute at least 10% of the total product weight; and

(B) A descriptor is used with the ingredient name(s). This descriptor shall imply other ingredients are included in the product formula. Examples of descriptors include "dinner", "platter", "entree", "formula", and "recipe"; and

(C) The descriptor shall be in the same size, style, and color print as the ingredient name(s).

(3) When a combination of ingredients are included in the product name, the product shall meet all of the following:

(A) Each ingredient constitutes a least 3% of the product weight, excluding water;

(B) The names of the ingredients appear in the order of their respective predominance by weight in the product; and

(C) All the ingredient names appear on the label in the same size, style, and color print.

(c) When the name of any ingredient appears in the product name of a pet food or elsewhere on the product label and includes a descriptor like "with" or similar designation, the named ingredient(s) shall each constitute at least 3% of the product weight exclusive of water for processing. If the names of more than one ingredient are shown, they shall appear in their respective order of predominance by weight in the product. The 3% minimum level shall not apply to claims for nutrients, including, but not limited to, vitamins, minerals, and fatty acids, as well as condiments. The word "with", or similar designation, and named ingredients shall be in the same size, style, color, and case print and be of no greater size than:

Maximum "with claim"

Panel Size	Type Size
<5 sq. in.	1/8"
5-25 sq. in.	1/4"
25-100 sq. in.	3/8"
100-400 sq. in.	1/2"
400 sq. in +	1"

(d) A flavor designation may be included as part of the product name or elsewhere on the label of a pet food or specialty pet food when the flavor designation meets all of the following:

(1) The flavor designation:

(A) Conforms to the name of the ingredient as listed in the ingredient statement; or

(B) Is identified by the source of the flavor in the ingredient statement; and

(2) The word "flavor" is printed in the same size type and with an equal degree of conspicuousness as the name of the flavor designation; and

(3) Substantiation of the flavor designation, the flavor claim, or the ingredient source is provided upon request.

(e) The product name of the pet food or specialty pet food shall not be derived from one or more ingredients unless all ingredients are included in the name, except as specified by 35:30-27-53(b) or (c); provided the name of an ingredient or combination of ingredients may be used as a part of the product name if:

(1) The ingredient or combination of ingredients is present in sufficient quantity to impart a distinctive characteristic to the product or is present in amounts which have a material bearing upon the price of the product or upon acceptance of the product by the purchaser; or

(2) It does not constitute a representation that the ingredient or combination of ingredients is present to the exclusion of other ingredients.

(f) Contractions or coined names referring to ingredients shall not be used in the brand name of a pet food or specialty pet food unless it is in compliance with 35:30-27-53(b), (c), or (d).

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-54. Expression of guarantees

(a) The "Guaranteed Analysis" shall be listed in the following order and format:

(1) A pet food or specialty pet food label shall list the following required guarantees:

(A) Minimum percentage of crude protein;

(B) Minimum percentage of crude fat;

(C) Maximum percentage of crude fat, if required by 35:30-27-60;

(D) Maximum percentage of crude fiber;

(E) Maximum percentage of moisture; and

(F) Additional guarantees shall follow moisture.

(2) When ash is listed in the guaranteed analysis on a pet food or specialty pet food label, it shall be guaranteed as a maximum percentage and shall immediately follow moisture.

(3) A dog or cat food label shall list other required or voluntary guarantees in the same order and units of the nutrients in the AAFCO Dog (or Cat) Food Nutrient Profiles. Guarantees for substances not listed in the AAFCO Dog (or Cat) Profiles, or not provided for in these rules, shall immediately follow the listing of the recognized nutrients and shall be accompanied by an asterisk (*) referring to the disclaimer "not recognized as an essential nutrient by the AAFCO Dog (or Cat) Food Nutrient Profiles". The disclaimer shall appear immediately after the last guarantee in the same size type as the guarantees.

(4) A specialty pet food label shall list other required or voluntary guarantees as required by Regulation 3a(4)X of AAFCO Model Bill.

(b) The sliding scale method of expressing a guaranteed analysis on a pet food or specialty pet food label (for example, "Minimum crude protein 15-18%") is prohibited.

(c) The label of a pet food or a specialty pet food which is formulated as and represented to be a mineral supplement shall include:

(1) Minimum guarantees for all minerals from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed as the element in units specified in the nutrient profile; or

(2) Minimum guarantees for all minerals from sources declared in the ingredient statement expressed as the element in units specified in Regulation 4(b) of the AAFCO Model Bill when no species-specific nutrient profile has been recognized by AAFCO; and

(3) Mineral guarantees required by 35:30-27-54(c)(1) and (2) may be expressed in milligrams (mg) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and

(4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

(d) The label of a pet food or a specialty pet food which is formulated as and represented to be a vitamin supplement shall include:

(1) Minimum guarantees for all vitamins from sources declared in the ingredient statement and established by an AAFCO-recognized nutrient profile, expressed in units specified in the nutrient profile; or

(2) Minimum guarantees for all vitamins from sources declared in the ingredient statement expressed in units specified in AAFCO Model Regulation 4(c) when no species-specific nutrient profile has been recognized by AAFCO; and

(3) Vitamin guarantees required by 35:30-27-54(d)(1) and (2), may be expressed in approved units (e.g., IU, mg, g) per unit (e.g., tablets, capsules, granules, or liquids) consistent with those employed in the quantity statement and directions for use; and
(4) A weight equivalent (e.g., 1 fl. oz. = 28 grams) for liquid products.

(e) When the label of a pet food or a specialty pet food includes a comparison of the nutrient content of the food with levels established by an AAFCO-recognized nutrient profile, the following apply:

- (1) The nutrient shall be stated in the units of measurement used in the cited AAFCO-recognized nutrient profile; and
- (2) The statement in a table of comparison of the vitamin, mineral, or nutrient content shall constitute a guarantee, but need not be repeated in the guaranteed analysis; and
- (3) The comparison may appear on the label separate and apart from the guaranteed analysis.

(f) Percentages or other designations referring to an individual nutrient or all of the nutrient levels established by the AAFCO-recognized nutrient profile may be used on a pet food or specialty pet food when:

- (1) The product meets the AAFCO-recognized nutrient profile;
- (2) The comparison is preceded by a statement that the product meets the AAFCO-recognized nutrient profile; and
- (3) The comparison is expressed in the same quantitative units as those used by the cited AAFCO-recognized nutrient profile.

(g) The maximum moisture declared on a pet food or specialty pet food label shall not exceed 78.00% of the natural moisture content of the ingredients, whichever is higher. However, pet food and specialty pet food including, but not limited to, those consisting principally of stew, gravy, sauce, broth, aspic, juice, or a milk replacer, and which are so labeled, may contain moisture in excess of 78.00%.

(h) Guarantees for crude protein, crude fat, and crude fiber are not required when the pet food or specialty pet food is intended for purposes other than to furnish these substances or they are of minor significance relative to the primary purpose of the product, like mineral or vitamin supplement.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-55. Ingredients

(a) Each ingredient of a pet food or specialty pet food shall be listed in the ingredient statement as follows:

- (1) The names of all ingredients in the ingredient statement shall be shown in letters or type of the same size;
- (2) The ingredients shall be listed in descending order by their predominance by weight in non-quantitative terms;
- (3) Ingredients shall be listed and identified by the name and definition established by AAFCO; and
- (4) Any ingredient for which no name and definition have been established shall be identified by the common or usual name of the ingredient.

(b) The ingredients "meat" or "meat by-products" shall be qualified to designate the animal from which the meat or meat by-products are derived unless the meat or meat by-products are derived from cattle, swine, sheep, goats, or any combination. For example, ingredients derived from horses shall be listed as "horsemeat" or "horsemeat by-products".

(c) Brand or trade names shall not be used in the ingredient statement.

(d) A reference to the quality, nature, form, or other attribute of an ingredient shall be allowed when the reference meets all of the following:

- (1) The designation is not false or misleading;
- (2) The ingredient imparts a distinctive characteristic to the pet food or specialty pet food because it possesses that attribute; and
- (3) A reference to quality or grade of the ingredient does not appear in the ingredient statement.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-56. Additives and drugs

(a) An artificial color may be used in a pet food or a specialty pet food only if it has been shown to be harmless to pets or specialty pets. The permanent or provisional listing of an artificial color in the United States Food and Drug Administration regulations as safe for use, together with the conditions, limitations, and tolerances, if any, incorporated in those regulations, shall be satisfactory evidence that the color is, when used pursuant to the regulations, harmless to pets or specialty pets.

(b) Evidence may be required to prove the safety and efficacy or utility of a pet food or specialty pet food which contains additives or drugs, when used according to directions furnished on the label. Satisfactory evidence of the safety and efficacy of a pet food or specialty pet food may be established:

- (1) When the pet food or specialty pet food contains these additives, the use of which conforms to the requirements of the applicable regulation in the code of Federal Regulations, Title 21, or which are "prior sanctioned" or "generally recognized as safe" for the use; or
- (2) When the pet food or specialty pet food itself is a drug or contains a drug as defined in the Oklahoma Commercial Feed Act and is "generally recognized safe and effective" for the labeled use or is marketed subject to an application approved by the Food and Drug Administration under Title 21, U.S.C. 360 (b).

(c) When a drug is included in a pet food or specialty pet food, the format required by 35:30-27-3(2) for labeling medicated feeds shall be used.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-57. Nutritional adequacy

(a) The label of a pet food or specialty pet food which is intended for all life stages of the pet or specialty pet may include an unqualified claim, directly or indirectly, like "complete and balanced", "perfect", "scientific", or "100% nutritious" if at least one of the following apply:

- (1) The product meets the nutrient requirements for all life stages established by an AAFCO-recognized nutrient profile; or
- (2) The product meets the criteria for all life stages as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).

(b) The label of a pet food or specialty pet which is intended for a limited purpose or a specific life stage, but not for all life stages, may include a qualified claim like "complete and balance", "perfect", "scientific", or "100% nutritious" when the product and claim meets all of the following:

- (1) The claim is qualified with a statement of the limited purpose or specific life stage for which the product is intended or suitable, for example, "complete and balanced for puppies" or "kittens". The claim and the required qualification shall be juxtaposed on the same label panel and in the same size, style, and color print; and

(2) The product meets at least one of the following:

- (A) The nutrient requirements for the limited purpose or specific life stage established by an AAFCO-recognized nutrient profile; or
- (B) The criteria for a limited purpose or a specific life stage as substantiated by completion of the appropriate AAFCO-recognized animal feeding protocol(s).

(c) Dog and cat food labels shall include a statement of nutritional adequacy or purpose of the product except when the dog or cat food is clearly and conspicuously identified on the principal display panel as a "snack" or "treat". The statement shall consist of one of the following:

- (1) A claim that the dog or cat food meets the requirements of one or more of the recognized categories of nutritional adequacy: gestation/lactation, growth, maintenance, and all life stages. The claim shall be stated verbatim as one of the following:

- (A) "(Name of product) is formulated to meet the nutritional levels established by the AAFCO Dog (or Cat) Food Nutrient Profiles for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
- (B) "Animal feeding test using AAFCO procedures substantiate that (Name of Product) provides complete and balance nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life tested, like, gestation/lactation, growth, maintenance, or the words "All Life Stages"); or
- (C) "(Name of Product) provides complete and balanced nutrition for (Blank)" (Blank is to be completed by using the stage or stages of the pet's life, like gestation/lactation, growth, maintenance, or the words "All Life Stages") and is comparable in nutritional adequacy to a product which has been substantiated using AAFCO feeding tests."

- (2) A nutritional or dietary claim for purposes other than those listed in 35:30-27-57(a) or (b) if the claim is scientifically

substantiated; or

(3) The statement "This product is intended for intermittent or supplemental feeding only", if a product does not meet the requirements of 35:30-27-57(a) or (b) or any other special nutritional or dietary need and is suitable only for limited, intermittent, or supplementary feeding.

(d) A product intended for use by, or under the supervision or direction of a veterinarian shall make a statement in accordance with 35:30-27-58(b).

(e) A signed affidavit attesting that the product meets the requirements of 35:30-27-58(a) or (b) shall be submitted to the Board upon request.

(f) If the nutrient content of a product does not meet those nutrient requirements established by an AAFCO-recognized nutrient profile, or if no requirement has been established by an AAFCO-recognized nutritional authority for the life stage(s) of the intended species, the claimed nutritional adequacy or purpose of the product shall be scientifically substantiated.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-58. Feeding directions

(a) Dog or cat food, including snacks or treats, labeled as complete and balanced for any or all life stages, as provided in 35:30-27-57(c)(1), except those pet foods labeled in accordance with 35:30-27-57(d), shall list feeding directions on the product label. These directions shall be consistent with the intended use(s) indicated in the nutritional adequacy statement, unless a limited use or more limited life stage designation is declared (e.g. "adult formula"). These directions shall be expressed in common terms and shall appear prominently on the label. Feeding directions shall, at a minimum, state "Feed (weight/unit of product) per (weight only) of dog (or cat)". The frequency of feeding shall also be specified.

(b) When a dog or cat food is intended for use by or under the supervision or direction of a veterinarian, the statement: "Use only as directed by your veterinarian" may be used in lieu of feeding directions.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-59. Statements of calorie content

(a) Except as required in 35:30-27-60, the label of a dog or cat food may bear a statement of calorie content when the label meets all of the following:

(1) The statement shall be separate and distinct from the "Guaranteed Analysis" and shall appear under the heading "Calorie Content";

(2) The statement shall be measured in terms of metabolizable energy (ME) on an "as fed" basis and shall be expressed as "kilocalories per kilogram" ("kcal/kg") of product, and may also be expressed as kilocalories per familiar household measure (e.g., cans, cups, pounds); and

(3) The calorie content is determined by one of the following methods:

(A) By calculation using the following "Modified Atwater" formula: $ME(kcal/kg) = 10[(3.5 \times CP) + (8.5 \times CF) + (3.5 \times NFE)]$ Where: ME = Metabolizable Energy CP = % crude protein "as fed" CF = % crude fat "as fed" NFE = % nitrogen-free extract_kern Amount="1pt"(carbohydrate) "as fed" and the percentages of CP and CF are the arithmetic averages from proximate analyses of at least four production batches of the product, and the NFE is calculated as the difference between 100 and the sum of CP, CF, and the percentages of crude fiber, moisture, and ash (determined in the same manner as CP and CF); or
(B) In accordance with a testing procedure established by AAFCO.

(4) An affidavit shall be provided upon request to the Board, substantiating that the calorie content was determined by:

(A) 35:30-27-59(a)(3)(A) in which case the results of all the analyses used in the calculation shall accompany the affidavit; or

(B) 35:30-27-59(a)(3)(B) in which case the summary data used in the determination of calorie content shall accompany the affidavit.

(5) The calorie content statement shall appear as one of the following:

(A) The claim on the label or other labeling shall be followed parenthetically by the word "calculated" when the calorie content is determined in accordance with 35:30-27-59(a)(3)(A); or

(B) The value of calorie content stated on the label which is determined in accordance with 35:30-27-59(a)(3)(B) shall not exceed or understate the value determined in accordance with 35:30-27-59(a)(3)(A) by more than 15%.

(b) Comparative claims shall not be false, misleading, or given undue emphasis and shall be based on the same methodology for the products compared.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-60. Descriptive terms

(a) Calorie terms.

(1) "Light"

(A) A dog food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

(i) Contain no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for

products containing 65% or more moisture; and

(ii) Include on the label a calorie content statement:

(I) In accordance with the format provided in 35:30-27-59; and

(II) Which states no more than 3100 kcal ME/kg for products containing less than 20% moisture, no more than 2500 kcal ME/kg for products containing 20% or more but less than 65% moisture, and no more than 900 kcal ME/kg for products containing 65% or more moisture; and

(iii) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

(B) A cat food product which bears on its label the terms "light", "lite", "low calorie", or words of similar designation shall:

(i) Contain no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20 or more but less than 65% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

(ii) Include on the label a calorie content statement:

(I) In accordance with the format provided in 35:30-27-59; and

(II) Which states no more than 3250 kcal ME/kg for products containing less than 20% moisture, no more than 2650 kcal ME/kg for products containing 20% or more but less than 6% moisture, and no more than 950 kcal ME/kg for products containing 65% or more moisture; and

(III) Include on the label feeding directions which reflect a reduction in calorie intake consistent with the intended use.

(2) "Less" or "Reduced Calories"

(A) A dog or cat food product which bears on its label a claim of "less calories", "reduce calories", or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of calorie reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and

(ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

- (iii) A calorie content statement in accordance with the format provided in 35:30-27-59; and
- (iv) Feeding directions which reflect a reduction in calories compared to feeding directions for the product of comparison.

(B) A comparison between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

(b) Fat terms.

(1) "Lean"

(A) A dog food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

- (i) Contain no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture; and

(ii) Include on the product label in the Guaranteed Analysis:

(I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54; and

(II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(B) A cat food product which bears on its label the terms "lean", "low fat", or words of similar designation shall:

- (i) Contain a maximum percentage of crude fat which is no more than 10% crude fat for products containing less than 20% moisture, no more than 8% crude fat for products containing 20% or more but less than 65% moisture, and no more than 5% crude fat for products containing 65% or more moisture; and

(ii) Include on the product label in the Guaranteed Analysis:

(I) A maximum crude fat guarantee immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54; and

(II) A maximum crude fat guarantee which is no more than 9% crude fat for products containing less than 20% moisture, no more

than 7% crude fat for products containing 20% or more but less than 65% moisture, and no more than 4% crude fat for products containing 65% or more moisture.

(2) "Less" or "Reduced Fat"

(A) A dog or cat food product which bears on its label a claim of "less fat", "reduced fat", or words of similar designation, shall include on the label:

(i) The name of the product of comparison and the percentage of fat reduction (expressed on an equal weight basis) explicitly stated and juxtaposed with the largest or most prominent use of the claim on each panel of the label where the term appears; and

(ii) The comparative statement printed in type of the same color and style and at least one-half the type size used in the claim; and

(iii) A maximum crude fat guarantee in the Guaranteed Analysis immediately following the minimum crude fat guarantee in addition to the mandatory guaranteed analysis information as specified in 35:30-27-54.

(B) A comparison on the label between products in different categories of moisture content (i.e., less than 20%, 20% or more but less than 65%, 65% or more) is misleading.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

35:30-27-61. Manufacturer or distributor; name and address

(a) The label of a pet food or specialty pet food shall specify the name and address of the manufacturer or distributor. The statement of the place of business shall include the street address, city, state and zip code; however, the street address may be omitted if the street address is shown in a current city directory or telephone directory for the city listed on the label.

(b) When a person manufactures or distributes a pet food or specialty pet food in a place other than the principal place of business, the label may state the principal place of business in lieu of the actual place where each package of the pet food or specialty pet food was manufactured or packaged or from where each package is to be distributed.

[Source: Added at 17 Ok Reg 2842, eff 7-13-00]

SUBCHAPTER 29. FERTILIZER

PART 1. GENERAL

35:30-29-21. Fertilizer terminology

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Approved" means approval by the Board or the Department.

"Aqua ammonia" means an aqueous solution of anhydrous ammonia generally containing from 18 to 30 percent ammonia (NH₃) by weight and having a vapor pressure ranging from 0 to 10 psig at 104 degrees F.

"Commercial storage facility" means a licensed location storing liquid, dry, or anhydrous ammonia fertilizer.

"Control official" means the authorized agents responsible for enforcing the fertilizer laws and rules.

"Discharge" means any accidental release of anhydrous ammonia or spilled fertilizer in a quantity exceeding 55 US gallons of liquid or 200 pounds of dry bulk fertilizer.

"Dry bulk fertilizer" means non-liquid fertilizer in an undivided quantity exceeding 200 pounds.

"Elephant ring" means an open topped storage container serving as a secondary containment vessel and holding smaller primary storage tanks.

"Field operations" means the application of fertilizer to soil or plants through normal agricultural or horticultural practices.

"Liquid bulk fertilizer" means fluid fertilizer in an undivided quantity exceeding 55 US gallons.

"Liquid fertilizer" means fertilizer in fluid form and includes solutions, emulsions, suspensions, and slurries. Liquid fertilizer does not include anhydrous ammonia.

"Low pressure nitrogen solutions" means an aqueous solution of ammonium nitrate and/or urea and/or other nitrogen carriers, containing various quantities of free ammonia exceeding 2% by weight. Aqua ammonia and non-pressure nitrogen solutions commonly referred to as 28%, 30%, or 32% nitrogen solutions are excluded from this definition.

"Non-commercial storage facility" means any storage tank or facility used by an individual who neither sells nor distributes any type of fertilizer to another person.

"Operational area" means an area or areas at a fertilizer storage facility where fertilizers are transferred, loaded, unloaded, mixed, or where fertilizers are cleaned or washed from application equipment, storage containers, or transportation equipment.

"Operational area containment" means any structure or system designed and constructed to effectively intercept and contain operational spills including container or contaminated wash water and rainwater and to prevent runoff or leaching from a storage facility.

"Primary containment" means the storage of liquid or dry bulk fertilizer in storage containers at a storage facility.

"Secondary containment" means any structure used to contain product spills from bulk storage tanks and prevent runoff or leaching.

35:30-29-22. General

(a) **Registration and renewal.** Registrants shall register or renew fertilizer products using one of the following methods:

(1) Registrants may electronically register or renew the registration for fertilizer products at the website, www.kellysolutions.com/erenewals, and pay any applicable fees online. Product labels, revised product labels, efficacy data when required, and uniform product codes when available shall be submitted during the electronic process.

(2) Registrants may register or renew the registration for fertilizer products by submitting a registration application or renewal application directly to the Department on a form approved by the Department. Any applicable fees shall accompany the applications. Product labels, revised product labels, efficacy data when required, and uniform product codes when available shall be submitted with the applications. Product labels, revised product labels, and efficacy data when required shall be submitted in pdf format.

(b) **Guarantee requirements.** Other plant nutrients when mentioned in any form or manner shall be registered and shall be guaranteed. Guarantees shall be made on the elemental basis. Sources of the elements guaranteed and proof of availability shall be provided to the Board upon request. Except guarantees for those water soluble nutrients labeled for ready to use foliar fertilizer, ready to use specifically liquid fertilizer, hydroponic, or continuous liquid feed programs and guarantees for potting soils, the minimum percentages that shall be accepted for registration are as follows:

- (1) Calcium (Ca) - 1.0000%
- (2) Magnesium (Mg) - 0.5000%
- (3) Sulfur (S) - 1.0000%
- (4) Boron (B) - 0.0200%
- (5) Chlorine (Cl) - 0.1000%
- (6) Cobalt (Co) - 0.0005%
- (7) Copper (Cu) - 0.0500%
- (8) Iron (Fe) - 0.1000%
- (9) Manganese (Mn) - 0.0500%
- (10) Molybdenum (Mo) - 0.0005%
- (11) Sodium (Na) - 0.1000%
- (12) Zinc (Zn) - 0.0500%

(c) **Guarantees for plant nutrients.** Only guarantees or claims for the above listed plant nutrients recognized by AAFPCO shall be accepted. Proposed labels and directions for the use of the fertilizer shall be furnished with the application for registration upon request. Any of the above listed elements that are guaranteed shall appear in the order listed and shall immediately follow guarantees for the primary nutrients of nitrogen, phosphate, and potash.

(d) **Warning or caution statement.** A warning or caution statement may be required for any product which contains a nutrient in water soluble form when there is evidence that the micro-nutrient is present in excess of a guaranteed percentage that may be harmful to certain crops

or where there are unusual environmental conditions.

(e) **Examples of warning or caution statements:**

(1) Directions: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop).

(2) CAUTION: Do not use on other crops. The (name of micro-nutrient) may cause injury to them.

(3) CAUTION: Apply this fertilizer at a maximum rate of (number of pounds) per acre for (name of crop). Do not use on other crops; the (name of micro-nutrient) may cause serious injury to them.

(4) WARNING: This fertilizer carries added (name of micro-nutrient) and is intended for use only on (name of crop). Its use on any other crops or under conditions other than those recommended may result in serious injury to the crops.

(5) CAUTION: This fertilizer is to be used only on soil which responds to (name of micro-nutrient). Crops high in (micro-nutrient) are toxic to grazing animals (ruminants).

(6) CAUTION: (Name of micro-nutrient) is recommended for all crops where (name of micro-nutrient) may be deficient; however, excessive application to susceptible crops may cause damage.

(f) **Fertilizer labels.** The following information, in the format presented in Appendix A of this Chapter, is the minimum required for all fertilizer labels. For packaged products, this information shall either (1) appear on the front or back of the package, (2) occupy at least the upper-third of a side of the package, or (3) be printed on a tag and attached to the package. This information shall be in a readable and conspicuous form. For bulk products, this same information in written or printed form shall accompany delivery and be supplied to the purchaser at time of delivery.

(1) Net weight

(2) Brand

(3) Grade

(4) Guaranteed Analysis

(5) Sources of nutrients shall be listed below the completed guaranteed analysis statement.

(6) Name and address of registrant or licensee.

(7) Directions for use for fertilizer to the end user shall follow the guidelines established by the Association of American Plant Food Control Officials.

(g) **Plant nutrients.** When a plant nutrient is broken down into the component forms, the percentage for each component shall be shown before the name of the form as illustrated in Appendix B of this Chapter. (Possible insert)

(h) **Slowly released plant nutrients.**

(1) No fertilizer label shall bear a statement that implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the slow release components are identified and guaranteed at a level of at least 15% of the total guarantee for that nutrient.

(2) Types of products with slow release properties recognized are

(1) water insoluble, such as natural organics, ureaform materials, urea-formaldehyde products, isobutylidene diurea, oxamide, etc.,

(2) coated slow release, such as sulfur coated urea and other

encapsulated soluble fertilizer, (3) occluded slow release, where fertilizer or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles and (4) products containing water soluble nitrogen such as ureaform materials, urea formaldehyde products, methylenediurea (MDU), dimethylenetriurea (DMTU), dicyanodiamide (DCD), etc. The terms "water insoluble", "coated slow release", "slow release", "controlled release", "slowly available water soluble", and "occluded slow release" are accepted as descriptive of these products, provided the manufacturer can show a testing program substantiating the claim (testing under guidance of Experiment Station personnel or a recognized reputable researcher acceptable to the Board.) A laboratory procedure, acceptable to the Board for evaluating the release characteristics of the product(s) shall also be provided by the manufacturer.

(3) Until more appropriate methods are developed, AOAC International Method 970.04 (15th Edition) is to be used to confirm the coated slow release and occluded slow release nutrients and others whose slow release characteristics depend on particle size. AOAC International Method 945.01 (15th Edition) shall be used to determine the water insoluble nitrogen of organic materials.

(i) **Definitions.** Except as the Board designates in specific cases, the names and definitions for commercial fertilizer shall be those adopted by the Association of American Plant Food Control Officials.

(j) **Percentages.** The term of "percentage" by symbol or word, when used on a fertilizer label shall represent only the amount of individual plant nutrients in relation to the total product by weight.

(k) **Penalties.** When the combined commercial value for total nitrogen, available phosphoric acid or phosphate P₂O₅, and soluble potash is found to be 4% or more deficient from the guarantee, or when any one of the above is found to be 10% deficient from the guarantee, the penalty assessed the manufacturer, or custom blender shall be twice the commercial value of the nutrient deficiency. Penalties shall be assessed in accordance with the AAPFCO formula: a 4% penalty is calculated at twice the value of the deficiency times total tons (i.e., 5 tons of 34-0-0 found to be 30.97-0-0 is 2 x \$12.12 x 5); a 10% penalty is calculated at twice the units deficient times the value per unit times total tons (i.e., 5 tons of 27-13-13 found to be 23.26-13-13 is 2 x 3.76 x commercial value x 5). When a fertilizer is subject to a penalty payment under both 4% and 10%, the larger penalty shall be assessed.

(1) A deficiency in an official sample of mixed fertilizer resulting from non-uniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject of official action.

(2) The commercial values of fertilizer shall be established by the Board for calculating penalties.

(3) Penalty assessment refunds shall be documented by receipts signed by the consumer acknowledging the refund or credit, and shall be furnished to the Board within forty-five (45) days after receiving notice of the penalty assessed. If the consumer(s)

cannot be found, the penalty (or amount not refunded) shall be paid to the Board within forty-five (45) days after receiving notice of the penalty assessed.

(l) **Organic nitrogen.** If an amount of nitrogen is designated as organic, then the water insoluble nitrogen or the slow release nitrogen guarantee shall not be less than 60% of the nitrogen so designated. Coated urea shall not be included in meeting the 60% requirement.

(m) **Discharges.** For the purpose of protecting surface and groundwater, any discharge of two hundred (200) pounds of dry or fifty-five (55) gallons or more of liquid fertilizer shall be reported (telephone or fax) to the Board or its authorized agent within 24 hours if discharged outside the loading, transfer or application area.

(n) **Accidental discharge response plan for dry, liquid, and anhydrous ammonia.** The operator of a commercial storage facility shall prepare a written "Discharge response plan" for the storage facility. The plan shall include:

- (1) The identity and telephone number of the persons or agencies who are to be contacted in the event of a discharge, including persons responsible for the stored fertilizer; and,
- (2) For each bulk fertilizer stored at the facility, a complete copy of the storage container labeling required by these rules and the labeling required under Oklahoma Fertilizer Law to accompany sale of the fertilizer; and,
- (3) An identification, by location, of every storage container located at the storage facility, and the type of bulk fertilizer stored in each storage container; and,
- (4) For each type of bulk fertilizer stored at the facility, the procedures to be used in controlling and recovering, or otherwise responding to a discharge; and,
- (5) Procedures to be followed in using or disposing of a recovered discharge.

(o) **Availability.** A copy of the discharge response plan shall be kept readily available at the storage facility and at the nearest local office from which the storage facility is administered.

(p) **Community awareness.** The operator of a commercial storage facility shall inform the local fire and police departments, and the appropriate state environmental agency, of the existence of the plan and shall provide a current copy of the plan to the local fire and police departments and the appropriate state environmental agency.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00 ; Amended at 22 Ok Reg 569, eff 4-11-05 ; Amended at 36 Ok Reg 1372, eff 9-14-19]

35:30-29-23. Heavy Metals

Fertilizers stating guaranteed amounts of phosphates or micronutrients shall be considered adulterated if the fertilizers contain metals in amounts greater than the levels of metals established by the Association of American Plant Food Control Officials in the SUIP 25 guide.

[Source: Added at 21 Ok Reg 754, eff 4-26-04]

PART 3. LIQUID, DRY, AND ANHYDROUS AMMONIA

35:30-29-31. Liquid fertilizer

(a) Basic requirements.

(1) Storage tanks and appurtenances shall be constructed installed and maintained to prevent the discharge of liquid fertilizer.

(2) Materials used in construction or repair of storage tanks and appurtenances may not be of a type which react chemically or electrolytically with stored liquid fertilizer in a way which may weaken the storage tanks or appurtenances or create a risk of discharge.

(3) Metals used for valves, fittings, and repairs on metal tanks shall be compatible with the metals used in the construction of the storage tank, so that the combination of metals does not cause or increase corrosion which may weaken the storage tank or its appurtenances or create a risk of discharge.

(4) Storage tanks and appurtenances shall be designed to handle all operating stresses, taking into account static head, pressure buildup from pumps and compressors, and any other mechanical stresses to which the storage tanks and appurtenances may be subjected to in the foreseeable course of operations.

(b) Prohibition against underground storage. No person shall store liquid fertilizer in an underground or lined pit storage container.

(c) Anchoring storage containers. Storage tanks shall be anchored to prevent flotation or instability.

(d) Security.

(1) Storage tanks and appurtenances shall be secured to provide reasonable protection against vandalism or unauthorized access which may result in a discharge.

(2) Valves on storage tanks shall be locked or secured except when persons responsible for the facility are present at the facility.

(3) Valves on rail cars, nurse tanks and other mobile fertilizer tanks parked overnight at a storage facility shall be locked or secured except when persons responsible for facility security are present at the facility.

(e) Liquid level gauging device.

(1) Every storage tank shall be equipped with a liquid level gauging device by which the level of fluid in the storage tank can be readily and safely determined.

(2) A liquid level gauging device is not required if the level of liquid in a storage tank can be readily and reliably measured by other means.

(3) Liquid level gauging devices shall be secured to protect against breakage or vandalism which may result in a discharge.

(4) External sight gauges are prohibited unless they are equipped with a shut-off valve.

(f) **Labeling of storage tanks.** Every storage tank shall be clearly labeled to identify its fertilizer contents.

(g) **Inspection and maintenance.**

(1) The operator of a storage facility shall routinely inspect and maintain storage facilities, storage tanks, and appurtenances to minimize the risk of a discharge.

(2) The operator shall inspect valves and other appurtenances for leakage at least weekly when facilities are being used for storage.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-32. Mobile/tilt tanks operated by commercial storage facilities

Licensed fertilizer dealers with permanently contained facilities can utilize mobile/tilt tanks. Mobile/tilt tanks shall be empty when stored at a location other than the application site. Any licensee utilizing mobile/tilt tanks shall comply with the following:

(1) The licensee shall mark each mobile/tilt tank on a background of sharply contrasting colors in letters at least two inches high with the following information:

(A) The words "Liquid Fertilizer".

(B) The brand name/grade.

(C) The name and telephone number of each person who is to be contacted in the event of a discharge, including any persons responsible for the stored fertilizer.

(2) Any mobile/tilt tank used in this manner shall be located in the application field or immediately adjacent field only, and not located on public easements or public vehicle right-of-ways.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-33. Sprinkler irrigation systems

Any fertilizer sprinkler irrigation system shall employ a method to prevent the possible backflow of material. The methods shall include, but not be limited to, the employment of a check valve or similar in-line device, or other positive mechanical method, designed to ensure that backflow shall not occur.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-34. Pollution prevention

(a) Fertilizer materials shall not be stored, applied, or handled in a manner that is likely to cause pollution of any air, lands, or waters of the state.

(b) The responsible party shall pay all costs associated with cleanup and remediation of any spill or pollution caused by the storage, application, or handling of fertilizer materials.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00 ; Amended at 21 Ok Reg 754, eff 4-26-04]

35:30-29-35. Secondary containment for commercial storage facilities

(a) **Capacity/diking.** The diked area for containment of commercial storage facilities shall contain, below the height of the dike, 110% of the volume of the largest storage tank within the diked area.

(b) **Walls.** The walls of a secondary containment facility shall be constructed of earth, steel, concrete, or solid masonry, or other material specifically approved by the control official, and be designed to withstand a full hydrostatic head of any discharged fluid and weight load of material used in construction.

(1) Cracks and seams shall be sealed to prevent leakage.

(2) Walls constructed of earth or other permeable material shall be lined.

(3) Earthen walls shall have a horizontal to vertical slope of at least 3 to 1, unless a steeper slope is consistent with good engineering practice, and shall be packed and protected for erosion.

(4) The top of earthen walls shall be no less than 2.5 feet wide.

(5) Walls may not exceed 6 feet in height above interior grade unless provisions are made for normal access and necessary emergency access to tanks, valves, and other equipment, and for safe exit from the secondary containment facility.

(6) Walls constructed of concrete or solid concrete shall rest upon a floating base, or upon suitable concrete footings.

(c) **Lining.**

(1) The base of a secondary containment facility, and the interior of any earthen walls of the facility shall be lined with asphalt, concrete, an approved synthetic liner, or a clay soil liner or other liners approved by the control official designed to limit permeability of the base and walls while compatible with the stored product. Liners shall meet the requirements of this subsection. Geocomposite liners, such as a layer of sodium bentonite encapsulated between layers of geotextile are considered synthetic liners.

(2) Asphalt or concrete liners shall be designed according to good engineering practices to withstand any foreseeable loading conditions, including a full hydrostatic head of discharged fluid and static loads of storage containers, including appurtenances, equipment and contents. Cracks and seams shall be sealed to prevent leakage.

(3) Synthetic liners and installation plans shall be approved by the control official. A synthetic liner may not be approved by the control official until the manufacturer of the liner provides the control official with a written confirmation of compatibility, and a written estimate of the life of the liner. Synthetic liners shall be installed under the supervision of a qualified representative of the manufacturer or professional engineer, and all field constructed seams shall be tested, and repaired if necessary, in accordance with the manufacturer's recommendations.

(4) The surface soil liner shall be sealed, including the berm of an earthen dike with a sealing agent such as sodium bentonite, attapulgite, or a similar clay material. The liner shall be constructed in accordance with reliable civil engineering practices, to achieve a coefficient of permeability not to exceed 1×10^{-6} cm/sec, with a thickness of not less than 6 inches. The floor and internal walls of the containment area shall have a protective barrier at least equivalent to 6 inches of sand, soil, or gravel to limit desiccation, evaporation, freeze/thaw cycling, or other physical damage.

(5) A liner need not be installed directly under a storage tank having a capacity of one hundred thousand (100,000) gallons or more which has been constructed on site and put into use prior to the effective date of this rule provided that one (1) of the following alternative procedures are complied with, certified to in writing by an official of the company which owns the tank, and the certificate is filed with the control official:

(A) Monitoring devices shall be installed in angled borings under each tank. These monitoring devices shall constitute a leak detection system for each tank in advance of the point at which any leak would reach groundwater.

(B) The number, length, and depth of each boring shall be determined on the basis of site characteristics. The array of monitoring devices under each tank shall constitute the best practical early warning detection system for tank leakage.

(C) Each monitoring plan under this alternative shall be implemented only upon review and approval of the control official.

(d) Elephant rings.

(1) Individual storage tanks may be contained with a secondary storage container ("elephant ring") in lieu of a diked containment area. The "elephant ring" serves as a second containing wall in the event that the primary storage tank develops a leak.

(2) Both the primary storage tank and the "elephant ring" shall be fabricated of material compatible with each other and with the fertilizer being stored. Dissimilar metals between the primary storage tank and the "elephant ring" contribute to electrolytic corrosion and this use is prohibited, unless provisions are made to prevent the corrosion.

(3) The height of the "elephant ring" wall shall not exceed 4 feet unless provisions are made for escape should flooding occur. The volume contained within the secondary storage walls up to the working height of the "elephant ring" shall be sufficient to contain a volume 10% greater than the volume contained in the primary storage tank plus the volume displaced by the footings of any equipment (i.e., pumps, meters, etc.) placed within the secondary containment vessel.

(4) The "elephant ring" shall be free of leaks and structural defects. The base shall be protected from corrosion, both from inside and outside, and shall be underlain by a concrete pad or

with eight inches of compacted gravel beneath four inches of compacted sand, or clay, or as recommended by the manufacturer of the "elephant ring" and approved by the control official.

(5) All piping connections to the primary storage tank shall be made over the wall of the "elephant ring" and shall be adequately supported and braced. Pumps and other fixtures, if located within the "elephant ring" containment structure, shall be placed on an elevated platform above the top of the elephant ring or protected from flooding.

(6) Accumulations of storm water and other material shall be promptly removed from the "elephant ring". The "elephant ring" shall not have floor or wall drains for this purpose, but pumps or other over-the-wall methods may be used. Precipitation shall be reused where possible, or disposed of according to state and local regulations.

(e) **Drainage from secondary containment areas.** No fertilizer secondary containment areas, or existing containment areas having major renovation, shall have a relief outlet and valve. The base shall slope to a collection point where storm water can be removed from the secondary containment area by pumping or other means. Precipitation shall be reused where possible, or disposed of according to state and local regulations.

(f) **Inspection and maintenance requirements.**

(1) Every secondary containment shall be inspected by the operator of the storage facility at intervals of not greater than six months and be maintained as necessary to assure compliance with these rules.

(2) All secondary containment areas shall be maintained free of debris and foreign matter.

(g) **Secondary containment exemption.** Secondary containment shall not be required for storage tanks equipped with a synthetic liner inside the tank if installed under the supervision of a qualified representative of the manufacturer or professional engineer. All field constructed seams shall be tested and repaired in accordance with the manufacturer's recommendations. The manufacturer of the liner shall provide the control official a written confirmation of compatibility for the product stored and a written estimate of the life of the liner.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-36. Loading and unloading pads for commercial storage facilities

(a) **General.**

(1) Areas used for the loading of liquid fertilizer into storage tanks, or for unloading liquid fertilizer from storage tanks into applicators or nurse tanks shall be paved with asphalt, concrete, or other approved material.

(2) The pad shall be designed, constructed, and maintained to handle all loading conditions to which it is exposed. Cracks and seams shall be kept sealed.

(3) The loading pad shall drain to a sump pit containment constructed of concrete with a liquid capacity of at least 55 gallons. All liquid fertilizer shall be loaded and unloaded on this pad.

(4) Discharges incident to loading or unloading shall be promptly recovered from the paved surface and concrete sump.

(b) **Protection of tanks and appurtenances.** Storage tanks and appurtenances, including pipes, shall be protected against reasonably foreseeable risks of damage by trucks and other moving vehicles engaged in the loading or unloading of liquid fertilizer.

(c) **Inspection and maintenance.** The operator of a commercial storage facility shall routinely inspect and maintain loadout and unloading pads and sumps.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-37. Dry fertilizer requirements

(a) The owner or operator shall clearly label each dry bulk storage bin with the grade to identify its fertilizer contents. This requirement shall only apply to individual storage bins and shall not be construed to require labeling on the exterior of any building associated with the dry bulk storage bin.

(b) The owner or operator shall ensure all dry bulk fertilizers are stored inside a sound structure or device having a cover or rooftop, sidewalls, and base sufficient to prevent contact with precipitation and surface waters.

(c) The owner or operator shall pave any area used for blending, loading, or unloading dry bulk fertilizer with asphalt or concrete.

(1) When loading or unloading occurs on railroad tracks, the owner or operator shall contact the railroad company to request permission to pave those areas.

(2) If the railroad company denies permission, the owner or operator shall notify the Department and request an exception for those limited areas where permission was denied. In no case shall the Department require paving of an area when permission to pave is denied.

(3) The Department may, on a case by case basis, allow the use of impermeable material other than asphalt or concrete on railroad tracks, so long as the impermeable material allows for cleanup.

(d) The owner or operator shall ensure all paved areas are of sufficient size to allow cleanup of any spilled fertilizer and shall ensure they are kept clean.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00 ; Amended at 22 Ok Reg 569, eff 4-11-05 ; Amended at 23 Ok Reg 2171, eff 6-25-06]

35:30-29-37.1. Ammonium Nitrate Security

(a) Ammonium nitrate storage shall be secured to provide reasonable protection against vandalism, theft, or unauthorized access.

(b) Fertilizer retailers shall obtain the following regarding any sale of ammonium nitrate:

- (1) Date of sale;
- (2) Quantity purchased;
- (3) License number of the purchaser's valid state or federal driver's license, or other picture identification card number approved for purchaser identification by the Board; and
- (4) The purchaser's name, current physical address, and telephone number.

(c) Records created pursuant to this rule shall be maintained for a minimum of two years on a form or using a format set forth by the Board.

(d) Any retailer of ammonium nitrate may refuse to sell to any person attempting to purchase ammonium nitrate out of season, in unusual quantities, or under suspect purchase patterns.

[Source: Added at 22 Ok Reg 574, eff 4-11-05]

35:30-29-38. Anhydrous ammonia requirements

(a) General safety requirements.

(1) Each tank used with a system shall be constructed and tested in accordance with parts UG-1 through UG-36, inclusive, entitled "General Requirements for All Methods of Construction and All materials" and parts UF-1 through UF-136 entitled "Requirements for Pressure Vessels Fabricated by Forging" as published in Section VIII, Division I of the ASME Boiler and Pressure Vessel Code, July 1, 1983 edition amendments, supplements, or successors.

(2) No person shall fill a storage or nurse tank with anhydrous ammonia unless the tank bears a manufacturer's nameplate showing that it is a code container.

(3) The copy of the report form from each inspection and re-qualification, together with tank repair and mill test reports, if any, shall be maintained for the entire service life of the tank. The reports shall be forwarded with the tank when relocated.

(4) For protection to the public and safety for individuals, the storage of nurse tanks shall conform to the same subsection as permanent storage installations in order to prevent tampering by individuals, which may cause injury to human health.

(5) Anhydrous ammonia tanks of three thousand (3,000) gallon water capacity or less shall not be used for any other commodity except anhydrous ammonia.

(6) Tank trucks, semi-trailers, nurse tanks, and trailers transporting anhydrous ammonia shall not be left unattended on public thoroughfares or in densely populated areas.

(7) If the ammonia hose is marked with:

(A) the year of manufacture and made from the following materials, it shall be replaced per the indicated service life with not more than one (1) year shelf life added:

- (i) Rayon - 2 years
- (ii) Nylon - 4 years
- (iii) Stainless Steel - 6 years

(B) a manufacturer's removal date, it shall be replaced prior to that date (i.e., the manufacturer removal date is 2020, the hose shall be removed prior to January 1, 2020).

(8) All anhydrous ammonia high pressure transfer hoses shall be clearly marked at least once every five (5) feet with the manufacturer's name or trademark, the words Anhydrous Ammonia, the maximum working pressure in PSIG, and the year of manufacture or manufacture removal date. Bulk hoses shall not be used. All hose ends shall be connected by the manufacturer.

(9) Any accident or release, involving anhydrous ammonia, shall be reported (telephone or fax) to the Oklahoma Department of Agriculture as soon as possible, no later than twenty-four (24) hours following the incident, so that an investigation may be made before the area is disturbed.

(A) An accident includes nurse tanks that have been in a wreck, overturned tanks, vandalism (without a release), storage tank being damaged, or "ANY" personal injuries.

(B) A release includes valve malfunctions, ruptured hoses, or any time anhydrous ammonia is released into the air with the exception of safety relief (pop off and hydrostatic) valves.

(10) Converted railroad tank cars shall not be used for the storage of anhydrous ammonia unless they have been retested and meet the requirements of this subsection.

(11) All storage installations shall have on hand, as a minimum, the following equipment in a readily accessible location for emergency and rescue purposes:

(A) One full face gas mask with one industrial size ammonia canister with current date and at least one spare ammonia canister in a readily accessible location. A positive pressure self-contained breathing apparatus shall be used in ammonia contaminated atmospheres that are immediately dangerous to life or health. Gas masks and self-contained breathing apparatus shall be approved by NIOSH/MSHA under provisions of 30 CFR Part II. Procedures and training shall be in accordance with 29 CFT Part 1910 and documented.

(B) One pair of approved protective gloves made of material impervious to anhydrous ammonia.

(C) One pair of protective boots made of material impervious to anhydrous ammonia.

(D) One protective slicker and/or protective pants and jacket made of material impervious to anhydrous ammonia.

(E) Approved flexible fitting, hooded ventilation goggles and one full face shield.

(12) Each employee shall be provided with a pair of approved gloves and a pair of approved flexible fitting, hooded ventilation goggles and, as an option, a full face shield worn over the goggles, which shall be worn when making, breaking, or testing, any ammonia connection, transferring ammonia, or performing

maintenance on an ammonia system under pressure.

(13) Each vehicle transporting anhydrous ammonia shall carry a container of at least five gallons of water and shall be equipped with one pair approved protective gloves; a full face gas mask; a pair of approved flexible fitting hooded ventilation goggles, and as an option, one full face shield to be worn over the goggles. The driver shall be instructed in their use and the proper action to take to provide for their safety.

(14) If a leak occurs in transportation equipment and it is not practical to stop the leak, the driver should move the vehicle to an isolated location downwind from populated communities or heavily traveled highways.

(15) Wheel chocks for nurse tanks and railcars shall be available and shall be used when loading or unloading.

(16) It is a violation for any person to transfer or deliver any anhydrous ammonia into a storage or nurse tank having defects which are plainly apparent.

(17) No container pressure relief device shall be used after the replacement date as specified by the manufacturer.

(18) An attendant is required to transfer anhydrous ammonia and shall be trained in safe operating practices, use of equipment, safety devices, and the proper action to take in the event of emergencies.

(19) Additional safety guidelines found in the American National Standards Institute, Inc., Safety Requirements for Storage and Handling of Anhydrous Ammonia may be applied at the Board's discretion.

(b) Minimum safety requirements for anhydrous ammonia storage tanks. Minimum safety requirements for storage tank facility operations are as follows:

(1) A sign shall be on display at each location in a conspicuous place stating the name, address, and phone number of the nearest representative, agent, or owner of the storage system in letters not less than one inch high.

(2) An easily accessible shower and/or a minimum of one hundred (100) gallons of clean water in an open top container shall be available at every anhydrous ammonia storage location.

(3) Storage tanks shall be free of leaks

(4) Tank supports shall be in good condition.

(5) Storage tanks shall have a reflective surface maintained in good condition. White is recommended for painted surfaces, but other light reflective colors are acceptable.

(6) All hoses shall be maintained, approved for anhydrous ammonia and meet current data specifications.

(7) Hose hang-up racks shall be provided and operational.

(8) All gauges shall be operative with markings clearly visible.

(9) Vapor valves shall be color coded safety yellow and labeled.

(10) Liquid valves shall be color coded safety orange and labeled.

(11) All pressure relief valves shall be capped.

(12) All piping shall be well supported and provision made for expansion and contraction.

(13) All piping shall be done with Schedule 40 black pipe when joints are welded or Schedule 80 black pipe when joints are threaded. An unpainted stainless steel braided flex hose, with Schedule 80 welded fittings, no longer than thirty (30) inches, may be used to provide expansion, contraction, jarring, vibrating, and for settling. In no case shall the angle of the connection exceed ten (10) degrees.

(14) Brass, copper, or galvanized steel pipe or tubing shall not be used.

(15) Provisions shall be made to protect all exposed piping by use of guardrails or other types of protective barriers.

(16) In addition, to the excess flow valves in the liquid and vapor connections of the storage tank and the tank car or truck, an excess flow valve or backflow check valve shall be installed in the piping connecting the storage tank with the tank car or truck, close to the point where the piping and hose are joined.

(17) "STOP-TANK CAR CONNECTED" signs shall be available and in use when railcars are being unloaded. A sign shall be used at each end of the railcar when the railroad siding opens onto the main line from both directions.

(18) The area around permanent storage tanks shall be kept free of trash, debris, and vegetation which could be a fire or safety hazard.

(19) Storage tanks and appurtenances shall be secured to provide reasonable protection against vandalism or unauthorized access which may result in a discharge. Discharge valves on storage tanks shall be locked except when persons responsible for facility security or transfer operations are present. A trained attendant shall make all connections, disconnections, and supervise the transfer of liquids from the time the connections are made until they are disconnected.

(20) Each storage tank shall be marked on at least two sides with the words "ANHYDROUS AMMONIA" OR "CAUTION-AMMONIA" in sharply contrasting colors with letters not less than four (4) inches high. The inhalation hazard decals on a background of sharply contrasting colors at least two (2) inches high shall be on two (2) sides.

(21) Storage tanks shall be located outside of densely populated areas.

(22) Storage tanks shall not be located less than fifty (50) feet from any property line upon which a building may be erected.

(23) Storage tanks shall not be located less than six hundred (600) feet from building, structures, or areas used for activities such as civic, political, religious, recreational, or education purposes, or for involuntary detention of persons.

(24) Storage tanks shall not be located less than fifteen hundred (1500) feet from hospitals, nursing homes, homes for the aged, or public swimming facilities.

(25) Storage tanks shall not be located less than fifty (50) feet from containers of petroleum products.

(c) Minimum safety requirements for anhydrous ammonia nurse tanks. Minimum safety requirements for nurse tanks are as follows:

- (1) Nurse tanks shall be painted white or aluminum.
- (2) All nurse tanks shall be equipped with both pressure gauge and liquid level gauge. Gauges shall be operative at all times.
- (3) All ammonia hoses shall be in good condition, approved for anhydrous ammonia, and meet current date specifications.
- (4) It is a violation for any person to transfer or deliver any anhydrous ammonia into a nurse tank having defects which are plainly apparent.
- (5) It is a violation for a liquid transfer hose to be joined between a nurse tank unit and a tool bar during transport upon a public right-of-way.
- (6) Nurse tanks shall be securely attached to the pulling vehicle and supplemented by two (2) suitably welded safety chains.
- (7) There shall appear on each side and on each end of the nurse tank the words "ANHYDROUS AMMONIA" on a background of sharply contrasting colors at least four (4) inches high. The words are not required on the tank end with valves, fittings, gauges, or appurtenances. In addition, on the rear end of the tank or trailer, there shall be a "Slow Moving Vehicle" sign.
- (8) The name of the owner, place of business, phone number, or contact in case of an emergency shall appear on each side.
- (9) The owner's unique number shall appear as an individual identifying figure on each nurse tank, including single or dual nurse tank setups, in letters and numbers with at least one half (1/2) inch in height and width.
- (10) Vapor valves shall be color coded safety yellow and labeled.
- (11) Liquid valves shall be color coded, safety orange and labeled.
- (12) Vapor valves and liquid valves shall remain closed when not in operation.
- (13) All pressure relief valves shall be capped.
- (14) Decals depicting step by step ammonia transfer instructions and/or connecting/disconnecting instructions for quick couplers to include first aid procedures to use when contaminated with ammonia shall be on each nurse tank.
- (15) All nurse tank operators shall be furnished with the following by the dealer:
 - (A) One pair of approved flexible fitting, hooded ventilation goggles or full face shield.
 - (B) One pair of approved protective gloves made of rubber or other material impervious to ammonia.
- (16) A minimum five gallon container of water shall be carried on all tanks containing anhydrous ammonia. When the temperature is near freezing or below, five gallons of water shall be carried in the pulling vehicle. The water container shall be filled with clean water before the trailer leaves the storage facility.
- (17) Nurse tanks shall have the 1005 nonflammable gas placard on the sides and ends. The placard is not required on the tank end with valves, fittings, gauges, or appurtenances.

(18) The inhalation hazard decals on a background of sharply contrasting colors at least two (2) inches high shall be on two (2) sides of the tank.

(19) A decal showing the maximum pulling speed of 25 MP.H. shall be on the front of each nurse tank as per the American National Standards Institute, Inc. (ANSI).

(20) The provisions found in Title 49 CFR § 173.315 (m) (1) and (2) (2010) as promulgated and amended in the Federal Register, are hereby adopted by reference in their entirety.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00 ; Amended at 28 Ok Reg 2194, eff 7-25-11 ; Amended at 37 Ok Reg 971, eff 9-14-20 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-29-39. Cessation of operations and facility closure

(a) If for any reason a bulk fertilizer storage facility is closed, or operations are discontinued, or by action of the Board it is ordered to cease operations, the owner shall be responsible for proper closure of the facility.

(b) The owner shall comply with the following closure requirements:

(1) Notify the Board in writing that the bulk fertilizer storage facility is being closed or operations discontinued.

(2) Remove all fertilizers and rinsates, wash waters, and other materials that contain fertilizers from the facility site and utilize them for the original intended purpose of the product or dispose of them in a manner approved by the Board.

(3) Thoroughly clean the liquid storage containers at the facility by double rinsing or the equivalent, as approved by the Board.

(4) The dry storage container or building shall be swept clean of all fertilizer and fertilizer containing materials.

(5) Inspect and thoroughly clean all areas where fertilizer may be deposited, including but not limited to interiors of walls, holes in the structure or floors, and any other location where fertilizer could be deposited.

(6) Empty all bulk anhydrous ammonia tanks and disconnect all lines to ensure the tanks can not be reused.

(7) Conduct any soil and water sampling at the facility as required by the Board.

(8) Complete any other conditions required by the Board.

(c) A post closure site facility inspection shall be performed by the Board to verify completion of all closure requirements.

(d) Based on soil and water sampling and inspections, if any contamination is identified at the facility caused by the storage of fertilizer, the owner shall submit a remediation plan for approval by the Department and shall remediate the site.

[Source: Added at 25 Ok Reg 1051, eff 7-1-08]

PART 5. LICENSES AND COMPLAINTS

35:30-29-51. Fertilizer license and schedule of fertilizer fees

(a) Any person engaged in the distribution or sale of fertilizer shall obtain a license.

(b) The Board shall not issue a fertilizer license to any bulk dry, liquid, or anhydrous ammonia facility unless the following are approved by the Board:

- (1) Completed fertilizer license application;
- (2) A completed fertilizer facility application package submitted in a format approved by the Board;
- (3) Site inspection performed by the Board prior to construction;
- (4) Final construction of the facility; and
- (5) Completion of all other conditions required by the Board.

(c) The Board shall not issue and may revoke any fertilizer registration if the Board determines:

- (1) The nutrient value of the product or substance has inadequate plant food content; or
- (2) The registration is for the primary purpose of disposal of the product or substance.

(d) Fertilizer license renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal and in addition to the cost of the license.

(e) Fertilizer registration renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal and in addition to the cost of the registration.

(f) Fees for the fertilizer program shall be as follows:

- (1) The annual fee for persons operating a business engaged in the distribution or sale of a fertilizer shall be Fifty Dollars (\$50.00) and expire on December 31 of each year.
- (2) An inspection fee of one dollar (\$1.00) per ton of which fifty cents (\$0.50) per ton shall be forwarded directly to a special Soil Fertility Research Account in the Department of Plant and Soil Sciences of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University for the purpose of conducting soil fertility research and extension involving efficient fertilizer use for agronomic crops and forages and groundwater and surface water protection from plant food nutrients. Oklahoma State University shall present an annual report to the Agriculture Committees of the Legislature on the use of the special Soil Fertility Research Account Fund.
- (3) Each registrant distributing fertilizer in this state shall file with the Board not later than the last day of January and July of each year, a semiannual statement under oath, setting forth the number of net tons of fertilizer distributed during the preceding six (6) calendar months. The inspection fee and tonnage report shall be due within thirty (30) days following the close of the filing period and upon return of the statement the licensee shall pay the inspection fee. If no fertilizer was sold or distributed in this state for the semiannual period, the registrant shall submit a statement reflecting that information and shall remit a minimum fee of ten dollars (\$10.00). If the inspection fee and tonnage report is not

filed and the payment of inspection fee is not made within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the inspection fee due or a minimum of ten dollars (\$10.00), shall be assessed and added to the amount due.

(4) If the Board finds any deficient inspection fees due as a result of an audit of the records of any person subject to the provisions of the Oklahoma Fertilizer Act, the Board shall assess a penalty fee of ten percent (10%) of the amount due, with a maximum not to exceed two thousand dollars (\$2,000.00) or a minimum of one hundred dollars (\$100.00) whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment shall be made within thirty (30) days of notice of the deficiency.

(5) Annual registrations for specialty fertilizer products sold in packages of less than thirty(30) pounds shall pay a one hundred dollar (\$100.00) registration fee for each product. Specialty fertilizer product registrations shall expire on June 30 of each year. Specialty fertilizer registration renewal applications received thirty (30) or more days after the renewal date shall result in the Board charging a penalty equal and in addition to the cost of the registration. The penalty for failure to register any specialty fertilizer product shall be one hundred dollars (\$100.00) per product and shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00 ; Amended at 21 Ok Reg 754, eff 4-26-04 ; Amended at 22 Ok Reg 569, eff 4-11-05 ; Amended at 27 Ok Reg 903, eff 7-1-10 ; Amended at 31 Ok Reg 728, eff 9-12-14 ; Amended at 38 Ok Reg 1657, eff 9-11-21 ; Amended at 39 Ok Reg 795, eff 9-12-22]

35:30-29-52. Receipt and resolution of complaint against licensee

Upon receipt of a written complaint, the Oklahoma Department of Agriculture shall notify the person filing the complaint in writing of its receipt and status within two (2) working days. The person whom the complaint is filed against shall be notified within two (2) working days. Notification that a complaint has been filed may also be given to the landowner or operator when appropriate. The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and/or legal remedies to the extent possible by the Department. The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

[Source: Added at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-1. Fertilizer terminology [REVOKED]

[Source: Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-2. Registration [REVOKED]

[Source: Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-3. Fertilizer labels and labeling [REVOKED]

[Source: Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-4. Reports, quarterly statements, records and fees [REVOKED]

[Source: Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-5. Sample, inspection, analyze, test, access authority [RESERVED]

35:30-29-6. Guaranteed analysis, penalties, refunds, appeals, underweight [REVOKED]

[Source: Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-7. Fertilizer storage [REVOKED]

[Source: Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-8. Protection of surface and groundwater [REVOKED]

[Source: Amended at 10 Ok Reg 1941, eff 5-27-93 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-9. False advertisements [RESERVED]

35:30-29-10. Publications [RESERVED]

35:30-29-11. General safety requirements for operations of an anhydrous ammonia facility [REVOKED]

[Source: Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-12. Minimum safety requirements for storage tank operations [REVOKED]

[Source: Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-13. Minimum safety requirements for operating nurse tanks [REVOKED]

[Source: Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-14. Stop sale orders, removal orders, seizure, condemnation, dispositions [RESERVED]

35:30-29-15. License [REVOKED]

[Source: Amended at 10 Ok Reg 41, eff 10-8-92 (emergency); Amended at 10 Ok Reg 1943, eff 5-27-93 ; Amended at 14 Ok Reg 1240, eff 5-12-97 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

35:30-29-16. Receipt and resolution of complaint against licensee [REVOKED]

[Source: Added at 10 Ok Reg 3433, eff 6-7-93 (emergency); Added at 11 Ok Reg 2581, eff 6-13-94 ; Revoked at 17 Ok Reg 2857, eff 7-13-00]

SUBCHAPTER 30. SOIL AMENDMENT

35:30-30-1. Definitions

The following words or terms shall have the meaning set forth herein when used in these rules and regulations:

- (1) "**Aged**" means exposed to weathering or natural decay.
- (2) "**Biosolid**" means a primary organic solid material produced by wastewater treatment processes that can be beneficially recycled for its plant nutrient content and soil amending characteristics, as regulated pursuant to 40 CFR 503, as amended.
- (3) "**Brand**" or "**product name**" means a specific designation applied to an individual soil amendment.
- (4) "**Compost**" A biologically stable material derived from the composting process.
- (5) "**Composting**" means the biological decomposition of organic matter accomplished by mixing and piling in such a way to promote aerobic or anaerobic decay and inhibits pathogens, viable weed seeds and odors.
- (6) "**Custom media**" means a horticultural growing medium that is prepared to exact specifications of the person utilizing the medium.
- (7) "**Forest products**" means untreated wood and its untreated byproducts generated from the harvest of timber and includes but is not limited to lumber, sawdust, bark, and similar materials, but in no case shall include reprocessed wood from fabricated consumer or industrial products.
- (8) "**Horticultural growing media**" means any substance or mixture of substances promoted as or is intended to function as a growing medium for the managed growth of horticultural crops in containers and shall be considered a soil amendment for the purposes of this chapter.
- (9) "**Inorganic based**" refers to all substances that do not fall under the definition of organic based or microbial based.
- (10) "**Landscape materials**" means green waste derived from landscape operations and includes but is not limited to grass clippings, plants, shrubs, and tree trimmings not more than six inches (6") in diameter.

(11) "**Microbial based**" means a biological substance or mixture of substances distributed to be applied to the soil, plants, or seeds for corrective soil purposes; intended to improve germination, growth yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or intended to produce any chemical, biochemical, biological, or physical change in the soil.

(12) "**Mulch**" means any organic or inorganic soil surface cover used to help retain moisture longer in the soil by retarding evaporation, to discourage weed growth, to help maintain a constant temperature by insulating the soil, to discourage runoff and soil erosion by shielding the soil surface from water abrasion or to promote water absorption and retention.

(13) "**Organic based**" means only naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives.

(14) "**Processed**" means deliberately treated or manipulated to modify or transform physical, chemical, or biological characteristics of the natural state of the substance.

(15) "**Raw**" means in the natural state, and not prepared, modified or manipulated for use.

(16) "**Registration document**" means the information required by the Board for registering a soil amendment for distribution into or within Oklahoma. The Registration Document may be made available by the registrant to the purchaser upon request, but shall not be part of the product label or labeling.

(17) "**Wood**" means a hard, fibrous material located beneath the bark, which constitutes the greatest part of the stems of trees and shrubs.

[Source: Added at 22 Ok Reg 702, eff 5-12-05]

35:30-30-2. Registration and fees

(a) Each soil amendment product shall be registered with the Board prior to distribution on a registration document supplied by the Board.

Registrants shall register or renew soil amendment products using one of the following methods:

(1) Registrants may electronically register or renew the registration for soil amendment products at the website, www.kellysolutions.com/erenewals, and pay any applicable fees online. Product labels, revised product labels, efficacy data, and uniform product codes when available shall be submitted during the electronic process.

(2) Registrants may register or renew the registration for soil amendment products by submitting a registration application or renewal application directly to the Department on a form approved by the Department. Any applicable fees shall accompany the applications. Product labels, revised product labels, efficacy data, and uniform product codes when available shall be submitted with the applications. Product labels, revised product labels, and efficacy data shall be submitted in pdf format.

- (b) All registrations expire on December 31st of the year registered.
- (c) No product name shall be registered that misrepresents the product's primary component or component formulation.
- (d) Each product name shall refer to a specific formulation; different product names may refer to the same specific formulation. Products for which formulations change or are modified beyond the ranges reported in the registration document shall either be reregistered with a name that distinguishes them from the previous formulation, or production and distribution of the previous formulation shall cease.
- (e) Reregistered products shall be accompanied by a new registration document for that formulation.
- (f) Each product registration document shall be accompanied by a label or facsimile of a label for that product as named. If the same product is sold in more than one size, only one label sample shall be submitted.
- (g) The Board shall not issue and may revoke any soil amendment registration if the Board determines the registration is for the primary purpose of disposal of the product or substance.
- (h) The registration fee shall be One Hundred Dollars (\$100.00) for each product.
- (i) If the Board finds that any soil amendment product is not registered, a penalty of One Hundred Dollars (\$100.00) per product shall be assessed. The penalty shall be added to the registration fee and payment shall be made within thirty (30) days after receipt of notice.

[Source: Added at 22 Ok Reg 702, eff 5-12-05 ; Amended at 36 Ok Reg 1372, eff 9-14-19]

35:30-30-3. Contents of the label

- (a) Label information may be printed on the primary or secondary display panel on the bag containing the product, printed on a sticker placed on the bag, printed on a flyer or tag attached to the bag, or in the case of bulk bags or bulk, any of the above or printed on a fact sheet accompanying the shipment.
- (b) The Board shall require each label to contain the following minimum information. Additional information of an instructional or explanatory nature may be provided at the discretion of the registrant.
 - (1) The product name as registered.
 - (2) The quantity of the product in quarts, cubic feet, yards, or metric equivalents or the weight of the product in ounces, pounds, tons or metric weights or the fluid measure in fluid oz, quarts or gallons or metric equivalents as determined by the dominant method of sale by the industry and as registered.
 - (3) The guaranteed analysis for inorganic based soil amendments shall include the name and the percentage of each active ingredient.
 - (4) The guaranteed analysis for microbiological based soil amendments intended as an inoculum shall include the expiration date, state the number and kind of viable organisms per milliliter, or, if the product is other than liquid, state the number and kind of viable organisms per gram. If the product is not intended as an inoculum, then the product label shall state that the product is

not a viable culture.

(5) In lieu of a guaranteed analysis for organic based soil amendments an ingredient list shall show all components whether organic or inorganic. Components shall be listed in order of decreasing volume, if they comprise at least three percent (3%) or more of the total volume of the product. Components shall be described as follows:

(A) Bark products shall be described as raw, aged, processed, or composted. Bark shall also be specified as pine or softwood (meaning Gymnosperm), or hardwood (not Gymnosperm), and may include no more than fifteen per cent (15%) wood by volume.

(B) Peat products shall be described in accordance with ASTM standards as to whether they are sphagnum, hypnum, reed-sedge, humus, or other peat.

(C) Wood products shall be described as raw, aged, processed, reprocessed or composted.

(D) Readily degradable organic substances shall be listed and described as raw, aged, processed or composted.

(E) The base material for any other composted product shall be described as listed.

(F) Mulches shall be described as listed in the components.

(G) Manures shall be described as listed in the components.

(6) Application rates and intended use statements such as general recommendations for product use. If cautionary warnings of uses not recommended are made, they should be stated in this section of the label.

(7) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.

(8) For products intended for use by commercial growers, the date of manufacture, or the month and year of manufacture, stated at any location on the bag. If the date or month and year of manufacture is coded, sufficient information must be provided to determine the date or month and year of manufacture from the code.

(9) The Board may require a registrant to include a warning or caution statement to ensure safety.

[Source: Added at 22 Ok Reg 702, eff 5-12-05 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:30-30-4. Sampling and Analyses

The Board may require the registrant to provide physical and chemical analyses of products if it has reason to believe the product does not conform with the label or labeling. The analyses shall include but not be limited to all information required by the label section of this Chapter, the Registration Document, and any other supporting documentation.

[Source: Added at 22 Ok Reg 702, eff 5-12-05]

35:30-30-5. Unlawful Acts

It shall be an unlawful act to:

- (1) Distribute an unregistered soil amendment, except one exempted from the requirements of this Chapter.
- (2) Distribute a soil amendment if the label or labeling does not accurately reflect its composition.
- (3) Distribute an adulterated product.
- (4) Fail to supply the Board with analyses of a soil amendments when requested by the Board.
- (5) Fail to cease distribution of any soil amendment for which the Board has issued a Stop Sale order.
- (6) Obstruct the Board in the performance of its duties.
- (7) To fail to supply any analyses of the soil amendment upon request of the Board.
- (8) To fail to disclose on the label sources of potentially deleterious components.

[Source: Added at 22 Ok Reg 702, eff 5-12-05]

35:30-30-6. Exemptions

- (a) Distribution of horticultural growing media planted with live plant material is exempt from the labeling and registration requirements.
- (b) Distribution of custom media is exempt from registration requirements imposed provided it is prepared for a single end user.
- (c) Distribution of a soil amendment that is registered pursuant to the Oklahoma Fertilizer Act may be exempt from the registration requirement, but shall not be exempt from any requirements other than registration.

[Source: Added at 22 Ok Reg 702, eff 5-12-05]

SUBCHAPTER 31. LIME

35:30-31-1. Lime terminology

- (a) Gypsum (CaSO_4) shall not be considered as an agricultural liming material.
- (b) "Fineness" of a product shall be determined by passing a sample through a number eight (8) and number sixty (60) U.S. Standard Sieve, and calculating the percentage of weight of the material which passes through each sieve. The minimum "fineness" for any agricultural liming material distributed for use in Oklahoma shall be that 98% must pass through a four (4) mesh, 90% must pass through an eight (8) mesh and 30% through a sixty (60) mesh sieve.
- (c) The "fineness factor" of a product shall be calculated as one-half (1/2) the percent passing through a number eight (8) sieve plus one-half (1/2)

the percent passing through a number sixty (60) sieve equals "fineness factor."

35:30-31-2. Lime vendor requirements

Lime vendors shall be responsible:

- (1) To purchase, haul, and spread only limestone or other liming materials from manufacturers or producers who are registered in Oklahoma and reporting the inspection fee.
- (2) To make sure all limestone or liming material is properly labeled when purchased from the manufacturer or producer; also that the product is properly labeled when delivered to the consumer.

35:30-31-3. Inspection, sampling and analyses

(a) Analysis of official inspector samples of limestone or other liming material taken subject to the Oklahoma Agricultural Liming Materials Act and Rules and Regulations and this section shall show:

- (1) The percent of CCE (neutralizing value of product).
- (2) The percent of material passing through a number eight (8) and number sixty (60) mesh sieve.
- (3) The "fineness factor" (1/2 the percentage passing through a number 8 mesh sieve plus 1/2 the percentage passing through number 60 sieve).
- (4) The percent of ECCE (CCE × fineness factor).

(b) Analysis of unofficial samples of limestone or other liming materials for the manufacturer, producer, distributor, lime vendor, or consumer taken by them for their own information shall not be the responsibility of the State Department of Agriculture Chemical Laboratory.

35:30-31-4. Schedule of ag-lime program fees

(a) The annual vendors license fee shall be Twenty Five Dollars (\$25.00). Each license shall expire December 31 of each year.

(b) An inspection fee of ten cents (\$0.10) per ton shall be paid to the Board on all agricultural liming material sold or distributed for use within this state. If no lime was sold or distributed in this state for the semiannual period, manufacturers shall submit a statement reflecting that information and shall remit a minimum fee of Five Dollars (\$5.00).

(c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Agricultural Liming Materials Act, the Board shall assess a penalty fee of ten percent (10%) maximum not to exceed Two Thousand Dollars (\$2,000.00) of amount due, or One Hundred Dollars (\$100.00), whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment made within thirty (30) days.

(d) The Board shall not issue and may revoke any registration, if the Board determines that the registration is for the primary purpose of disposal of the product or substance.

SUBCHAPTER 33. WEED INFESTED MATERIAL

35:30-33-1. Labeling requirements for weed infested material

(a) **Whole grain.** The label or invoice of whold grain shall include the labeling set forth below:

- (1) Net Weight
- (2) Kind of Grain
- (3) Name and address of labeler
- (4) Name and number of Noxious Weeds as allowed under this act, when present.

(b) **Feeds and fertilizer.** The label or invoice of feeds and fertilizers shall contain the labeling information as set forth in the Okalhoma Fertilizer Law and the Weed Infested Material Law; in addition the name and number of Noxious Weeds as allowed under the Weed Infested Material Law, when present.

(c) **Screenings, hay and bedding.** Name and number of Noxious Weeds as allowed under the Weed Infested Material Law shall be shown on a label or invoice of screenings, hay and bedding, when present.

35:30-33-2. Noxious Weed list & limitations

The following is the Noxious Weed list and limitation:

- (1) Bindweed, field (*Convolvulus arvensis*) - Prohibited.
- (2) Musk thistle (*Carduus nutans*) - Prohibited.
- (3) Scotch thistle (*Onoprodum acanthium*) - Prohibited.
- (4) Canada thistle (*Cirsium arvense*) - Prohibited.

[Source: Amended at 17 Ok Reg 1041, eff 5-11-00]

SUBCHAPTER 34. NOXIOUS WEEDS

35:30-34-1. Degrees of infestation

The degrees of infestation that may require treatment, control, or eradication of musk, scotch, or Canada thistle shall be defined in the following terms:

- (1) Light - Less than two (2) plants per acre.
- (2) Medium - Two (2) to nine (9) plants per acre.
- (3) Severe - Ten (10) or more plants per acre.

[Source: Added at 17 Ok Reg 1041, eff 5-11-00]

SUBCHAPTER 35. FEEDYARDS [REVOKED]

35:30-35-1. Purpose [REVOKED]

[Source: Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-2. Definitions [REVOKED]

[Source: Added at 11 Ok Reg 2517, eff 5-11-94 (emergency); Added at 12 Ok Reg 1593, eff 6-12-95 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-3. Citation (Statute Title) [RESERVED]

35:30-35-4. Advisors [RESERVED]

35:30-35-5. Application for license [REVOKED]

[Source: Added at 11 Ok Reg 2517, eff 5-11-94 (emergency); Added at 12 Ok Reg 1593, eff 6-12-95 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-6. Investigation of complaints [REVOKED]

[Source: Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-7. License required [REVOKED]

[Source: Added at 11 Ok Reg 2517, eff 5-11-94 (emergency); Added at 12 Ok Reg 1593, eff 6-12-95 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-8. Issuance of license [REVOKED]

[Source: Added at 10 Ok Reg 45, eff 10-8-92 (emergency); Added at 10 Ok Reg 1945, eff 5-27-93 ; Amended at 13 Ok Reg 3545, eff 7-22-96 (emergency); Amended at 13 Ok Reg 3955, eff 10-11-96 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-9. Duties of owners and operators [REVOKED]

[Source: Added at 11 Ok Reg 2517, eff 5-11-94 (emergency); Added at 12 Ok Reg 1593, eff 6-12-95 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-10. Suspension or revocation of license [RESERVED]

35:30-35-10.1. Receipt and resolution of complaint against licensee [REVOKED]

[Source: Added at 10 Ok Reg 3427, eff 6-7-93 (emergency); Added at 11 Ok Reg 2579, eff 6-13-94 ; Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-11. Penalties [REVOKED]

[Source: Amended at 14 Ok Reg 1505, eff 12-24-96 (emergency); Revoked at 14 Ok Reg 2465, eff 6-26-97]

35:30-35-12. Severability [RESERVED]

35:30-35-13. Codification [RESERVED]

35:30-35-14. Repealer [REVOKED]

[Source: Revoked at 14 Ok Reg 2465, eff 6-26-97]

SUBCHAPTER 36. WEED FREE HAY CERTIFICATION

35:30-36-1. Purpose

(a) These rules shall provide the standards for inspection and certification by the Oklahoma Department of Agriculture, Food, and Forestry of weed free hay.

(b) The weed free hay certification program is a voluntary program and is intended to reduce the exportation, importation, growth, and spread of noxious weeds.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-2. Definitions

The following words or terms shall be defined as follows:

"Bale" means a mechanically compressed package of forage or mulch bound by string or wire.

"Certificate of inspection" means a certificate issued by a qualified inspector that states the results of a field or commodity inspection. This certificate shall document that the inspected field or commodity is free from state or regional noxious weeds or that the field or commodity contains noxious weeds.

"Certification" means the process the Department utilizes to conduct field or hay inspections to determine if the field or hay is free of noxious weeds.

"Cubed Hay" means hay formed into small compact self-binding units and shall not include pellets, as defined in this section. The field of origin for cubed hay shall be certified.

"Field" means the land on which a hay is grown and is not divided by streams, public roads, other crops, or other barriers.

"Field certification inspection" means an onsite inspection of forage or mulch in the field, and areas adjacent to the field, for the presence of noxious weeds. The inspection shall be conducted prior to cutting or harvesting.

"Forage" means alfalfa, grain, and grass hay, and combinations of alfalfa, grain, or grass hay.

"Hay" means any agricultural forage crop product whether cultivated or not cultivated, irrigated or not irrigated, planted or naturally occurring, and may include mulch.

"Mulch" means the straw remaining after grain is harvested.

"NAISMA" means North American Invasive Species Management Association.

"Noxious weeds" means those weeds, including any weed seed or propagative plant parts, included on the regional NAISMA noxious weed list or designated by the State Board of Agriculture as noxious and are prohibited, and shall include those noxious weeds identified in Section 3-220 of Title 2 of the Oklahoma Statutes.

"Pellets" means agglomerated feed formed by compacting and forcing through die openings by a mechanical process. The field of origin shall be certified if heat is not used in the process.

"Propagative plant parts" means any parts of a plant capable of reproduction, including seeds, live roots, rhizomes, stolons or any other plant part.

"Qualified inspector" means a person qualified and trained to identify noxious weeds pursuant to standards promulgated by the Board or NAISMA Certified Training.

"Regional noxious weed free" means hay inspected for, and determined to be free of weeds designated as noxious on NAISMA's Regional list or by states participating in the regional noxious weed free forage and mulch certification program, including but not limited to the following: Colorado, Idaho, Kansas, Montana, Oregon, Utah, Washington, and Wyoming.

"State noxious weed free" means hay inspected for weeds designated as noxious and certified as free of noxious weeds, seed, and propagative plant parts.

"Treated" means utilizing treatment methods to prevent weed seed formation, including, but not limited to burning, mechanical methods, rouging, or application of chemical herbicides.

"Weed free" means any hay certified as free of noxious weeds.

"Weed free hay certification" means hay inspected and certified as free of noxious weeds pursuant to standards adopted by the Board.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-3. Voluntary weed free hay certification

(a) The Oklahoma Department of Agriculture, Food, and Forestry is the certifying authority for weed free hay certifications.

(b) The Department shall complete the following for the weed free hay certification program:

(1) Coordinate hay inspections within the state.

(2) Select, train, and supervise persons who serve as qualified inspectors.

(3) Issue certificates of inspection and bale tags to qualifying applicants.

(4) Maintain a record of all inspections performed and certificates and bale tags issued.

(c) The Department may issue a certificate of inspection for each field and crop cutting inspected and found to be free of noxious weeds.

(1) The certificate shall document that the hay is weed free and shall contain the applicant's name, address, commodity, and

estimated yield.

(2) A copy of the certificate shall be retained by the Department.

(d) The applicant may use tags provided by the Department or purple and yellow twine as approved by NAISMA to identify the hay bales harvested from the certified field.

(e) Any excess tags shall be returned to the Department no later than December 31 of the calendar year issued and the price shall be nonrefundable.

(f) All certified weed free hay shipments shall be accompanied by a certificate of inspection and a state phytosanitary certificate, if required, and tag as evidence that the hay is certified to be weed free and traceable to the source of the original hay.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-4. Application for certification

(a) Applications for a certification inspection shall be submitted to the Department on forms prepared by the Department.

(b) Applications for a certification inspection shall be submitted to the Department no less than ten (10) working days prior to the desired inspection date.

(c) The application for a certification inspection shall include the following:

(1) Applicant's name, address, telephone numbers, and email address, if applicable;

(2) Field locations, including driving directions from the nearest town;

(3) Crop, acreage, estimated yield, and anticipated harvest date; and

(4) A detailed map of the fields with the township, range, section and quarter section, or GPS coordinates.

(d) An applicant shall verify the accuracy of the information submitted, and the intent of the applicant to comply with the post certification and distribution requirements by signing the application.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-5. Field certification inspection

(a) Hay shall be inspected in the field of origin prior to the beginning of harvest for each field and cutting.

(b) Each field inspected shall be identified by the name of the applicant and a field name or number. The field certification inspection may be performed on an entire field or a portion of a field, if the portion of the field is plainly marked and identified by the applicant prior to inspection.

(c) Field inspections shall take place prior to any farming practice that limits the qualified inspector's ability to properly inspect and certify the field.

(d) A field shall be inspected a second time if the hay is not harvested within ten (10) days of the first inspection.

(e) When performing field certification inspections, the qualified inspector shall inspect the following:

- (1) The entire field and the entire field border;
- (2) Any ditches, fence rows, roads, easements, rights-of-way, and buffer zones, as applicable, surrounding the field; and
- (3) A minimum of two (2) entry points per field and a minimum of one (1) entry point per each ten (10) acres, and at each entry point the qualified inspector shall walk at least one hundred and fifty (150) feet into the field.

(f) Storage areas shall be inspected and meet the same standards as field certifications.

(g) If noxious weeds are found that could result in hay contamination, the field shall not be certified weed free. The qualified inspector shall complete an inspection report identifying the weeds present and their locations in the field.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-6. Baled hay certification inspection [REVOKED]

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Revoked at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-7. Treated field certification inspections

(a) Fields containing any noxious weeds may be certified in the following circumstances:

- (1) The field upon which the hay is produced is treated to prevent seed formation or seed ripening to the degree that there is no danger of dissemination of the seed, or any injurious portion from noxious weeds, or undesirable plant species, or the propagating parts of the plant are not capable of producing a new plant.
- (2) Noxious weeds were treated not later than rosette to bud stage, or boot stage for grass species classified as weeds, prior to harvesting or cutting.
- (3) Treatment can include but is not limited to:
 - (A) Burning;
 - (B) Mowing, cutting or rouging;
 - (C) Mechanical methods; or
 - (D) Chemicals.

(b) The applicant may treat the noxious weeds and request a follow up inspection at additional cost to the applicant. If upon re-inspection, the qualified inspector determines that the weeds were treated in a manner that will prevent seeds or propagative plant parts from contaminating the hay, the field can be certified.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-8. Exports

Certification under these rules shall not qualify hay for export from the United States. Applications for export shall be made directly to the Department for federal phytosanitary certificates.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-9. Fees

- (a) Each application shall be accompanied by a nonrefundable fee of Twenty Five Dollars (\$25.00).
- (b) Each applicant shall pay an inspection fee to the Department for each requested inspection or follow up inspection at a rate of Fifty Dollars (\$50) per hour with a four (4) hour minimum, or Three Dollars (\$3) per acre, whichever is greater and mileage charged at the current official state mileage rate.
- (c) Bale tags shall be Twenty Five Cents (\$.25) per tag with a minimum purchase of one hundred (100) tags.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-10. Voluntary posting

- (a) After certification, an applicant may post signs or other forms of notification indicating that the hay is certified as weed free. Each sign or notification shall include the weed free certification number.
- (b) The Department may post a list of all certified producers and commodities on its website.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-11. Qualified inspector qualifications

- (a) The Department shall appoint, as needed, qualified inspectors throughout the state who may issue certificates of inspection.
- (b) Only qualified inspectors shall certify hay as weed free.
- (c) The principal purpose of the qualified inspector is to establish, conduct, and maintain a uniform and reasonable system of inspection and certification of hay to determine if the hay is weed free.
- (d) Each person designated as a qualified inspector shall participate in a training session presented by NAISMA to recognize noxious weeds and learn standardized inspection, certification, and recordkeeping procedures.
- (e) The Department shall determine minimum training and accreditation standards for qualified inspectors. Qualified inspectors shall obtain continuing education as required by the Department.
- (f) A qualified inspector shall not inspect fields or bales in which the qualified inspector has ownership or a financial interest.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-36-12. Violations

It shall be a violation of these rules to:

- (1) Make false, misleading, deceptive, or fraudulent representations regarding certification of any hay;
- (2) Refuse or fail to comply with any provision of these rules;
- (3) Fail to maintain or submit documents required by these rules;
- (4) Fail to return unused tags to the Department by December 31 of the calendar year issued;
- (5) Alter or deface in any manner any document or marking system produced as the result of a weed free hay inspection; and
- (6) Reproduce, produce a facsimile of, or utilize in any fashion any documentation or marking system pertaining to certification of any crop.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-13. Oklahoma noxious weed list

The following are noxious weeds pursuant to Oklahoma law:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Field bindweed (*Convolvulus arvensis*).
- (3) Musk thistle (*Carduus nutans*).
- (4) Scotch thistle (*Onopordum acanthium*).

[Source: Added at 27 Ok Reg 2446, eff 7-25-10]

35:30-36-14. Regional noxious weed free certification

- (a) The Department may certify hay as noxious weed free using NAISMA Weed List as minimum certification standards.
- (b) The NAISMA Noxious Weed List shall be utilized for regional noxious weed free certification and is available on the Department or NAISMA website.

[Source: Added at 27 Ok Reg 2446, eff 7-25-10 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

SUBCHAPTER 37. NURSERY STOCK SALES

35:30-37-1. Storage and display of nursery stock

- (a) Balled and burlapped nursery stock shall be maintained by surrounding and covering the earth ball with sawdust, peat, shingletow, or other wettable material non-toxic to plants. The moisture holding material shall be kept moist at all times.
- (b) Container grown nursery stock shall be watered sufficiently to maintain the viability and vigor of the stock and shall be held under temperatures that shall permit normal growth.
- (c) Bare-root nursery stock shall be kept under conditions of temperatures and moisture to retard growth and maintain viability.
- (d) Prepackaged nursery stock with roots packaged in moisture retaining plastic, peat, shingletow, or other moisture-retaining material non-toxic to plants shall be stored and displayed under conditions that shall retard etiolated (non-green) or abnormal growth and shall ensure an adequate

supply of moisture to the roots at all times.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-2. Minimum vitality guide of nursery stock

- (a) Woody stemmed deciduous nursery stock like fruit and shade trees, and flowering shrubs shall have moist, green cambium tissue, in the stem or stems and branches and shall have viable buds or normal green, unwilted growth sufficient to permit the stock to live and grow in a form characteristic of the species when planted and given reasonable care
- (b) Hardy herbaceous perennials or perennials when in a wilted, rotted or any other condition indicative of subnormal vitality shall not be sold or offered for sale.
- (c) Any bare-rooted or prepackaged nursery stock shall have the sprouts removed, as they greatly decrease the vitality of the stock over a period of time.
- (d) Balled and burlapped nursery stock in a weakened condition as evidenced by die-back or dryness of foliage or the stock having broken or loose earth balls shall not be sold or offered for sale.
- (e) Nursery stock on display at sales outlets not meeting the minimum vitality requirements shall be removed from public view by the owner or person in charge and not offered for sale.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-3. Rosebush sales

- (a) The sprouts of a rosebush shall be removed as this will cause an increase in the devitalization of the bush.
- (b) Rosebushes shall have moist green cambium in the cane or canes in at least the first four (4) inches above the graft. Any single stem not meeting this requirement disqualifies the entire bush. A bush may be pruned to comply with the specification if at least one stem meeting the specification remains.
- (c) The individual rosebush shall have a well developed and well proportioned root system sufficient to yield a normal growth when properly planted
- (d) No green wax or other colored coating is permitted on rose canes which may conceal harmful insects and diseases or conceal the true condition of the cane.
- (e) The non-waxed rose canes shall show no shriveling or blackening from drying, or other damage, but shall be free of shriveling and a live, healthy condition shall be indicated by the cambium layer.
- (f) In the event of freeze damage, a rosebush shall be considered viable if 70% of the cambium, four (4) inches above the bud union, and 100% at the bud union remains in good growing condition.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-4. Prepackaged rosebushes

Prepackaged rosebushes with root systems packaged in moisture retaining material non-toxic to plants shall be stored and displayed under conditions that shall retard sprouting (and shall ensure an adequate supply of moisture to the roots at all times).

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-5. Bare-rooted rosebushes

Bare-rooted rosebushes shall be maintained under conditions of temperature and moisture which shall retard growth and preserve vitality. Moisture shall be supplied to the root system by high humidity conditions in storage or by covering the roots with a moisture holding material non-toxic to the bush, this material shall be kept moist at all times.

[Source: Amended at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-6. Inspection of plants, plant products, and other material and inspection fees

(a) Authorized agents shall have the authority to inspect any plant or plant product for the purpose of export. Plant products shall be inspected for insect pests and plant diseases and identified treatments may be required to meet export requirements. For phytosanitary inspection and certificate the exporter shall pay a fee determined by the Board and consistent with the USDA-APHIS Appendix 1 Fees and Costs.

(b) A person may request inspection of plants and other material by the Board prior to movement or sale. The Board may assess fees to cover the cost associated with those inspections. Funds generated from the fees shall be deposited in a non-lapsing account and used to conduct the inspections.

[Source: Added at 17 Ok Reg 3567, eff 9-7-00 (emergency); Added at 18 Ok Reg 1444, eff 5-25-01]

35:30-37-7. Exemptions to inspection fees

(a) Any scientific, agricultural club, horticultural club, garden club, educational or eleemosynary institution, and any department or branch of the state or federal government is exempt from inspection fees.

(b) One time garage sales with fewer than 15 plants are exempt from inspection fees.

[Source: Added at 17 Ok Reg 3567, eff 9-7-00 (emergency); Added at 18 Ok Reg 1444, eff 5-25-01]

35:30-37-8. Expiration dates and late fees

(a) All dealer and landscaper licenses shall expire annually on December 31st.

(b) All grower licenses shall expire annually on September 30th.

(c) A late fee equal to the amount of the license fee shall be assessed in addition to the license fee and shall be due after the 15th day of the month following the renewal month.

(d) As used in this subchapter, the term "grower" means a person engaged in the production of nursery stock from cuttings, plugs, seeds, or transplants for wholesale or retail sale.

[Source: Added at 17 Ok Reg 3567, eff 9-7-00 (emergency); Added at 18 Ok Reg 1444, eff 5-25-01 ; Amended at 31 Ok Reg 728, eff 9-12-14]

35:30-37-9. Revocation of certificates

After affording the certificate or license holder an opportunity for a hearing, the Board shall have the power to revoke any certificate, permit, or license for any violation of this Subarticle or nonconformity with any rule promulgated by the Board.

[Source: Added at 17 Ok Reg 2834, eff 7-13-00]

35:30-37-10. Prohibited sales of aquatic plants

A person shall not knowingly propagate, sell, or offer for sale any aquatic plant pest. "Aquatic plant pest" shall include, but not be limited to, any aquatic plant species listed as a noxious aquatic plant in OAC 800:20-3-2 (a) and (b).

[Source: Added at 20 Ok Reg 805, eff 5-12-03]

35:30-37-11. Methyl bromide use

(a) A phytosanitary certificate may be issued for intrastate and interstate shipments of conifer and hardwood seedlings to verify that the seedlings are free of pests and diseases.

(b) The method of treatment shall be fumigation using methyl bromide in seedling plant beds prior to seeding.

(c) Any treatment shall only be performed using state and federally registered pesticides.

(d) Any shipment of seedlings originating out of state shall be accompanied by a certificate of inspection issued by the state of origin to verify inspections and treatments.

[Source: Added at 24 Ok Reg 1777, eff 6-25-07]

35:30-37-12. Schedule of horticulture program fees

(a) The fee for each Federal Phytosanitary Certificate issued or renewed shall be as follows:

(1) Federal Phytosanitary Certificate PPQ Form 577

(A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more - One Hundred and Six Dollars(\$106.00).

(B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00 - Sixty One Dollars (\$61.00).

(2) Federal Phytosanitary Certificate, Processed Plant Products PPQ Form 578

- (A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more - One Hundred and Six Dollars (\$106.00).
 - (B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00 - Sixty One Dollars (\$61.00).
- (3) Federal Phytosanitary Certificate for Re-export PPQ Form 579.
 - (A) If the aggregate commercial value of the product inspected for certification is \$1,250.00 or more - One Hundred and Six Dollars (\$106.00).
 - (B) If the aggregate commercial value of the product inspected for certification is less than \$1,250.00 - Sixty One Dollars (\$61.00).
- (4) Ten Dollars (\$10.00) for the re-issuance of a Federal Phytosanitary Certificate.
- (b) All Federal Phytosanitary Certificates shall require an administrative fee paid by the Department to USDA in the following amounts:
 - (1) Six Dollars (\$6.00) if the certificate is issued in PCIT.
 - (2) Twelve Dollars (\$12.00) if the certificate is issued outside of PCIT.
- (c) The fee for each State Phytosanitary Certificate issued or renewed shall be as follows:
 - (1) If the aggregate commercial value of the product inspected for certification is Two Hundred Fifty Dollars (\$250.00) or more: Twenty Dollars (\$20.00).
 - (2) If the aggregate commercial value of the product inspected for certification is Two Hundred Forty-nine Dollars (\$249.00) or less: Five dollars (\$5.00).
 - (3) If you do not have an Oklahoma nursery license, the Phytosanitary Certificate fee shall be Twenty Dollars (\$20.00) regardless of aggregate commercial value.
 - (4) There shall be no fee for the issuance of a Phytosanitary Certificate if it is required by the Japanese Beetle Harmonization Plan unless a treatment is monitored by an authorized agent of the Board.
- (d) The fee for each grower, dealer, broker, and landscaper license issued or renewed and inspection conducted shall be as follows:
 - (1) Growers license - Twenty five Dollars (\$25.00) for each business location.
 - (2) Growers inspection fee - One Dollar (\$1.00) per acre and per 1000 square feet of greenhouse area inspected.
 - (3) Dealers, broker license and landscapers fees -Thirty eight Dollars (\$38.00) for each business location.
 - (4) Landscaper or Personal Use Only license fee - One Hundred Dollars (\$100.00) for each business location.
 - (5) No fee for shall be charged for a grower's license issued to any scientific, agricultural, or horticultural club, educational or eleemosynary institution, or any department or branch of the state or federal government.
 - (6) Failure to remit the license fee by the 15th of the month following the expiration month shall result in a penalty fee equal

to the cost of the license.

(e) A fee of Twenty-Five Dollars (\$25.00) shall be charged for any requested inspection or certification and shall be payable at the time of inspection and includes inspections and certificates issued for transporting plants.

(f) All fees and monies collected under this program shall be paid to the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 27 Ok Reg 903, eff 7-1-10 ; Amended at 37 Ok Reg 971, eff 9-14-20 ; Amended at 38 Ok Reg 1657, eff 9-11-21]

35:30-37-13. Prohibited sale of noxious weeds

Plants listed on the Federal Noxious Weed List, 7 CFR § 360.200, are prohibited from propagation, sale, or distribution in Oklahoma. This shall include sterile varieties of *Imperata cylindrica*.

[Source: Added at 39 Ok Reg 795, eff 9-12-22]

SUBCHAPTER 38. APIARIES

35:30-38-1. Definitions

In addition to the terms defined in the Oklahoma Apiary Act, the following words, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Certificate of inspection" means a document issued based on an inspection by the Department or other state or province stating that the apiary, bees, and apiary equipment appear free of bee diseases and pests, and may include a label, rubber stamp imprint, tag permit, written statement, or any other form of certification that accompanies the movement of bees or apiary equipment.

"Swarm" means a population of bees that is not permanently established in an apiary.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-2. Receipt and resolution of complaints

(a) Upon receipt of any complaint, the Department shall notify the person filing the complaint and the person whom the complaint is filed against, if known, in writing of its receipt and status within five (5) working days.

(b) Notification that a complaint was filed may also be given to the landowner or operator.

(c) The resolution of the complaint is the completion of the appropriate administrative, jurisdictional, or legal remedies to the extent necessary by the Department.

(d) The complainant shall be notified in writing within seven (7) working days after resolution of the complaint.

(e) The Department shall investigate any complaint regarding the following:

(1) Proximity of bee hives;

- (2) Africanized honeybees; or
- (3) Any violation of the Oklahoma Apiary Act or rules promulgated pursuant to the act.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-3. Voluntary registration requirements

- (a) Any person may register by completing a form and submitting the appropriate registration fee by January 31 of each year.
- (b) Upon registration, the person shall be issued a certificate of registration containing a registration number that shall be clearly displayed at each apiary location on a permanent sign with a minimum of one and one half-inch (1 1/2") high contrasting letters or numbers.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-4. Unregistered apiaries

Any person owning an apiary who does not register with the Department shall clearly post and display their name, address and telephone number on a permanent sign with a minimum of one and one half inch (1 1/2") high contrasting lettering at or near the apiary.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-5. Certificate of inspection

- (a) The Department may conduct inspections of apiary or hive locations as deemed necessary to determine the presence of bee diseases or pests.
- (b) Any person may request an apiary inspection from the Department.
 - (1) The request for inspection shall be written and include the name, address, and telephone number of the owner, the number of colonies to be inspected, and the destination state, if applicable.
 - (2) The owner shall pay an inspection fee based on the total number of hives listed on the certificate of inspection.
- (c) Inspection procedures.
 - (1) Inspections shall be performed using a random number table.
 - (2) A minimum of fifteen (15) hives shall be inspected. If there are less than fifteen (15) hives, all of the hives shall be inspected.
 - (3) A minimum of fifteen percent (15%) of the total number of hives to be certified will be opened and inspected for bee diseases or pests.
 - (4) Bees shall only be maintained in a removable frame hive that permits the thorough examination of every comb.
 - (A) If the removable frame requirement is not met, the Department shall notify the owner in writing.
 - (B) Any person may make a written request for an exemption to this requirement that shall include justification for the request.
 - (5) Upon completion of the inspection a certificate of inspection shall be issued to the owner of the bees stating that the apiary is

either:

- (A) Apparently free of bee diseases or pests; or
- (B) Not free of a bee diseases or pests and listing all bee diseases and pests found during the inspection.

(6) Standard precautions for the prevention of transmission of bee diseases or pests to humans, animals, and bees during inspections shall include, but not be limited to, the following:

- (A) All necessary precautions shall be taken to properly disinfect all tools and any other thing that may have come into contact with bees or equipment that may have bee diseases or pests.
- (B) Prior to entering or exiting any premise, all appropriate measures shall be taken to prevent the spread of any bee disease or pest by ensuring infested material is not adhered to any person, clothing, or tools or appliances.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-6. Quarantines

- (a) Upon the discovery of any bee disease or pest, a premise shall be quarantined by the Department.
- (b) The quarantine order shall indicate the following:
 - (1) The location of the quarantined premise.
 - (2) The portion of the premise that is quarantined.
 - (3) The control measures to be implemented by the owner of the apiary.
 - (4) If the quarantine can be confined to a portion of the premise, the order shall indicate that portion of the premise subject to the quarantine and shall indicate the release of the remainder of the premise from the quarantine.
- (c) Any person receiving a quarantine order shall immediately initiate any and all control measures specified in the quarantine.
- (d) The presence of a bee disease or pest shall be confirmed using industry acceptable bee inspection procedures or by sample analysis at a USDA bee lab or Oklahoma State University Insect and Plant Disease Diagnostic Lab.
- (e) Quarantined bee colonies shall be marked with waterproof marking indicating the existence of and the reason for the quarantine.
- (f) Upon laboratory confirmation of the existence of bee diseases or pests, the beekeeper shall be notified of the results in writing.
- (g) Any quarantine shall remain in effect until the Department officially removes the quarantine and issues a Certificate of Inspection.
- (h) A reinspection shall be made within six (6) months of any issued quarantine.
- (i) When there are no effective control measures available, or the person fails to initiate control measures, a Board order to destroy the bees and apiary equipment infected or infested with the bee disease or pest may be issued to prevent the spread of the bee disease or pest.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-7. American foulbrood quarantine

(a) Any apiary, appliances, structures, buildings or bees quarantined due to the presence of American foulbrood shall implement one of the following control measures:

- (1) State-approved chemotherapy treatment, including the feeding of antibiotics, if the bee disease has not spread to the point of weakening the colony beyond the possibility of control with chemotherapy treatments;
- (2) Burning the entire hive and contents, or, upon approval of the Department, the contents of the diseased hives, including bees, combs and associated frames;
 - (A) Burning shall occur in an open pit;
 - (B) Ashes shall be buried no less than eighteen inches (18") below the surface of the soil;
 - (C) Disinfection by scorching the hive bodies, covers, bottom boards, supers and appliances associated with them.
 - (D) Frames may be boiled in one pound of lye per ten (10) gallons water for not less than twenty (20) minutes.
- (3) Any other method approved by the Department.

(b) The owner shall notify the Department of any corrective measures to be taken so Department personnel may be present during the measure.

(c) If no corrective action is taken within thirty (30) days, the infected or infested colonies shall be destroyed.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-8. Africanized honeybees (*Apis mellifera scutellata*)

(a) Infestations of African honeybees shall be identified by a method prescribed by the Department, including but not limited to Mitochondrial DNA, DALY'S Morphometric Analysis, or FABIS I or II (Fast Africanized Bee Identification System).

(b) Colonies of honeybees with a high probability of being Africanized based on the above tests or any feral swarm of bees found in counties with Africanized honeybees shall be:

- (1) Destroyed; or
- (2) Quarantined and requeened with marked Certified European queens.
 - (A) The colony shall be resampled after the first generation of European offspring has emerged.
 - (B) If the subsequent sampling reveals bees with a high probability of being "European," the quarantine shall be lifted.
 - (C) If subsequent sampling reveals bees with a high probability of being Africanized, the colony shall be destroyed.

(c) Colonies of bees identified as Africanized that exhibit extreme aggressive behavior shall be destroyed if the requeening process fails or the public is at risk.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-9. Abandoned apiaries

- (a) Any abandoned apiary may be confiscated by the Department.
- (b) Prior to confiscation of the abandoned apiary, the Department shall take reasonable steps to locate the owner.
 - (1) The owner, lessee, or renter of the land where the apiary is discovered shall be notified.
 - (2) The local beekeeping organization shall be notified and given sixty (60) days to locate the owner.
 - (3) A notice of confiscation shall be placed at the apiary one hundred and eighty (180) days prior to confiscation.
- (c) If the Department is unable to locate the owner upon completion of the above steps, it shall destroy the apiary or donate the apiary to an appropriate research facility.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-10. Entry permits for migratory beekeepers

- (a) Any migratory beekeeper who brings bees into the state shall obtain an entry permit from the Department.
- (b) The application for the permit shall include:
 - (1) the name and addresses of the person owning the bees;
 - (2) the name and address of the person shipping the bees if different from the owner;
 - (3) a complete description of the shipment;
 - (4) the destination of the shipment;
 - (5) the nearest town and county where the bees shall be located;
 - (6) the legal description where the bees shall be located;
 - (7) the name and address of the person or land owner receiving the bees;
 - (8) the approximate date of the shipment; and
 - (9) A certificate of inspection signed by the official apiary inspector or entomologist of the state, territory, or country from which the bees are shipped. The certificate shall state that the bees are apparently free of diseases and pests and shall be based on an actual inspection performed not more than three (3) months prior to the date of shipment.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-11. Entry permits for other than migratory beekeepers [RESERVED]

[Source: Reserved at 23 Ok Reg 878, eff 5-11-06]

35:30-38-12. Pollination

- (a) Any beekeeper who provides colonies of bees for pollination purposes or honey production pursuant to an oral or written contract shall be

subject to inspection by the Department for the strength of colonies and the presence of bee diseases and pests.

(b) Copies of the written contract shall be furnished to the Department upon request.

(c) Each hive shall be a minimum equivalent of five (5) deep frames of nine and one-eighth inches (9 1/8") of bees with brood of a standard Langstrof of nine and five-eighths inches (9 5/8") deep hive body.

[Source: Added at 23 Ok Reg 878, eff 5-11-06]

35:30-38-13. Apiary program fees

(a) The fee for any person registering pursuant to the Oklahoma Apiary Act shall be Ten Dollars (\$10.00).

(b) An entry permit fee of One Hundred Dollars (\$100.00) shall be charged for migratory beekeepers moving colonies of bees into this state.

(c) Any person requesting inspection of an apiary shall pay a fee based on the total number of hives listed on the certificate of inspection. The following inspection fees shall be charged at the time of inspection:

(1) One to 25 hives: \$10.00.

(2) 26 to 50 hives: \$25.00.

(3) 51 to 100 hives: \$50.00.

(4) 101 to 250 hives: \$75.00.

(5) 251 to 500 hives: \$100.00.

(6) 501 to 1,000 hives: \$200.00.

(7) More than 1,000 hives: \$250.00.

(d) Any person requesting the Department to take samples for laboratory diagnosis shall be charged Twenty-five Dollars (\$25.00) for each sample. This charge shall not include the actual cost of diagnosis charged by the laboratory.

(e) All fees are due within thirty (30) days after samples are processed or the inspection is completed. Late payment of fees are subject to a penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater.

[Source: Added at 27 Ok Reg 903, eff 7-1-10]

SUBCHAPTER 39. INSECT PEST AND PLANT DISEASE [REVOKED]

35:30-39-1. Time periods for application review [REVOKED]

[Source: Added at 10 Ok Reg 43, eff 10-8-92 (emergency); Added at 10 Ok Reg 1953, eff 5-27-93 ; Revoked at 17 Ok Reg 2834, eff 7-13-00]

SUBCHAPTER 41. OKLAHOMA SORGHUM COMMISSION [EXPIRED]

35:30-41-1. Instructions to voters [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-1 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

35:30-41-3. In-person or special write-in absentee ballots [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-3 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

35:30-41-4. Write-in votes [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-4 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

35:30-41-5. Balloting in-person locations [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-5 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98,*

see 14 Ok Reg 3557.

35:30-41-6. Central location for mail-in ballots [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-6 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

35:30-41-7. Hours for voting [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-7 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

35:30-41-8. Canvassing and reporting of returns [EXPIRED]

[Source: Added at 14 Ok Reg 3557, eff 7-23-97 through 7-14-98 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-98 (after the 7-14-98 expiration of the emergency action), the text of 35:30-41-8 was no longer effective. For the official text of the emergency rule that was effective from 7-23-97 through 7-14-98, see 14 Ok Reg 3557.*

SUBCHAPTER 43. CASTOR PLANTS OR PRODUCTS [EXPIRED]

35:30-43-1. Commercial production of castor plants or products [EXPIRED]

[Source: Added at 29 Ok Reg 351, eff 2-13-12 through 7-14-12 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-12 (after the 7-14-12 expiration of the emergency action), the text of 35:30-43-1 was no longer effective. For the official text of the emergency rule that was effective from 2-13-12 through 7-14-12, see 29 Ok Reg 3517.*

35:30-43-2. Definitions [EXPIRED]

[Source: Added at 29 Ok Reg 351, eff 2-13-12 through 7-14-12 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-12 (after the 7-14-12 expiration of the emergency action), the text of 35:30-43-2 was no longer effective. For the official text of the emergency rule that was effective from 2-13-12 through 7-14-12, see 29 Ok Reg 351.*

SUBCHAPTER 45. SCRAP METAL DEALERS

35:30-45-1. Purpose

These rules establish regulation and licensing requirements for scrap metal dealers doing business in Oklahoma pursuant to the Oklahoma Agricultural Code, 2 O.S. § 2-4(A)(33), and Oklahoma Scrap Metal Dealers Act, 2 O.S. § 11-90 et seq. The regulation and licensing of scrap metal dealers shall be administered by the Department and the State Board of Agriculture and shall conform to the Administrative Procedures Act, 75 O.S. §§ 250 et seq.; to the Oklahoma Agricultural Code, 2 O.S. § 1-1 et seq.; and to the procedural rules promulgated by the State Board of Agriculture, Title 35 of the Oklahoma Administrative Code.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, its employees, officers, and divisions.

"Investigative fee" means the investigative fee charged by the Department for conducting an investigation of the applicant upon receipt of an initial application for a license as authorized by 2 O.S. § 11-98(C).

"License" means a scrap metal dealers license.

"License fee" means the application fee charged by the Department for processing an initial application for a license as authorized by 2 O.S. § 11-98(C) and the renewal fee charged by the Department for processing an application for the renewal of a license as authorized by 2 O.S. § 11-98(H).

"Oklahoma Scrap Metal Dealers Act" means the Oklahoma Scrap Metal Dealers Act, codified at 2 O.S. § 11-90 et seq.

"Scrap metal" means any copper material, aluminum material except aluminum beverage cans, or any item listed in 2 O.S. § 11-93(B) of the Oklahoma Scrap Metal Dealers Act, offered for sale, resale, or purchased by any person, firm, or corporation.

"Scrap metal dealer" means any person, firm, or corporation being an owner, keeper, or proprietor of a retail or wholesale business which buys, sells, salvages, processes, or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act.

"Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purposes of sale.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-3. License required

(a) No person or entity shall act, offer to act, or hold himself or herself out as a scrap metal dealer in this state unless the person holds a license obtained from the Department.

(b) Any person or entity who intends to become a scrap metal dealer shall obtain a license prior to operation.

(c) A separate license shall be required for each yard.

(d) The license shall begin on November 1 or on the date of issuance and shall expire on October 31 of each calendar year.

(e) Applicants submitting a renewal after October 31 shall be assessed late penalty of double the renewal fee.

(f) If the scrap metal dealer is a firm, corporation, or other legal entity; the scrap metal dealer shall designate a scrap metal dealer's representative to act as a contact person for the agency. The scrap metal dealer's representative shall be a natural person with the legal authority to bind the entity in a contract.

(g) Any person or entity who does not meet the definition of a scrap metal dealer but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a scrap metal dealer.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 36 Ok Reg 1372, eff 9-14-19]

35:30-45-4. Initial license application

(a) The Department shall issue a license to each person or entity who:

- (1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;
- (2) Applies to the Department using the form prescribed by the Department; and
- (3) Pays the license fee, investigative fee, and charges related a national criminal history check.

(b) Each yard shall be licensed separately and shall require the submission of a separate application, along with payment of related fees and charges.

(c) The applicant shall submit a completed license application containing the following information:

- (1) If the applicant is an individual: the applicant's full name, telephone and email contact information, and place of residence;
- (2) If the applicant is a firm, corporation, or other legal entity:
 - (A) The scrap metal dealer representative's full name, telephone and email contact information, residential address, and position with the entity, and
 - (B) The entity's full name as registered with the Oklahoma Secretary of State, any trade names, and the name and mailing address of the entity's registered service agent;
- (3) The address of the yard where the applicant conducts or intends to conduct business or, if the yard does not have a physical address, driving directions from the nearest municipality, and a legal description of the yard;
- (4) Proof of ownership, a contract, or lease agreement that permits the applicant to engage in business as a scrap metal dealer at the yard described in the license application;
- (5) Proof of a dedicated telephone line for the yard;
- (6) Proof of a general liability insurance policy for the yard verifying insurance in an amount not less than \$500,000;
- (7) Proof of a current discharge permit for the yard issued pursuant to the provisions of the Oklahoma Pollutant Discharge Elimination System Act;
- (8) The sales tax identification number for the applicant;
- (9) Whether the applicant has ever had a license refused, revoked, or suspended;
- (10) Whether the applicant has been previously convicted of, or pled guilty or nolo contendere to any felony or misdemeanor, the court or governmental entity in which the matter was adjudicated, a description of the charges, the date of the conviction, and the sentence received;
- (11) An Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;
- (12) A notarized statement swearing that the information submitted on the application is true and correct;
- (13) Any other relevant information required by the Department.

(d) In addition to the application, each applicant shall submit a full set of fingerprints and a photograph to the Department. The fingerprints and photograph shall be used for a national criminal history check as provided in 74 O.S. § 150.9. The applicant shall pay for fingerprints, photographs, and the national criminal history records check separately

from the license fee and investigative fee charged by the Department.
(e) If the applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(f) The applicant may withdraw its application from consideration at any time.

(g) An applicant whose application is denied due to insufficient information provided by the applicant or the withdrawal of the application may submit a new application. Any fees and charges paid by the applicant in connection with the denied or withdrawn application shall not be applied to the processing of a new application.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-5. License renewal application

- (a) A scrap metal dealer may renew a license by:
- (1) Complies with the requirements of the Oklahoma Scrap Metal Dealers Act;
 - (2) Applies to the Department using the form prescribed by the Department; and
 - (3) Pays the license fee and charges related a national criminal history check.
- (b) Any scrap metal dealer who fails to timely apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license.
- (c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the scrap metal dealer at the last known address according to the records of the Department.
- (d) A license shall not be valid after the expiration date. If the scrap metal dealer submits an application for license renewal after the license has expired, the application shall be considered an initial application and shall require the payment of all fees and charges associated with the submission of an initial application.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

35:30-45-6. Fees and charges

- (a) The Department shall charge the following nonrefundable license fees:
- (1) License fee for an initial application: \$100.00;
 - (2) Investigative fee for an initial application: \$100.00;
 - (3) License fee for a renewal application: \$100.00; and
 - (4) Any expenses by the Department relating to the national criminal history check.

(b) Expenses of the Department relating to the national criminal history check shall be paid by the applicant.

(c) The Department shall not be required to obtain nor the applicant required to pay charges for more than one national criminal history check if the Department is processing several applications or renewals simultaneously for the same applicant and all pertinent information is identical.

(d) If a national criminal history check was conducted for the Department in relation to an initial application or renewal and the resulting report is less than six (6) months old; the Department may use the older report and waive any requirement that requires the applicant submit to a new national criminal history check as a condition for an initial license or renewal.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

35:30-45-7. Display of license

A scrap metal dealer shall prominently display a copy of the license at the yard.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

35:30-45-8. Changes of information

A scrap metal dealer shall notify the Department in writing not later than thirty (30) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

35:30-45-9. Purchases, sales, and records

(a) A scrap metal dealer shall conduct business and maintain records of all business transactions in a manner consistent with the provisions of the Oklahoma Scrap Metal Dealers Act.

(b) Scrap Metal Dealers using an online recording method for all record keeping shall use Leads Online, www.leadsonline.com as the internet-based reporting method.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 36 Ok Reg 1372, eff 9-14-19 ; Amended at 40 Ok Reg 1521, eff 9-11-23]

35:30-45-10. Complaints

(a) On receipt of a valid written complaint alleging a violation of the Oklahoma Scrap Metal Dealers Act, an authorized agent of the Department, a local law enforcement authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the Oklahoma Scrap Metal Dealers Act or rules promulgated thereunder.

(c) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

35:30-45-11. Inspections

The Department may inspect any licensed business location, including but not limited to, the premises and the books and records of the licensed scrap metal dealer. If the scrap metal dealer refuses, denies, or interferes with any right of access, the Department shall have the right to apply to a district court of competent jurisdiction and obtain an administrative or other warrant necessary to enforce the right of access and inspection.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-12. Grounds for denial, suspension, or revocation of a license

The Department may deny, suspend, cancel, revoke, or refuse reissuance of a license of any applicant or scrap metal dealer who:

- (1) Violates the Oklahoma Scrap Metal Dealers Act;
- (2) Violates or fails to follow administrative rules adopted by the Department;
- (3) Engages in fraud or deceit in obtaining or renewing a license;
- (4) Acts as a scrap metal dealer in this state without a valid license;
- (5) Aids or abets another person in acting as a scrap metal dealer without a license;
- (6) Is convicted of a crime involving moral turpitude or dishonesty;
- (7) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or
- (8) Fails to pay an administrative penalty or fine assessed by the Department against the scrap metal dealer.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-13. Sanctions for misconduct

(a) If the Department determines that a scrap metal dealer has violated the Oklahoma Scrap Metal Dealers Act, Department rules, or other applicable legal authorities, the Department may

- (1) Refer the matter to the appropriate law enforcement authority for criminal prosecution;
- (2) Deny, suspend, cancel, revoke, or refuse reissuance of a license or licenses held by the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(3) Tag any weight or measure device utilized by the scrap metal dealer as "Not For Commercial Use" after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(4) Assess an administrative penalty or fine of not less than One Hundred dollars (\$100) and not more than Ten Thousand dollars (\$10,000) against the scrap metal dealer after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;

(5) Apply to a district court of competent jurisdiction and obtain a temporary or permanent injunction prohibiting the continued commercial operation of the scrap metal dealer; and

(6) Apply to a district court of competent jurisdiction and obtain any civil penalties allowed by law, including interest, attorney fees, and costs of collection.

(b) Each action of misconduct or each day a violation continues may constitute a separate and distinct violation.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14 ; Amended at 32 Ok Reg 1526, eff 9-11-15]

35:30-45-14. Other requirements or acts prohibited

Scrap metal dealers shall comply with all applicable state and federal laws, municipal ordinances, and other reasonable requirements of the Department.

[Source: Added at 31 Ok Reg 41, eff 8-28-13 (emergency); Added at 31 Ok Reg 728, eff 9-12-14]

APPENDIX A. GUARANTEED ANALYSIS 35:30-29-22(C)
(4)

Figure 1

Total Nitrogen (N)* _____%
_____ % Ammoniacal Nitrogen
_____ % Nitrate Nitrogen
_____ % Water Insoluble Nitrogen
_____ % Urea Nitrogen
_____ % (Other recognized and determinable forms of N)
Available Phosphate (P₂O₅) _____%
Soluble Potash (K₂O) _____%
(Other nutrients, elemental basis) _____%
* If chemical forms of any nutrients are claimed or required, the chemical forms shall be shown.

[Source: Added at 22 Ok Reg 569, eff 4-11-05]

APPENDIX B. PLANT NUTRIENTS 35:30-29-22(F)

Figure 1

EXAMPLES:

Total Nitrogen (N) _____ %
 _____ % Ammoniacal Nitrogen
 _____ % Nitrate Nitrogen
Magnesium (Mg) _____ %
 _____ % Water Soluble Magnesium (Mg)
Sulfur (S) _____ %
 _____ % Free Sulfur (S)
 _____ % Combined Sulfur (S)
Iron (Fe) _____ %
 _____ % Chelated Iron (Fe)
Manganese (Mn) _____ %
 _____ % Water Soluble Manganese (Mn)

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96 ; Added at 22 Ok Reg 569, eff 4-11-05]

**APPENDIX C. RESTRICTED AREA FOR APPLICATION
OF HORMONE TYPE PESTICIDES [REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX D. ACCESS [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX E. DEBRIS AND FORM BOARDS
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX F. CLEARANCE UNDER BUILDINGS
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX G. SHELTER TUBES [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX H. PIERS AND STIFF-LEGS [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX I. OUTSIDE WOOD STEPS [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX J. DAMPNESS [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX K. SKIRTING AND LATTICE WORK
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX L. FRAME SIDING [REVOKED]

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX M. STUCCO OR SIMILAR TYPE MATERIALS
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX N. GROUND TREATMENT UNDER
BUILDINGS (CRAWL SPACE) [REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX O. VOID TREATMENT (MASONRY VENEER)
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX P. VOID TREATMENT (CONCRETE BLOCKS)
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX Q. VOID TREATMENT (CHIMNEYS)
[REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX R. GROUND TREATMENT OUTSIDE OF
BUILDING [REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

APPENDIX S. WOOD PARTS - CONCRETE SLABS [REVOKED]

[Source: Amended at 8 Ok Reg 3355, eff 7-30-91 (emergency); Amended at 9 Ok Reg 1749, eff 5-26-92 ;
Revoked at 12 Ok Reg 3408, eff 7-11-95 (emergency); Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX T. DIRT FILLED PORCHES, ENTRY
PLATFORMS AND OTHER SIMILAR AREAS [REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

**APPENDIX U. APPROVED METHODS OF APPLICATION
FOR PRECONSTRUCTION TREATMENTS OF VARIOUS
FOUNDATIONS [REVOKED]**

[Source: Revoked at 13 Ok Reg 1863, eff 6-14-96]

CHAPTER 35. MILK AND MILK PRODUCTS [REVOKED]

[Authority: 2 O.S., §§ 2-4 and 7-401 et seq.]
[Source: Codified 6-14-96]

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

35:35-1-1. Purpose [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Revoked at 21 Ok Reg 755, eff 5-27-04]

35:35-1-2. Incorporations by reference [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Amended at 20 Ok Reg 1539, eff 6-12-03 ; Revoked at 21 Ok Reg 755, eff 5-27-04]

35:35-1-3. Terms for interfacing with the PMO and the DMO [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Amended at 20 Ok Reg 1537, eff 6-12-03 ; Revoked at 21 Ok Reg 755, eff 5-27-04]

35:35-1-4. Suspension and revocation [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Revoked at 21 Ok Reg 755, eff 5-27-04]

35:35-1-5. Application to manufacture grade dairies [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Revoked at 21 Ok Reg 755, eff 5-27-04]

SUBCHAPTER 3. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

35:35-3-1. Chemical, bacteriological, and temperature standards for milk and milk products [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Revoked at 21 Ok Reg 755, eff 5-27-04]

APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR MILK AND MILK PRODUCTS [REVOKED]

[Source: Added at 12 Ok Reg 3514, eff 7-11-95 (emergency); Added at 13 Ok Reg 1895, eff 6-14-96 ;
Revoked and reenacted at 14 Ok Reg 1123, eff 12-24-96 (emergency); Revoked and reenacted at 14 Ok
Reg 1244, eff 5-12-97 ; Revoked at 21 Ok Reg 755, eff 5-27-04]

CHAPTER 37. FOOD SAFETY

[**Authority:** 2 O. S. §§ 2-4(2), (5), (23), (27), (28), and (29); 5-302 et. seq.; 6-181 et. seq.; 6-280.1 et. seq.; 6-290.1 et. seq.; 7-401 et. seq.; 10-71 et. seq.; 251 et. seq.]
[**Source:** Codified 5-27-04]

SUBCHAPTER 1. EGGS

35:37-1-1. Oklahoma standards

Grades and weight classes for shell eggs shall be those as set forth in the "United States Standards, Grades, and Weight Classes for Shell Eggs," maintained by the United States Department of Agriculture ("USDA"), Agricultural Marketing Service, Poultry Division, as AMS 56 (2000 Version).

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 32 Ok Reg 1528, eff 9-11-15]

35:37-1-2. Methods of grading

Methods of egg grading shall be the same as those described in USDA "Regulations Governing the Voluntary Grading of Shell Eggs 7 CFR Part 56".

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-1-3. Display of eggs for sale

All eggs offered or displayed for sale to consumers shall be in customary containers. Eggs shall not be offered or displayed for sale to consumers in bulk displays.

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-1-4. Improper marking and signs; advertising

Window display signs advertising eggs for sale must be plainly and uniformly marked with the price, grade, and size of the eggs. Oklahoma Department of Agriculture, Food, and Forestry inspectors are authorized to deface immediately any label or marking on any egg container or display that does not comply with the Oklahoma Egg Law and rules, including any window sign that contains false or misleading information or that fails to include all required information.

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-1-5. Display of egg license

Egg packers and dealers shall obtain and display in a prominent place a separate state egg license for each packing plant and each shipping point, as set forth in the Oklahoma Egg Law, Section 10-81.

[**Source:** Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-1-6. Egg inspection fee permits

(a) Licensed egg packers selling eggs in the state of Oklahoma shall submit reports and remit inspection fees to the Department on a monthly basis.

(b) At the time of license application, small egg packers that pack less than five thousand (5,000) dozen eggs per year shall pre-pay an annual inspection fee in the amount of fifteen dollars (\$15.00).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-1-7. Samples for inspections

(a) Department of Agriculture, Food, and Forestry inspectors shall inspect every retail, dealer, and packer location offering eggs and egg products for sale to consumers.

(b) Inspectors shall personally draw samples from each lot of eggs and shall follow USDA shell egg statutes, rules, and handbooks on official grading.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

SUBCHAPTER 3. MEAT INSPECTION

PART 1. GENERAL PROVISIONS

35:37-3-1. Incorporation by reference of federal meat inspection regulations

The Mandatory Meat Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR), Parts 301 to 391; 416; 417; 418; 424; 430; 441; 442 and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-3-3. Whenever an official mark, form, certificate or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry form, certificate or seal shall be substituted.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Amended at 23 Ok Reg 2172, eff 6-25-06 ; Amended at 24 Ok Reg 1778, eff 6-25-07 ; Amended at 25 Ok Reg 1052, eff 7-1-08 ; Amended at 26 Ok Reg 1386, eff 7-1-09 ; Amended at 27 Ok Reg 910, eff 7-1-10 ; Amended at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 29 Ok Reg 585, eff 7-1-12 ; Amended at 30 Ok Reg 826, eff 7-1-13 ; Amended at 31 Ok Reg 735, eff 9-12-14 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 33 Ok Reg 1176, eff 9-11-16 ; Amended at 34 Ok Reg 817, eff 9-11-17 ; Amended at 35 Ok Reg 776, eff 9-14-18 ; Amended at 36 Ok Reg 1375, eff 9-14-19 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-3-2. Definitions

(a) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those word or terms.

(b) The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Oklahoma Meat Inspection Act, 2 O.S. §§ 6-181 through 6-213 (2001).

"Director" means the Director of Meat Inspection.

"Livestock" means cattle, bison, sheep, swine, goat, horse, mule, or other equine.

"Meat" means the part of the muscle of any cattle, bison, sheep, swine, or goats, that is skeletal or that is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and that are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears.

"Meat by-product" means any part capable of use as human food, other than meat that has been derived from one or more cattle, bison, sheep, swine, or goats.

"Meat food product" means any article capable of use as human food that is made wholly or in part from any meat or other portion of the carcass from any cattle, bison, sheep, swine, or goats. However, "meat food product" shall not include those exempted from definition as a meat food product by the Director in specific cases or by the rules, in Title 9 of the Code of Federal Regulations (CFR), Part 317 due to a determination that they contain meat or other portions of carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry. Those exempted shall comply with any requirements that are imposed as conditions of the exemptions to assure that the meat or other portions of carcasses contained in the articles are not adulterated and are not represented as meat food products.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-3. Deleted regulations

The following sections of the Federal regulations governing the mandatory meat inspection of the USDA incorporated by reference under 35:37-3-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 9 CFR 302.2; 303.1(c); 304.1; 304.2(a); 304.2(c); 305.2(b); 307.4; 307.5; 307.6; 316.12; 316.13(c); 317.5; 317.7; 317.9; 317.13; 318.8; 318.12; 321; 322; 327; 329; 331; 335; 351; 352; 354; 355; 362; 381; 390; 391; 392; 439; and 590.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Amended at 23 Ok Reg 2172, eff 6-25-06 ; Amended at 24 Ok Reg 1778, eff 6-25-07 ; Amended at 25 Ok Reg 1052, eff 7-1-08 ; Amended at 26 Ok Reg 1386, eff 7-1-09 ; Amended at 27 Ok Reg 910, eff 7-1-10 ; Amended at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 585 Ok Reg 1033, eff 7-1-12 ; Amended at 31 Ok Reg 735, eff 9-12-14 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 36 Ok Reg 1375, eff 9-14-19 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-3-4. Guidelines and procedures

The following publications prepared and approved by the United States Department of Agriculture are applicable to the Oklahoma Department of Agriculture, Food, and Forestry as determined by the Director of Meat Inspection: "Food Standards and Labeling Policy Book" (August 2005); and all Food Safety and Inspection Service's Directives, and Notices as adopted by the Director of the Food Safety Division.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-5. Registration and application requirements for custom exempt plants

(a) Every establishment where livestock are custom slaughtered without ante-mortem and post-mortem inspection or in which custom processing of carcasses or parts of carcasses derived from livestock slaughtered without ante-mortem and post-mortem inspection is required to submit an application and have all facilities approved by the Director prior to conducting operations.

(b) Any person or establishment, not licensed as a retail exempt business, engaged in custom processing of inspected and passed carcasses for individuals, is required to submit an application and meet all facility requirements prior to conducting operations.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-5.1. Oklahoma Certified Beef

(a) The Oklahoma Department of Agriculture, Food, and Forestry shall only investigate claims of noncompliance with the Oklahoma Certified Beef program upon receipt of a properly completed complaint form.

(b) Investigations of noncompliance will be to determine only if the bovine were bred, born, raised, and slaughtered within Oklahoma.

(c) Noncompliance may result in, but is not limited to, administrative fines, suspension from participation in the Oklahoma Certified Beef program, and removal and a lifetime ban from the Oklahoma Certified Beef program.

[Source: Added at 39 Ok Reg 801, eff 9-12-22 ¹]

Editor's Note: ¹*This rule was incorrectly numbered as 35:37-3-6 when published in the Oklahoma Register [see 39 Ok Reg 801]. It was editorially renumbered to this number (35:37-3-5.1) prior to its publication in the 2022 OAC Supplement. See also Editor's Note at 35:37-3-6.*

PART 3. MOBILE FARM SLAUGHTER REGULATIONS

35:37-3-6. Definitions

35:37-3-6.¹ Definitions

The following words or terms, when used in this Part shall have the following meaning, unless the context clearly indicates otherwise:

"Easily cleanable" means to be readily accessible and so designed, constructed, and fabricated that residues and foreign substances can be completely removed by normal cleaning methods.

"Farm slaughter" means the slaughtering of an animal or animals for the owner of that animal or animals on the owner's farm or premises for personal use.

"Mobile farm slaughter establishment" means slaughtering trucks, trailers, or other acceptable vehicles and the equipment and utensils used to slaughter in a sanitary manner.

"Sanitize" means the treatment of physically clean surfaces of equipment, utensils, refrigeration units, and structures by a process, approved by the Department, that effectively destroys microorganisms including pathogens.

"Slaughter" means the killing of an animal or animals for food.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

Editor's Note: ¹A permanent rule called "Oklahoma Certified Beef" was incorrectly numbered at this number (35:37-3-6) when the rule was promulgated by the agency in the Oklahoma Register [see 39 Ok Reg 810]. As such, the incorrectly numbered section was editorially renumbered to 35:37-3-5.1.

35:37-3-7. Registration and permitting

(a) Any person operating a mobile farm slaughter establishment shall apply for a permit from the Board.

(1) The application shall be made on an official form furnished by the Board and shall be completed to include all information requested.

(2) The permit number issued by the Board shall be prominently displayed on both sides of the mobile farm slaughter establishment and shall be in contrasting colors not less than three (3) inches high.

(3) The operator shall renew the permit annually.

(b) Any person applying for a permit to operate a mobile farm slaughter establishment shall demonstrate the appropriate experience and capability of slaughtering an animal in a humane, quick, clean, and sanitary manner.

(c) Any person slaughtering more than ten (10) head per year on the farm or in the field, whether or not for personal use or not shall be a mobile farm slaughter establishment and shall be subject to all laws pertaining to mobile farm slaughter establishments.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-8. Revocation or suspension of permit

Violation of any portion of Part 7 of this Subchapter may subject the owner and/or operator of a mobile farm slaughter establishment to

revocation or suspension of his/her mobile farm slaughter establishment permit. No permit issued under this Section is transferable.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-9. Temporary suspension or modification of permit

In the event of a zoonotic as declared by the Board the permit to operate a mobile farm slaughter establishment may be temporarily suspended or modified as is consistent with public health and safety or to prevent an imminent peril to the livestock industry or any portion thereof within the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-10. Labeling or marking by mobile farm slaughter establishment

- (a) Each carcass or part thereof shall be tagged or marked with the owner's name to ensure the identity of the owner and that the carcass or part belongs to the owner.
- (b) Each carcass or part thereof shall be tagged or marked with the mobile slaughter operator's permit number or name shall be subject to inspection by the Board.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-11. Grandfather clause

- (a) Any mobile slaughter operator currently listed with the State of Oklahoma who can demonstrate to the Board that the operator's mobile slaughter unit and operation complies with the basic sanitary facilities and functions such as pressurized water and sterilizing agents and can provide a clean dust proof manner of transporting the carcass, may be allowed to continue operation until:
 - (1) The operator's current mobile slaughter unit is out of use.
 - (2) The operator's permit is revoked.
 - (3) The Board finds that the operator is producing an unacceptable product.
- (b) Excluding the Grandfather clause and from henceforth all mobile farm slaughtering establishments shall be constructed and equipped with the following:
 - (1) It shall have a van-type body enclosing and covering the unit, excluding the driver's cab and hoist, with surfaces constructed from non-rusting metal or other materials that are non-rusting and amenable to proper and adequate cleaning. Wood may only be used as internal framing or spacing materials between double non-wooden walls. It shall be designed and constructed to prevent the entry of contaminants (dirt, dust, insects, etc.) and to allow the exterior and interior to be easily cleanable and sanitized.
 - (2) Materials for use in mobile farm slaughter establishments must be approved by the Board prior to beginning construction of a mobile farm slaughter establishment. All mobile farm

slaughtering establishments will be inspected by the Board for conformance with construction and facility requirements prior to issuance of a permit.

(3) It shall have a metal interior lining, with the junctions of facing surfaces to be smoothly welded or soldered (or rolled and soldered) and spatter removed. All interior corners shall be rounded for ease of cleaning. Caulking compounds shall not be substituted for welding or soldering. The interior facing surfaces shall not be painted. The minimum metal gauges for interior facing surfaces are 14 gauge for aluminum, 16 gauge for sheet metal, and 17 gauge for stainless steel. Fiberglass, or fiberglass reinforced resin or aluminum alloys are permitted upon being approved by the Board. Insulation shall be non-absorbent.

(4) It shall have the following minimum interior dimensions (excluding space for tanks and other affixed or mounted equipment).

(A) Height of 6 feet

(B) Length of 6 feet

(C) Width of 4 feet for single center hanging rail or 6 feet for double hanging rail.

(5) It shall have affixed a metal hoist of not less than 1 1/2 tons capacity, capable of lifting carcasses to above 12 inches from the ground for purposes of bleeding and evisceration. The hoist shall be situated so that carcasses suspended from it do not contact the truck or trailer body, and shall be equipped with a metal beef spreader.

(6) It shall contain sterilizing agents labeled for use in a food processing plant in sufficient amounts to sterilize all knives, cleavers, saws, hooks, and pans used in slaughter operation.

(7) It shall contain a water tank of rust resistant metal (such as a water tank for home use) and at least one hose with nozzle for washing of carcasses. It shall contain at least 10 gallons of potable water per head, depending upon the capacity of the mobile slaughter unit. (3 head capacity 30 gallons, 6 head capacity 60 gallons etc.) It shall contain at least 60 pounds per square inch pressure, prior to commencing the slaughter operations. The pressure shall be maintained during all slaughter operations.

(c) Unless specified in these rules, all equipment shall be fabricated from metal or other approved material. Hooks, trolleys, and spreaders used in dressing carcasses shall be constructed of non-rusting materials.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-12. Sanitation of mobile custom slaughter establishment

(a) Mobile custom slaughtering establishment shall be maintained in a clean and sanitary condition in accordance with the following:

(1) The interior and exterior of the truck, trailer, or other vehicle shall be cleaned and sanitized before and after each day's operation.

(2) The tools (knives, cleavers, saws, hooks, etc.) and equipment (pans, trolleys, spreaders, etc.) shall be cleaned and sanitized before, after, and as necessary during, the slaughter operation. In addition, they shall be sterilized if contaminated by viscera contents, abscesses, or foreign material during the slaughter operation.

(3) Hooks, trolleys, and spreaders used in dressing carcasses shall additionally have a coat of edible mineral oil applied to them after cleaning.

(b) Soap and clean disposable toweling shall be provided for washing of hands, tools and equipment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-13. Conditions of transport and slaughter

(a) No carcass shall be transported in a mobile custom slaughter unit unless it is hung free from contact with the unit floor, and tagged as prescribed in 35:37-3-10.

(b) No carcass, other than a scalded and dehaired hog carcass, shall be dressed or transported in a mobile custom slaughter unit with the hide on.

(c) Meat by-products shall be transported in a mobile custom slaughter unit in clean and sanitary containers, of material approved by the Board, with secure coverings or lids.

(d) Inedible offal shall be transported in a mobile custom slaughter unit in clean and sanitary containers (barrels, tubs, etc.) of easily cleaned and durable rubber, plastic, or rust resistant metal materials, that shall be separated from the area of the unit used for the slaughter operations. In lieu of the preceding, the offal may be transported in a clean, sanitary, covered watertight trailer of a design approved by the Board. All inedible offal (except hides) shall be disposed of through rendering operations duly permitted by the Board or in an alternate manner approved by the Board.

(e) No horse carcass, or parts thereof, shall be transported in a mobile custom slaughter unit.

(f) No slaughter of a meat animal in a mobile custom slaughter unit while other carcasses are hanging therein shall be performed unless the unit doors are closed or the area in which the carcasses are situated is separated from the area used for the slaughter operation.

(g) No slaughter of a suspect animal as defined in 9 C.F.R. § 309.2 shall be performed without approval of an Oklahoma State Licensed Veterinarian approved by the Department.

(h) Special requirements for farm slaughtered cattle:

(1) All farm slaughtered cattle shall be ambulatory at the time of slaughter.

(2) Documentation certifying the animal was ambulatory at the time of slaughter signed by the owner of the animal or the licensed farm slaughter operator shall accompany each carcass and a copy of the document shall be presented to the custom exempt plant where the carcass is delivered for processing.

(3) All cattle shall have all specified risk materials removed, handled, and disposed of as described in 9 C.F.R. § 310.22.

(4) Any farm slaughtered cattle carcass delivered to a custom exempt plant that does not have accompanying documentation signed by the owner of the animal or the licensed farm slaughter operator attesting the animal was less than thirty (30) months of age at the time of slaughter will be handled and processed as if it was over thirty (30) months of age and all appropriate specified risk materials shall be removed, handled, and disposed of as described in 9 C.F.R. § 310.22.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-14. Availability for inspection of farm slaughtering establishment

A mobile farm slaughtering establishment owner or operator will make their establishment available for inspection by any authorized Department employee upon request.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 5. APPLICATION FOR INSPECTION: GRANT OR REFUSAL OF INSPECTION

35:37-3-15. Application for inspection; tenants, subsidiaries and construction standards for packing plants

(a) Each person conducting operations at an establishment subject to the Act, including tenants, subsidiaries, and landlords, shall apply for an inspection.

(b) The application for inspection shall be on official forms provided by the Meat Inspection Services, of the Food Safety Division.

(1) The application shall contain all requested information.

(2) All applicant trade names used for labeling shall be provided in the application.

(3) Each applicant for inspection shall be responsible for compliance with the Act and the rules if inspection is granted.

(4) Only the person listed as the applicant is authorized to conduct operations at the establishment for which inspection is granted.

(c) A new application shall be made for changes of ownership or location.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-16. Drawings, information to be furnished; grant or refusal of inspection

(a) Each applicant for inspection shall submit three (3) copies of the following:

(1) Complete drawings with specifications of the floor plans of the establishment for which inspection is requested, showing the locations of principal pieces of equipment, floor drains, principal drainage lines, hand washing basins, and hose connections for cleanup purposes.

(2) A plot plan showing the limits of the establishment's premises, locations in outline of buildings on the premises, cardinal points of the compass, and roadways and railways serving the establishment.

(3) A room schedule showing the finish of walls, floors, and ceilings of all rooms in the establishment.

(4) Statements describing the water supply, plumbing, drainage, refrigeration, equipment, lighting, and operations of the establishment related to sanitation and proper performance of inspection.

(b) Written notice shall be given to each applicant granted inspection, specifying the establishment to which the grant applies.

(c) The Director may grant inspection upon a determination that the applicant and the establishment are eligible.

(d) The Director may refuse to grant inspection at any establishment if determined the establishment does not meet all requirements, the applicant has not received approval of labeling and containers to be used at the establishment as required by the rules in Title 9 of the Code of Federal Regulations (CFR) Parts 304.2(b), 316, and 317, or in accordance with 2 O.S. § 6-202 (2001) and the applicable rules of practice.

(e) When inspection is refused for any reason, the applicant shall be informed of the reasons for the action and shall be afforded an opportunity for an individual proceeding.

(f) Any applicant for inspection shall obtain a certificate of acceptability or a permit for the liquid waste disposal system. The permit shall be prominently posted in the establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-17. Withdrawal of inspection; statement of policy

(a) The Board may withdraw inspection from an official establishment where the sanitary conditions are such that its products are rendered adulterated, or for failure of the operator to destroy condemned products as required by the Act and these rules. Inspection will be withdrawn in accordance with 2 O.S. § 6-202 and the applicable rules.

(b) Inspection service may be withheld by the Director when the operator of any official establishment or tenant therein, or any officer, employee, or agent of any operator or any subsidiary or tenant, acting within the scope of their office, employment or agency forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any Division employee while engaged in or on account of the performance of their official duties under the Act. This withholding of inspection will continue in effect until assurances acceptable to the Board are received that there cannot be any recurrences.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-18. Hours of operation of official establishments

The operator of each official establishment shall inform the Inspector in Charge, or his assistant, when work in each department has been concluded for the day and hour when work will be resumed therein. Whenever any product is to be overhauled or otherwise handled in an official establishment during unusual hours, the establishment operator shall, a reasonable time in advance, notify the Inspector in Charge or the Inspector's assistant, of the day and hour when the work will be commenced and the products shall not be handled prior to that time and except after notice has been given. No department of an official establishment in which are conducted operations requiring inspection shall be operated except under the supervision of a Division employee. All slaughtering of livestock and preparation of products shall be done within reasonable hours, and with reasonable speed, the facilities of the establishment being considered.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-19. Designation of days and hours of operation by director

When one inspector is detailed to conduct the work at two or more official establishments where few livestock are slaughtered or where but a small quantity of any product is prepared, the Director may designate the hours of the day and the days of the week during which operations requiring inspection in the establishments may be conducted.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-20. Overtime work of program inspectors

(a) The management of an official establishment desiring to work under the conditions which will require the services of a meat inspector on any Saturday, Sunday or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the Inspector in Charge or the Inspector's assistant to furnish inspection service during a overtime period, and shall pay the Board a per hour per division inspector fee established under the provisions of Title 2, Oklahoma Statutes, Section 2-9 to reimburse the Board for the cost of the inspection services so furnished.

(b) When an official establishment requires inspection service on a holiday, the service is considered holiday work. The official establishment shall, in advance of holiday work, request the Inspector in Charge to furnish inspection service during the period and shall pay the Board at the rate established as stated in paragraph (a) of this rule. Service in excess of 8 hours for that day is considered overtime and shall be paid for at the overtime rate. Holidays for state employees will be those declared by the Executive Department of the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-21. Multiple shift operations

(a) Multiple shift operations may be approved by the Director provided the management of an official establishment requests in writing and a reasonable amount of time is allowed for the Agency to provide inspection personnel. The request for this operation must clearly show the necessity for the additional shift(s). Therefore, plant management must specify the type(s) of operation(s) that will be conducted during the multiple shifts and must further demonstrate that at least five (5) hours of work will be required in excess of a normal eight hour shift on a continual and on-going basis during the normal work week of Monday through Friday.

(b) If any of the provisions of this rule are not met, the Director shall refuse or revoke the approval for multiple shift operations and require the establishment be billed for overtime inspection services at the appropriate established rate in effect.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 7. SANITATION AND PREPARATION OF PRODUCTS

35:37-3-22. Protective handling of products

Products shall be protected from contamination from any source such as dust, dirt, or insects during the storage, loading, or unloading at and transportation from official establishments. Products shall have a maximum temperature of 50°F. before removal from the official establishment. All forms of transportation should be capable of maintaining a temperature of product so as not to exceed 55°F. at the point of destination.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-23. Manufacture of dog food or similar uninspected article at official establishment

(a) When dog food or similar uninspected article is manufactured in a part of an official establishment, the area in which the article is manufactured shall be separated from edible product departments in the manner required for separation between edible product departments and inedible product departments. Sufficient space must be allotted and adequate equipment provided that the manufacture of the uninspected article does not interfere with the proper functioning of the other operations at the establishment. Nothing in this Section shall be construed as permitting any deviation from the requirement that dead animals, condemned products, and similar materials of whatever origin, must be placed in the inedible product rendering equipment, and without undue delay. The manufacture of the uninspected article must not interfere with the maintenance of general sanitary conditions on the premises, and it shall be subjected to inspectional supervision similar to

that exercised over other inedible product departments. There shall be no movement of any product from an inedible product department to any edible product department. Trucks, barrels, and other equipment shall be cleaned before being returned to edible product departments from inedible product departments. Inoffensive material prepared outside edible product departments may be stored in, and distributed from edible product departments only if packaged in clean, properly identified, sealed containers.

(b) Animal food shall be distinguished from articles of human food, so as to avoid distribution of animal food as human food. To accomplish this, animal food shall be labeled or identified.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 9. RENDERING PLANT REGULATIONS; DISPOSAL OF DEAD ANIMALS

35:37-3-24. Definitions

The following words and terms, when used in this Part shall have the following meanings, unless the context clearly indicates otherwise:

"Blender" means any person who acquires inedible by-products of bodies or parts of bodies of dead animals or poultry or used cooking grease and oils for the purpose of blending them to obtain a desired percentage of protein, degree of quality, or color for use in animal feed, poultry feed, or fertilizers.

"Collection center" means any place where bodies or parts of bodies of dead animals or poultry or used cooking grease and oils are collected for loading into a permitted vehicle for delivery to the renderer.

"Permittee" means any person issued a vehicle permit.

"Renderer" means any person who, for purposes other than human consumption, collects, cooks, and processes bodies or parts of bodies of dead animals and poultry, or used cooking grease and oils for the purpose of salvaging hides, wool, skins, or feathers and or for the production of animal and poultry protein, blood meal, bone meal, grease, or tallow.

"Rendering materials" means bodies or parts of bodies of dead animals or poultry and used cooking grease and oils.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-25. Rendering and blending plant facilities

(a) No rendering plant facility shall be operated without first obtaining a permit from the Board.

(b) Each place permitted for the carrying on of a business shall, to the satisfaction of the Department, be provided with floors constructed of concrete, or some other non-absorbent material, adequate drainage, be thoroughly sanitary, be provided with adequate water supply and sufficient hot water to properly and adequately clean floors and trucks.

(c) The floors, walls, and all buildings and equipment shall at all times be kept in a sanitary condition and shall be cleaned with adequate hot water. All plants shall be equipped with adequate water supply and sufficient hot water to properly and adequately clean floors and trucks.

(d) Authorized agents of the Board shall have the right and authority to go upon any premises or place during normal business hours and enter any building or enclosure for the purpose of inspection or examination.

(e) In the event of a zoodemic as declared by the Board the permit to operate a rendering or blending plant facility may be temporarily suspended or modified as is consistent with the public health and safety or to prevent imminent peril to the livestock industry or any portion thereof within the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-26. Plant premises

(a) Plants shall be separated by a permanent wall and apart from any other business operation.

(b) The location of new plant facilities shall be in compliance with local zoning ordinances before the Department will issue a permit.

(c) No permit will be issued by the Department until necessary approvals for plant construction have been issued by the Environmental Protection Agency, Oklahoma Water Resources Board and Oklahoma State Health Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-27. Maintenance and sanitation of facilities

(a) The permittee shall maintain the facilities in such sanitary manner as to eliminate insofar as possible, all odors, insects, and vermin.

(b) In case of collection centers, all rendering materials shall be picked up at the collection center and transported to the rendering plant daily, except during subfreezing weather.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-28. Salmonella control for renderers and blenders

(a) A separate building or storage area shall be provided for the purpose of storing the finished products in order to avoid contamination after completion of processing.

(b) No tools or equipment used in handling the unfinished product shall be used in storage area, or in handling of finished product.

(c) Renderers and Blenders shall provide toilet, showering, dressing and disinfecting facilities for all employees. Said toilet, showering, dressing and disinfecting facilities shall conform to all applicable state and local plumbing codes.

(d) All toilet, showering, dressing and disinfecting facilities shall be maintained in a sanitary condition and provided with hot and cold water, soap and towels at all times. Hand soaps used shall be those approved by U.S.D.A. for use in meat packing plants.

(e) Rodent and vermin control shall be diligently practiced. Uncontrolled animal and birds shall not be tolerated on the premises.

(f) Buildings and surrounding grounds shall be kept clean and free from refuse, trash, or the accumulation of product or products of processing, including paunch manure.

(g) Any authorized representative of the Department shall be allowed access to inspect inventory during regular business hours and to take samples at the request of the State government, Federal government, the permittee or manufacturer using the product, for the purpose of laboratory diagnosis to determine if Salmonella are present or for any other purpose necessary to protect the health, welfare or safety of the citizens of the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-29. Requirements for barrels used in transporting and storage of used grease and oils

All barrels used for transporting and storage of scrap, or used cooking grease and oils shall be clearly marked "inedible" with letters not less than three inches in height. Barrels shall be embossed or imprinted with a code assigned by the Department to the permittee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-30. Vehicles

(a) All vehicles intended for transporting of product intended for rendering use shall be constructed so as to preclude unauthorized escape of liquids or any other contents onto public or private property.

(b) Vehicle construction shall permit proper and adequate cleaning.

(c) Vehicles intended for transport of product for rendering purposes shall be made available for inspection by authorized agents of the Board upon request.

(d) Vehicles and vehicle equipment shall at all times be kept in a sanitary condition, and the trucks shall be cleaned with hot water.

(e) All cleaning of vehicles shall be done on rendering plant premises.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-31. Collection centers

A collection center shall comply with the following requirements:

(1) The location of a collection center shall be in compliance with local zoning ordinances before the Department will issue a permit.

(2) The collection center shall be covered by a metal roof or other permanent type structure. The building shall be equipped with louver-type ventilators that are screened as to prevent rodents and other animals, birds, flies, and insects from entering.

(3) Adequate hot water shall be provided to thoroughly clean the collection center premises. Failure to maintain collection centers in a sanitary manner will be sufficient cause for the Board to

revoke or suspend the permit to operate.

(4) The collection center equipment and premises shall be disinfected with a product approved for use by the United States Department of Agriculture for use in meat packing plants.

(5) Rendering plants and collection centers shall use cleaning compounds approved by the United States Department of Agriculture for use in meat packing plants.

(6) No collection center will operate without first obtaining a permit from the Board.

(7) The permittee shall maintain all collection center, facilities in such sanitary manner as to eliminate insofar as possible, all odors, insects, and vermin.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-32. Disposal by collection center of unusable materials

Paunch manure, quantities of hair, feathers, and other unusable materials shall be routinely disposed of by burning, burying, or spreading with manure spreader on cultivated ground not used for pasture of livestock, and approved by the Board.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 11. DETENTION; SEIZURE AND CONDEMNATION

35:37-3-33. Product or livestock subject to administrative detention

Any carcass, part of a carcass, meat or meat food product of livestock is subject to detention for a period not to exceed 20 days when found by any authorized representative of the Board upon any premises where it is held for purposes of or during or after distribution of intrastate commerce, and there is reason to believe that:

- (1) Any article is adulterated or misbranded and is capable of use as human food; or
- (2) Any article has not been inspected, in violation of the provisions of Sections 1 through 16 of the Act or the Federal Meat Inspection Act or the Federal Food, Drug, and Cosmetic Act; or
- (3) Any article or animal has been or is intended to be distributed in violation of any provisions.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-34. Method of detention; form, of detention tag

An authorized representative of the Board shall detain any article or livestock to be detained under this Part, by affixing an official "Oklahoma Retained Tag" to the article or livestock.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-35. Notification of detention to the owner of the article or livestock detained, or his agent, or person having custody

(a) An authorized agent of the Board shall give oral notification of detention to the immediate custodian of the article or livestock being detained.

(b) An authorized agent of the Board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained article or livestock.

(c) If the owner of the detained article or livestock, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized agent of the Board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.

(d) The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-36. Notification of governmental authorities having jurisdiction over article or livestock detained; form of written notification

Within 48 hours after the detention of any livestock or article pursuant to this Part an authorized representative of the Board shall give oral or written notification of such detention to any State authorities not connected with the Division, and any State or other governmental authorities, having jurisdiction over such livestock or article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-37. Movement of article or livestock detained; removal of official marks

No article or livestock detained in accordance with the provisions in this Part shall be moved by any person from the place at which it is located when so detained, until released by an authorized representative of the Board: Provided, That any article or livestock may be moved from the place at which it is located when detained, for refrigeration, freezing, or storage purposes if the movement has been approved by an authorized representative of the Board: And provided further, that the article or livestock moved will be detained by an authorized representative of the Board after the movement until such time as the detention is terminated. When the detention of an article or livestock is terminated, the owner, or his agent or the carrier or other person in possession of the article or livestock who was notified when the article or livestock was detained, will receive notification of the termination. The notification "Notice of

Termination of Detention" shall be served by either delivering the notice to such person, or by certifying and mailing the notification, addressed to such at his last known residence or principal office or place of business. All official marks may be required by such representative to be removed from such article or livestock before it is released unless it appears to the satisfaction of the representative that the article or livestock is eligible to retain such marks.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-38. Articles or livestock subject to Judicial seizure and condemnation

Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased livestock, that is being transported in commerce or is otherwise subject to the Act, or is held for sale in the State after such transportation, is subject to seizure and condemnation, in a judicial proceeding pursuant to Section 24 of the Act if such article or livestock:

- (1) Is or has been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Act, or
- (2) Is capable of use as human food and is adulterated or misbranded, or
- (3) In any other way is in violation of the Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-39. Procedure for seizure, condemnation, and disposition

Any article or livestock subject to seizure and condemnation under this Part shall be liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any district court, or other proper court specified in the Act, within the jurisdiction of which the article or livestock is found.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-40. Authority for condemnation or seizure under other provisions of laws

The provisions of this Part relating to seizure, condemnation and disposition of articles or livestock do not derogate from authority for condemnation or seizure conferred by other provisions of the Act, or other laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-3-41. Criminal offenses

The Act contains criminal provisions with respect to numerous offenses specified in the Act, including but not limited to bribery of Division employees, receipt of gifts by Division employees, and forcible assaults on, or other interference with, Division employees while

engaged in, or on account of, the performance of their official duties under the Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 13. PLANTS IDENTIFIED AS UNSANITARY

35:37-3-42. Procedure to identify plant as unsanitary

(a) If an inspector identifies any of the following unsanitary conditions at a plant, the inspector shall immediately notify the Director:

- (1) Nonpotable water, meaning unsafe by laboratory determinations, used in areas producing edible product;
- (2) Product is subjected to an environment allowing bacterial growth and development, vermin or insects, or resulting in the entry of foreign matter into the product;
- (3) Carcasses or parts show evidence of contamination; a systemic disease condition, or bearing diseases transmissible to man, or in any other manner adulterated;
- (4) Meats exhibit the characteristics of spoilage are used in meat food products; or
- (5) The presence of excessive amounts of approved chemicals, any foreign material, prohibited chemicals, or preservatives or failure to properly treat or destroy trichinae.

(b) The inspector shall notify the plant operator of the unsanitary conditions. If the Director is not satisfied that the condition will be immediately corrected, the Director may order the facility to immediately stop sale and withdraw inspection or exemption.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-3-42.1. Correction of unsanitary conditions

(a) The plant shall have five (5) working days to alleviate any unsanitary conditions.

(1) The Department shall conduct a follow up inspection at the end of the five (5) working day time period to determine if unsanitary conditions are corrected.

(2) If conditions are not corrected, the Director shall issue a letter of warning to the plant and provide a warning to the public of the unsanitary conditions.

(b) Inspection and exemptions shall be withdrawn from the plant until the unsanitary conditions are corrected.

(c) A notice of violation may be filed against the plant if operation continues, or at the discretion of the Director, in addition to any other authority by the Department to issue a letter of warning or notice of violation.

[Source: Added at 28 Ok Reg 2197, eff 7-25-11]

PART 14. OFFICIAL MARKS, DEVICES AND CERTIFICATES

35:37-3-43. General

The marks, devices, and certificates prescribed or referenced in this Part shall be official marks, devices, and certificates and shall be used in accordance with the provisions of this Part and the rules cited therein.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-44. Official marks and devices to identify inspected and passed products of cattle, bison, sheep, swine, or goats

The official inspection legend required by Part 316 of 9 CFR to be applied to inspected and passed carcasses and parts of carcasses of cattle, bison, sheep, swine and goats, meat food products in animal casings, and other products as approved by the Director shall be in the appropriate form as specified in Appendix B of this Subchapter, in appropriate sizes specified as follows:

(1) 1" X 11/16" - For application to sheep and goat carcasses, the loins and ribs of pork, beef tails, and the smaller varieties of sausage and meat food products in animal casings.

(2) 1 3/4" X 1 1/8" - For application to calf and swine carcasses and on the larger varieties of sausage and meat food products in animal casings. For application to swine carcasses, wholesale and primal cuts.

(3) 2 1/2" X 1 5/8" - For application to burlap, muslin, cheesecloth, heavy paper, or other acceptable material that encloses carcasses or parts of carcasses. For application to beef and bison carcasses, wholesale and primal cuts of beef and bison.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-45. Official ante-mortem inspection marks and devices

The official marks and devices used in connection with ante-mortem inspection are those prescribed in 9 CFR 309.18.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-46. Official seals for transportation of products

The official mark for use in sealing railroad cars or other means of conveyance as prescribed in 9 CFR Part 325 shall be the inscription and a serial number as hereinafter shown and any seal approved by the Director for applying such mark shall be an official device for purposes of the Act. This seal shall be attached to the means of conveyance only by a Division employee.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-47. Official marks and devices in connection with post-mortem inspection and identification of adulterated products and insanitary equipment and facilities

(a) The official marks required by Part 310 of 9 CFR, for use in post-mortem inspection and identification of adulterated products and insanitary equipment and facilities are:

(1) The Oklahoma Retained tag which is used to retain carcasses and parts of carcasses in the slaughter department; it is Red and White, and bears the legend "Oklahoma Retained." It is a four section tag as used for hogs, sheep, goats, calves, cattle, bison and equine.

(2) The "Oklahoma Retained" mark which is applied to products and articles as prescribed in Part 310 of 9 CFR by means of a paper tag bearing the legend "Oklahoma Retained."

(3) The "Oklahoma Rejected" mark which is used to identify insanitary buildings, rooms, or equipment and is applied by means of a paper tag bearing the legend "Oklahoma Rejected."

(4) The "Oklahoma Passed for Cooking" mark is applied on products passed for cooking as prescribed in Part 310 of 9 CFR by means of a brand and is in the form specified in Appendix F of this Chapter.

(5) The "Oklahoma Condemned" mark shall be applied to products condemned as prescribed in Part 21 by means of a brand and is in the form specified in Appendix F of this Chapter.

(b) The Oklahoma Retained and Oklahoma Rejected tags, and all other brands, stamps, labels, and other devices approved by the Director and bearing any official mark prescribed in 35:15-25-167(a) and 35:15-25-167(b), shall be official devices for purposes of the Act.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

35:37-3-48. Official detention marks and devices

The official mark for articles and livestock detained under Part 51 of this Subchapter shall be the designation "Oklahoma Retained" and the official device for applying such mark shall be the official tag as prescribed in 35:37-3-34.

[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISION

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations

(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR), Parts 381; 416; 417; 418; 424; 430; 441; 442; and 500 for the United States Department of Agriculture

(USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate, or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate, or seal shall be substituted.

(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.

(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

(1) "**Act**" means the Oklahoma Poultry Products Inspection Act.

(2) "**Director**" means the Director of Meat Inspection.

(3) "**Poultry**" means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, domesticated quail, domesticated pheasant, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).

(4) "**Poultry product**" means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.

(5) "**Poultry byproduct**" means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Amended at 23 Ok Reg 2172, eff 6-25-06 ; Amended at 24 Ok Reg 1778, eff 6-25-07 ; Amended at 25 Ok Reg 1052, eff 7-1-08 ; Amended at 26 Ok Reg 1386, eff 7-1-09 ; Amended at 27 Ok Reg 910, eff 7-1-10 ; Amended at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 29 Ok Reg 1033, eff 7-1-12 ; Amended at 30 Ok Reg 826, eff 7-1-13 ; Amended at 31 Ok Reg 735, eff 9-12-14 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 33 Ok Reg 1176, eff 9-11-16 ; Amended at 34 Ok Reg 817, eff 9-11-17 ; Amended at 35 Ok Reg 776, eff 9-14-18 ; Amended at 36 Ok Reg 1375, eff 9-14-19 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:37-5-2. Deleted regulations and exemptions

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381; 416; 417; 418; 424; 441; 442; and 500), of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.

(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a

calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The whole bird poultry does not move in commerce. Producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the producer;

(4) The producers submit a certificate of registration to the Department;

(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";

(6) The whole bird poultry is sold directly to the household consumer, restaurant, hotel, or boardinghouse, for use in their establishment or in the preparation of meals for sales directly to consumers and transported without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and

(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice.

(c) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two thousand five hundred (2500) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;

(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;

(3) The poultry is sold by the producer, or other person for distribution by the producer, solely within the producer's jurisdiction, directly to household consumers, restaurants, hotels, and boardinghouses for use in their own dining rooms or in the preparation of meals for sales directly to consumers;

(4) The producers submit a certificate of registration to the Department;

(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry that are sound, clean and fit for human food, and each whole bird carcass, bears a label that lists the producer's name and address and the following

statement, "This poultry product has not been inspected and passed" and the products are not otherwise misbranded;

(6) The producers meet the sanitation requirements as provided in 9 CFR 416.1-5 and allow the Department to inspect sanitation at least two (2) times each year;

(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice; and

(8) The producers do not engage, within the same calendar year, in the business of buying or selling any poultry or poultry products or engage in any other poultry exemptions, or operate an inspected poultry establishment, unless approved by the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Amended at 23 Ok Reg 2172, eff 6-25-06 ; Amended at 24 Ok Reg 1778, eff 6-25-07 ; Amended at 25 Ok Reg 1052, eff 7-1-08 ; Amended at 26 Ok Reg 1386, eff 7-1-09 ; Amended at 27 Ok Reg 910, eff 7-1-10 ; Amended at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 29 Ok Reg 1033, eff 7-1-12 ; Amended at 30 Ok Reg 826, eff 7-1-13 ; Amended at 31 Ok Reg 735, eff 9-12-14 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 33 Ok Reg 1176, eff 9-11-16 ; Amended at 34 Ok Reg 817, eff 9-11-17 ; Amended at 35 Ok Reg 776, eff 9-14-18 ; Amended at 36 Ok Reg 1375, eff 9-14-19 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:37-5-3. Guidelines and procedures

The following publications prepared and approved by the United States Department of Agriculture are applicable to the Oklahoma Department of Agriculture, Food, and Forestry, as determined by the Director of Meat Inspection: "Poultry Packing Plants: A Guide to Construction and Layout," "Food Standards and Labeling Policy Book" (August 2005); and all Food Safety and Inspection Service's Directives, and Notices as adopted by the director of the Food Safety Division.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-5-4. Registration and application requirements for custom exempt plants

(a) Every establishment where poultry are custom slaughtered without ante-mortem and post-mortem inspection or in which custom processing of carcasses or parts of carcasses derived from poultry slaughtered without ante-mortem and post-mortem inspection is required to submit an application and have all facilities approved by the Director prior to conducting operations.

(b) Any person or establishment, not licensed as a retail exempt business, engaged in custom processing of inspected and passed carcasses for individuals, is required to submit an application and meet all facility requirements prior to conducting operations.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-5. Establishments requiring inspection

Inspection under the rules is required at:

(1) Every establishment, except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2 in which any poultry is slaughtered for transportation or sale in commerce, or in which any poultry products are wholly or in part, processed for transportation or sale in commerce, as articles intended for use as human food;

(2) Every establishment, except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2, within the State, at which any poultry is slaughtered or any poultry products are processed, for use as human food solely for distribution within such jurisdiction;

(3) Except as provided in 9 CFR, Part 381.10, 381.11, 381.12, 381.13, 381.14, and 381.15 with the exceptions of those deleted rules listed in 35:37-5-2, every establishment designated by the Director pursuant to the Act as one producing adulterated poultry products which would clearly endanger the public health.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 3. APPLICATION FOR INSPECTION: GRANT OR REFUSAL OF INSPECTION

35:37-5-6. How application shall be made

The operator of each establishment of the kind required by 35:37-5-5 to have inspection shall make application to the Director for inspection service. In cases of change of name, ownership or location, a new application shall be made.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-7. Filing of application

(a) The application for inspection at any establishment shall be on official forms provided by the Food Safety Division of the Oklahoma Department of Agriculture, Food, and Forestry.

(b) In addition to completion of all information requested by the application, the operator shall include the name of any subsidiary corporation that will prepare any poultry product or conduct any other operation at the establishment for which inspection is requested.

(c) If inspection is granted, the applicant for inspection shall be responsible for its subsidiaries' compliance with all requirements.

(d) Processing of poultry products and other operations at the establishment for which inspection is granted may be conducted only by the applicant or a subsidiary.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-8. Authority of applicant

Any person applying for inspection service may be required at the discretion of the Director to demonstrate that the operator of the establishment authorized him to do so.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-9. Application for inspection; required facilities

An application for inspection service to be rendered in an official establishment shall be made according to the following procedure:

- (1) Prints of drawings and specifications to be furnished.
 - (A) Applicants for inspection service may obtain information or assistance from the Meat Inspection Division with respect to the requirements before submitting prints of drawings and specifications.
 - (B) Two prints of drawings showing the features specified in this Section shall be submitted to the Director. The drawings or prints shall be legible, made with sharp, clear lines, and properly drawn to scale and shall consist of complete floor plans and a plot plan. Submissions consisting of more than one sheet should be bound together at the left margin in sets.
 - (C) The plot plan shall show such features as the limits of the establishment premises, location in outline of buildings on the premises, one point of the compass, and the location of roadways, railroads, and water and sewer lines or sewage facilities serving the establishment.
 - (D) The floor plan shall show all space to be included in the official establishment. If rooms or compartments shown on the drawings are not to be included as part of the official establishment, this shall be clearly indicated thereon.
 - (E) The sheets of paper on which prints of drawings are made shall not exceed a size of 34 x 44. The drawings, other than of the plot plan, shall be made to a scale of one-eighth inch per foot. The plot plan may be drawn to a scale of not less than one-thirty-second inch per foot. The drawings shall indicate the scale used and shall so indicate the floor shown (e.g. basement, first or second).
- (2) Features required to be shown on floor plan. The following features shall be shown on the floor plan:
 - (A) The principal pieces of equipment drawn to scale in the proper locations;
 - (B) The name of the operator and address of the establishment by street and street number, or by other means properly identifying the location of the establishment. (This information shall be shown on each drawing the same as shown on the application for service);
 - (C) One point of the compass;

(D) The doors and openings for passageways, designating those that are self-closing or permanently closed;

(E) All floor drain openings and gutter drains, and for all buildings constructed after September 1, 1959, the approximate location of all underfloor and underground piping.

(F) Lavatories in toilet and processing rooms (lavatories that are other than hand operated shall be so designated on the blueprints);

(G) All Steam and hot and cold water outlets for cleanup purposes;

(H) Ice making and storage facilities.

(I) The point at which live poultry is hung on the conveyor line, the point where dressed poultry is removed, and the point of transfer to the eviscerating line;

(J) The routes of the edible and inedible products;

(K) The location of fresh air inlets, exhaust fans and hoods.

(3) **Specifications.** Specifications covering the following shall accompany the drawings:

(A) Height of ceilings;

(B) Type of ceilings -- open or closed;

(C) Finish of ceilings; for example -- cement plaster, metal, marine plywood, cement, asbestos board, etc.;

(D) Finish of walls; for example -- cement, plaster, glazed tile, glazed brick, glass blocks, etc.,

(E) Screens -- indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects;

(F) Finish of floors -- concrete, brick, mastic material, etc.;

(G) Drainage -- indicate amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines, and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings;

(H) Heating -- indicate type;

(I) Water supply -- indicate whether public or private water supply, or both, and specify in terms of gallons per minute of water available for the processing needs of the plant. Also indicate whether or not a nonpotable water supply is used for any purpose in the plant and, if so, specify such uses;

(J) Hot water facilities -- specify facilities such as boilers, storage tanks, mixing valves, etc., and indicate the size;

(K) Specify number of men and number of women who will use each toilet room;

(L) Sewage disposal-indicate whether city sewer, cesspool, sedimentation tank, etc.;

(M) Approximate rate of production -- for slaughtering and/or eviscerating establishments, indicate hourly rate of slaughter and/or evisceration for each class of poultry, and

for other types of establishments indicate pounds of each type of poultry products processed per hour.

(4) The drawings of the establishment shall show employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and all rooms, compartments, or passageways where poultry or poultry products, or any ingredients to be used in the preparation of poultry products will be handled or kept. The drawings shall also show all other rooms or compartments located in the buildings that are to comprise the official establishment.

(5) When changes are proposed in areas for which drawings have been previously approved, one of the following types of revised drawings shall be submitted for review and consideration:

(A) A completely revised sheet or sheets, showing proposed alterations or additions, or

(B) Pastors of minor changes that may be affixed to the affected areas on the previously approved drawings in a manner not obscuring essential data. Paster drawings shall be prepared to the same scale and presented on a background similar to that of the originally approved drawings.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-10. Survey and grant of inspection

Prior to granting of inspection service, a survey of the establishment shall be made by a representative of the Division to determine if the establishment is constructed and facilities are installed in accordance with the approved drawings, specifications and the rules. Inspection will be granted by the Board when these requirements are met.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-11. Refusal of inspection

(a) The Board may refuse to grant inspection at any establishment if it determines that it does not meet any requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations under 2 O.S. Section 6-257 to prevent the distribution under the Act of adulterated poultry products, or that the applicant has not received approval of labeling and containers to be used at the establishment as required by the rules. When inspection is refused for any reason, the applicant shall be informed of the action and the reasons therefore and afforded an opportunity to present his views informally.

(b) If the refusal is based on a failure to comply with any requirements prescribed under 2 O.S. Section 6-257, the applicant shall, upon his request, be afforded opportunity for a hearing in accordance with applicable rules of practice, with respect to the merits or validity of the action taken, but such refusal shall continue in effect unless otherwise ordered by the Board.

(c) Inspection may also be refused in accordance with 2 O.S. Section 6-267 A. and the applicable rules of practice.

(d) Requirements for sewage and waste disposal are:

(1) Any applicant for inspection under the provisions of the Act must obtain a certificate of acceptability or a permit for the liquid waste disposal system. The permit shall be posted in the establishment.

(2) A facility discharging waste into a waste treatment facility independent of a municipal waste system may obtain a permit and/or a certificate of acceptability from the Oklahoma Water Resources Board (Title 82, O.S. Sections 901-914).

(3) Any establishment discharging into municipal waste systems, with or without on-site treatment may obtain a permit and/or a certificate of acceptability from the Oklahoma State Department of Health (Title 63, O.S. Sections 1-901 through 1-911).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-12. Suspension or other withdrawal of inspection service

(a) Authorization and Procedures for Suspension or Withdrawal of Inspection Services are:

(1) The Board is authorized to suspend (for such period or indefinitely, as the Board deems necessary to effectuate the purposes of the Act) or otherwise to withdraw, inspection service at an official establishment, for the failure of the operator of the establishment to destroy condemned poultry products as required under 2 O.S. Section 6-256, or for other failure of the operator of the establishment to comply with any requirements as to premises, facilities, or equipment, or the operation thereof, prescribed in the regulations under 2 O.S. Section 6-257 to prevent the distribution under the Act of adulterated poultry products.

(2) The Operator shall be notified of the withdrawal action and the reasons therefore and afforded an opportunity to present his views informally prior to the effective date of such withdrawal, and upon his request he shall be afforded an opportunity for a hearing in accordance with the applicable rules of practice, with respect to the merits or validity of the withdrawal, but such a suspension or other withdrawal shall continue in effect pending the outcome of any such hearing unless otherwise ordered by the Board.

(b) During a period of suspension or other withdrawal, no processing of poultry or poultry products subject to the inspection requirements of the Act shall be carried on in the official establishment. In any case in which inspection service is suspended under this rule, if the establishment premises, facilities and methods of operations are not brought into compliance with the Act and the rules within a reasonable period of time, to be specified by the Board, inspection service may be withdrawn from the official establishment in accordance with the procedure prescribed in this rule.

(c) Inspection service may also be suspended or withdrawn in accordance with 2 O.S. Section 6-267 (B). and the applicable rules of practice.

(d) Inspection may be suspended or revoked as provided in Paragraph (5) of Subsection 21(b) of the Federal Water Pollution Control Act, as amended.

(e) A grant of inspection issued without certification under paragraph (7) or (8) of Subsection 21(b) of the Federal Water Pollution Control Act, as amended, will terminate if certification is not subsequently furnished or other requirements are not met, as provided in said paragraphs.

(f) Inspection service may be withheld if the operator of the official establishment or any officer, agent, or employee of the operator or any of its subsidiaries forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any inspection personnel while engaged in or on account of the performance of their official duties under the Act. Such withholding shall continue until the responsible person is removed from the premises or until assurances, acceptable to the Board, are received that there will not be any recurrences of such acts.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 5. FACILITIES FOR INSPECTION

35:37-5-13. Time of inspection

The inspector who is to perform the inspection in an official establishment shall be informed, in advance, of the hours when such inspection will be required.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-14. Schedule of operation of official establishment

Operating schedules of an official establishment shall be subject to approval of the Director and for the purpose of this rule the normal operating schedule shall consist of a continuous 8-hour period per day (excluding not to exceed 1 hour for lunch), 5 days per week, within the period of Monday through Friday, for each full shift required. Any variation from such Monday through Friday schedule of operation must be fully justified and approved in advance by the Director. Clock hours of daily operations are not to be specified in a schedule although as a condition of continuance of approval of a schedule the hours of operation must be reasonably uniform from day to day.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-15. Overtime inspection service

The management of an official establishment desiring to work under the conditions which will require the services of a meat inspector on any Saturday, Sunday or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the Inspector in Charge or his assistant to furnish inspection service during such

overtime period, and shall pay the Board a per hour per division inspector fee established under the provisions of 2 O.S. Section 2-9 to reimburse the Board for the cost of inspection services so furnished.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-16. Holiday inspection service

When an official establishment requires inspection service on a holiday, such service is considered holiday work. The official establishment shall, in advance of such holiday work, request the Inspector in Charge to furnish inspection service during such period and shall pay the Board therefore at the rate established as stated in 35:37-5-15. Service in excess of 8 hours for that day is considered overtime and shall be paid for at the overtime rate. Holidays for state employees will be those declared by the Executive Department of the State of Oklahoma.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-17. Multiple shift operations

(a) Multiple shift operations may be approved by the Director provided the management of an official establishment requests in writing and a reasonable amount of time is allowed for the Agency to provide inspection personnel. The request for this operation must clearly show the necessity for the additional shift(s). Therefore, plant management must specify the type(s) of operation(s) which will be conducted during the multiple shifts and must further demonstrate that at least five (5) hours of work will be required in excess of a normal eight hour shift on a continual and on-going basis during the normal work week of Monday through Friday.

(b) If any of the provisions of this rule are not met, the Director shall refuse or revoke the approval for multiple shift operations and require the establishment be billed for overtime inspection services at the appropriate established rate in effect.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 7. OFFICIAL MARKS, DEVICES AND CERTIFICATES

35:37-5-18. Wording and form of the official inspection legend

Except as otherwise provided in this Part, the official inspection legend required to be used with respect to inspected and passed poultry products shall include wording as follows: "Oklahoma, Inspected and Passed." The form and arrangement of such wording shall be exactly as indicated in the example in Illustration 1 of Appendix C of Chapter 37, except that the appropriate official establishment number shall be shown. The Director may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and

effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-19. Official dressed poultry identification mark

Dressed poultry processed under inspection and passed for distribution shall be identified by an official inspection legend, refer to Illustration 2 of Appendix C of Chapter 37, which shall be not less than 1 1/2 x 3 in size. Such mark shall be applied to the immediate containers and shipping containers of the poultry.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-20. Official seal

The official mark for use in sealing means of conveyance used in transporting poultry products under any requirement in this Part shall include the inscription of "OKLA. INSP'D & PASSED" and a serial number, and any other seals approved by the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-21. Official Oklahoma condemned mark

The term "Oklahoma Condemned" as shown in Appendix F of Chapter 37 is an official mark and the devices used by the Division for applying such mark are official devices.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-5-22. Official inspection mark; official establishment number

The immediate container of every inspected and passed poultry product shall bear:

- (1) The official inspection legend; and
- (2) The official establishment number of the official establishment in which the poultry product was processed under inspection, within the official inspection legend. In the case of canned product, the official establishment number may be embossed on the lid of each can. In the case of nontransparent consumer packages such as cartons, the official inspection legend may be legibly printed thereon or it may be shown on an insert label placed on top of the product within the package. In the case of transparent wrappers, the official inspection legend may be shown on an insert label and so placed under the transparent covering that it will be clearly visible and legible.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-23. Approval required for labeling and other devices bearing official inspection marks

No labeling or other device bearing any official inspection mark, other than printer's proofs or other samples submitted for approval under this Part, shall be made until the printer's proof or a photostatic copy has been found by the Director to be acceptable; and no labeling or other device, or imprint, bearing any official inspection mark, shall be used until finished copies or samples thereof have been approved by the Director, except that approval may be given to printer's final proofs or photostatic copies of labels or samples of stenciled and rubber stamped imprints for shipping containers or containers for institutional packs.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 9. MISCELLANEOUS

35:37-5-24. Registration

(a) Within ninety (90) days, any person engaging in one or more of the following businesses shall register with the Department:

- (1) A poultry products broker, renderer, or animal food manufacturer.
- (2) A wholesaler of any carcasses or parts or products of carcasses of any poultry, whether or not intended for human food.
- (3) A public warehouseman storing poultry or poultry products.
- (4) A buyer, seller, or transporter in commerce of any dead, dying, disabled, or diseased poultry or any part of carcasses of any poultry that died otherwise than by slaughter.

(b) Registration shall be on forms provided by the Department and shall include the name, trade name, and address of each location of business.

(c) Any change in the name, address, or trade name shall be reported in writing to the Director within fifteen (15) days after making the change.

(d) Persons conducting any of the specified businesses only at an official establishment shall not be required to register.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-25. Procedure to identify plant as unsanitary

(a) If an inspector identifies any of the following unsanitary conditions at a plant, the inspector shall immediately notify the Director:

- (1) Nonpotable water, meaning unsafe by laboratory determinations, used in areas producing edible product;
- (2) Product is subjected to an environment allowing bacterial growth and development, vermin or insects, or resulting in the entry of foreign matter into the product;
- (3) Carcasses or parts show evidence of contamination; a systemic disease condition, or bearing diseases transmissible to man , or in any other manner adulterated;

- (4) Poultry exhibit the characteristics of spoilage are used in poultry food products; or
 - (5) The presence of excessive amounts of approved chemicals any foreign material, prohibited chemicals, or preservatives.
- (b) The inspector shall notify the plant operator of the unsanitary conditions. If the Director is not satisfied that the condition will be immediately corrected, the Director may order the facility to immediately stop sale and withdraw inspection or exemption.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

35:37-5-26. Correction of unsanitary conditions

- (a) The plant shall have five (5) working days to alleviate any unsanitary conditions.
- (1) The Department shall conduct a follow up inspection at the end of the five (5) working day time period to determine if unsanitary conditions are corrected.
 - (2) If conditions are not corrected, the Director shall issue a letter of warning to the plant and provide a warning to the public of the unsanitary conditions.
- (b) Inspection and exemptions shall be withdrawn from the plant until the unsanitary conditions are corrected.
- (c) A notice of violation may be filed against the plant if operation continues, or at the discretion of the Director, in addition to any other authority by the Department to issue a letter of warning or notice of violation.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2197, eff 7-25-11]

PART 10. DETENTION; SEIZURE AND CONDEMNATION

35:37-5-27. Poultry and other articles subject to administrative detention

An authorized agent of the Board may detain any poultry product or any poultry product or other article made wholly or in part from any dead, dying, disabled, or diseased poultry upon any premises or during or after distribution in commerce for a period not to exceed twenty (20) days if there is reason to believe any poultry or other article:

- (1) Is adulterated or misbranded and is capable of use as human food.
- (2) Has not been inspected pursuant to the Act or Federal law.
- (3) Has been or is intended to be distributed in violation of the Act or Federal law.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-28. Method of detention; form of detention tag

An authorized agent of the Board shall detain any poultry or other article by affixing an official paper tag bearing the statement "Oklahoma Retained" and other information.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-29. Notification of detention to the owner of the article detained, or his agent, and person having custody

- (a) An authorized agent of the Board shall give oral notification of detention to the immediate custodian of the poultry, poultry product, or other article being detained.
- (b) An authorized agent of the Board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained poultry, poultry product, or other article.
- (c) If the owner of the detained poultry, poultry product, or other article, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized agent of the Board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.
- (d) The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-30. Notification of governmental authorities having jurisdiction over article detained; form of written notification

- (a) Within forty eight (48) hours after the detention of any poultry or other article pursuant to 35:37-5-28, an authorized agent of the Board shall provide oral or written notification to any Federal, state, or other government authorities having jurisdiction over the article.
- (b) Any oral notification shall be confirmed in writing as soon as circumstances allow.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-31. Movement of poultry or other article detained; removal of official marks

- (a) No person shall move any detained poultry or other article from the place detained unless an authorized agent of the Board approves moving the article for refrigeration, freezing, or storage or releases the detention.
- (b) An authorized agent of the Board shall provide a "Notice of Termination of Detention" to the owner, agent, or custodian that was previously notified of the detention.
- (c) Notification shall be delivered by personal service or certified mail to the owner, agent, or custodian at the last known residence or principal place of business.

(d) Prior to release of detention, all official marks shall be removed from the article, unless an authorized agent of the Board determines the article is eligible to retain the marks.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-32. Poultry or other articles subject to judicial seizure and condemnation

Any poultry products except those exempted from the definition of a poultry product in 9 CFR 381.15, or any dead, dying, disabled, or diseased poultry subject to this Act is subject to seizure and condemnation in a judicial proceeding pursuant to 2 O.S. Section 6-269 if the poultry or other article meets one of the following:

- (1) Is or has been processed, sold, transported, or otherwise distributed or offered or received for distribution in violation of the Act.
- (2) Is capable of use as human food and is adulterated or misbranded.
- (3) In any other way is in violation of the Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-33. Procedure for judicial seizure, condemnation, and disposition

Any poultry, poultry products, or other article may be proceeded against, seized, condemned, and disposed of at any time upon an appropriate pleading in the district court within the jurisdiction where the article is found.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-5-34. Authority for condemnation or seizure under other provisions of law

The provisions relating to detention, retention, seizure, condemnation, and disposition of poultry, poultry products, or other articles do not derogate from any other authority for detention, retention, condemnation or seizure conferred by other provisions of this Act or other laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

**SUBCHAPTER 7. CONSTRUCTION STANDARDS FOR
MEAT PACKING PLANTS**

**PART 1. DESCRIPTION OF PLANS AND
SPECIFICATIONS REQUIRED**

35:37-7-1. Submission of plans

- (a) Two (2) sets of drawings with separate specification sheets that fully and clearly illustrate and describe the applicant's plans for constructing and equipping the plant for inspection shall be submitted to: Oklahoma Department of Agriculture, Food, & Forestry, Food Safety Division, Meat Inspection Services, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804. Submission of drawings is required for a new plant and for changing or modifying an existing plant. Plans should be reviewed and given an initial approval by the District or Circuit Supervisor prior to submission to the Oklahoma City office for final approval. The appropriate District or Circuit Supervisor shall be identified when the applicant makes initial contact with the Oklahoma City office.
- (b) The name and address of the applicant shall be shown on each sheet of drawings. Prints or drawings shall not exceed 34 by 44 inches.
- (c) Lines on the drawings shall be sharp and clear and all writing shall be legible.
- (d) The required specification sheets which accompany the drawings shall identify such features as the finish of the floors, walls, and ceilings; the source of the water supply; method of sewage disposal; method of controlling rodents and vermin; description of the trapping and venting of drainage lines; description of the hot water system, means to dispel steam and vapor in work rooms; screens for other openings to prevent admittance of flies; and other important features. The specifications should be typewritten on 8 1/2 by 11 inch sheets and organized into sets.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-2. Plot plan

- (a) The plot plan shall show the entire premises. The plot plan shall include the location of ALL buildings, railroad sidings, roadways, alleys adjoining the plant, streams, catch basins, water wells, routing of sewer lines on premises, and storage tanks. If buildings exist on adjoining property, the height and use of buildings shall be indicated. The character and surfacing of roadways, driveways, streets, vehicular loading areas and alleys shall be indicated. The north point of the compass shall be shown.
- (b) Plot plans shall be drawn in a scale of not less than 1/32 inch-per-foot is required for plot plans. Extremely large plants may be exempted from this scale requirement only to the extent necessary to fit the plot plan on the maximum allowable size sheet of 34 by 44 inches

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-3. Floor plans

- (a) A floor plan shall be submitted for each entire floor of the establishment. Each floor plan shall accurately illustrate the facilities as they will exist when the establishment is actually in operation. Most floor plans should be scaled 1/8 inch-per-foot. However, complicated layouts such as large slaughtering departments, hog cutting departments, and large sausage kitchens shall be scaled 1/4 inch-per-foot so that necessary details can be clearly illustrated. Very large floor plans may be divided

into two or more sheets by using a key to show how the sheets relate to each other.

(b) Floor plans shall show essential features including locations of walls, partitions, posts, doorways, windows, floor drainage openings, gutters, rail systems for conveying carcasses, principal pieces of equipment (also include platforms, tables, etc.), hot and cold water hose connections, hand-washing facilities, pipelines for moving product or product ingredients, lockers and benches, toilets, urinals, shelves, racks, chutes, conveyors, ventilation fans, ramps, and stairways.

(c) Floor plans for poultry plants shall also show the point at which live poultry is hung on the conveyor line, the point at which dressed poultry is removed, the point of transfer of dressed poultry to the eviscerating line, and the routes of the edible and inedible products.

(d) In addition to the drawing features, the floor plans shall include the name and use of each room, number of employees using each welfare and toilet room, room temperature (for coolers, freezers, processing areas, etc.), height of rails, height of all work platforms, and height of inspection tables. The rooms or areas illustrated on the drawings that will not be part of the official establishment shall be clearly marked as such.

(e) The pitch of floors to floor drains or drainage gutters shall be indicated by either grade lines or arrows noting the direction of the pitch.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-4. Plumbing plan

The plumbing plan of the floor drainage system and the toilet soil lines shall be shown for the entire plant. The size of the drainage lines and the toilet soil lines shall be shown on the plumbing plan. The toilet soil lines shall remain separate to some point outside the building. Toilet soil lines shall not discharge into grease catch basins.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-5. Rearrangement of operations or activities

Expansion or remodeling projects often results in rearrangement of operations to the extent that previously approved overall floor layouts are misleading. In these instances, updated overall floor layouts shall be submitted.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-6. Approval of plans and specifications

If the final examination of the drawings and specifications shows that the drawings meet meat and poultry inspection requirements, a letter of approval shall be placed with the drawings and an approved set of drawings and letter of approval returned to the applicant. Another set of drawings shall be retained for the Meat Inspection files in Oklahoma City.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-7. Changes and revisions

Meat Inspection Services, Oklahoma City, Oklahoma, shall maintain the approved drawings. When changes are proposed in areas for which drawings have been previously approved, one of the following types of revised drawings shall be submitted for review and consideration.

(1) A completely revised sheet or sheets that show the existing construction and equipment which will remain unchanged, together with the proposed alterations and/or additions (preferable method); or

(2) Two (2) sets of pasters showing proposed changes, one of which is superimposed and securely affixed to the most recently approved sheets(s). The pasters, as affixed, must not obscure essential data and must be prepared to the same scale and presented on a background similar to that of the previously approved drawings. A new sheet must be submitted when changes would require several pasters.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

35:37-7-8. Use of competent architect or engineer

Because of the specialized knowledge required to design and construct a well-arranged meat or poultry packing plant, a competent architect or engineer experienced in laying out plans for operation under State Meat and Poultry Inspection should be employed to prepare the drawings and specifications.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 34 Ok Reg 817, eff 9-11-17]

PART 3. LOCATION OF ESTABLISHMENTS [REVOKED]

35:37-7-9. Site [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-10. Accessibility [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-11. Separation [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-12. Retail business on premises [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-13. Expansion [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-14. Inedible products departments and grease catch basins [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 5. WATER SUPPLY, PLANT DRAINAGE, AND
SEWAGE DISPOSAL SYSTEM [REVOKED]**

35:37-7-15. Potable water supply [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-16. Nonpotable water supply [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-17. Vacuum breakers [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-18. Plant waste disposal [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**35:37-7-19. Disposal of paunch contents, hog hair, feathers, blood,
and similar waste material [REVOKED]**

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-20. Acceptance of plant waste system [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-21. Catch basins for grease recovery [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-22. Plant drainage [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 7. PLANT CONSTRUCTION [REVOKED]

35:37-7-23. Minimum requirements [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-24. Materials [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-25. Floors [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-26. Coves [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-27. Interior walls [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-28. Ceilings [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-29. Window ledges [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-30. Doorways and doors [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-31. Screens and insect control [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-32. Rodent proofing [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-33. Interior woodwork [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-34. Stairs [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-35. Lighting [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-36. Ventilation [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-37. Refrigeration [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-38. Equipment [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 11. HAND WASHING FACILITIES, STERILIZERS,
DRINKING FOUNTAINS, AND CONNECTIONS FOR
CLEANUP HOSES [REVOKED]**

35:37-7-39. Lavatories [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-40. Sanitizers [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-41. Drinking fountains [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-42. Hose connections [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-43. Location of facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 13. FACILITIES FOR PROCESSING EDIBLE
PRODUCT [REVOKED]**

35:37-7-44. Size of departments [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-45. Flow of operations [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-46. Perishable product departments [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-47. Freezers [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-48. Incubation room for canned product [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-49. Dry storage space for supplies [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-50. Truckways within the plant [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**35:37-7-51. Vehicular areas for trucks and railroad track gutters
[REVOKED]**

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 15. DESIGN, EQUIPMENT, AND OPERATION OF
MEAT AND POULTRY SLAUGHTERING DEPARTMENTS**

AND RELATED AREAS [REVOKED]

35:37-7-52. Meat [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-53. Poultry [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-54. Facilities for handling animal or fish food [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-55. Facilities for handling meat and poultry inedible and condemned materials [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 17. REQUIRED CATTLE SLAUGHTERING FACILITIES [REVOKED]

35:37-7-56. Cattle dressing layouts [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-57. Requirements for various types of cattle slaughtering layouts [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-58. Requirements for double-rail and single-rail hang-off dressing systems [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-59. Requirements for "on-the-rail" dressing systems [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-60. Viscera inspection facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 19. REQUIRED SHEEP, GOAT, AND CALF SLAUGHTERING FACILITIES [REVOKED]

35:37-7-61. Bleeding rail [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-62. Dressing rails [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-63. Dressing space and operations [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-64. Calf washing facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-65. Calf head handling facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-66. Carcass washing facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-67. Viscera, head, and carcass inspection facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-68. Floor drainage [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 21. REQUIRED HOG SLAUGHTERING FACILITIES FOR LARGE PLANTS THAT SCALD HOGS [REVOKED]

35:37-7-69. Location of certain operations [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-70. Scalding vat [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-71. Space for operations and truckways [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-72. Floor drainage [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-73. Shaving and carcass washing facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-74. Inspection facilities needed for very large slaughter layouts [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 23. REQUIRED HOG SLAUGHTERING FACILITIES FOR SMALL PLANTS [REVOKED]

35:37-7-75. General specifications [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

PART 25. REQUIRED POULTRY SLAUGHTERING FACILITIES [REVOKED]

35:37-7-76. Eviscerating and chilling areas [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-77. Conveyors [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-78. Facilities for processing giblets [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-79. Facilities for handling inedible offal [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-80. Semi-dry poultry offal system [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 27. WELFARE FACILITIES FOR PLANT
EMPLOYEES [REVOKED]**

35:37-7-81. Dressing rooms and equipment [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-82. Lockers [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-83. Shower-bath facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-84. Toilet rooms [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-85. Handwashing facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-86. Ventilation of welfare rooms [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-87. Lunch facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**35:37-7-88. Welfare facilities for employees working in inedible
product areas [REVOKED]**

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 29. INSPECTOR'S OFFICE AND WELFARE
FACILITIES [REVOKED]**

35:37-7-89. General [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-90. Dressing facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-91. Toilet room [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-92. Shower-bath facilities [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-93. Lighting and ventilation [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**PART 31. SUGGESTED NOTES ON SPECIFICATIONS TO
ACCOMPANY DRAWINGS [REVOKED]**

35:37-7-94. Use of suggested notes [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-95. Building construction [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

**35:37-7-96. Water supply, plumbing, drainage, and refrigeration
[REVOKED]**

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-97. Equipment [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-98. Operations [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 34 Ok Reg 817, eff 9-11-17]

35:37-7-99. General [REVOKED]

SUBCHAPTER 9. OKLAHOMA RABBIT AND RABBIT PRODUCTS INSPECTION REGULATIONS

PART 1. GENERAL

35:37-9-1. Definitions

The following words and terms when used in this Subchapter shall have the following meaning, unless the context clearly indicates otherwise.

"Acceptable" means suitable for the purpose intended and acceptable to the Service.

"Act" means the applicable provisions of the "Oklahoma Rabbit and Rabbit Products Inspection Act".

"Animal food manufacturer" means any person engaged in the business of manufacturing or processing animal food derived wholly or in part from carcasses, or parts or products of the carcasses, of rabbits.

"Applicant" means any interested party who requests any inspection service.

"Board" means the State Board of Agriculture.

"Carcass" means any rabbit carcass.

"CFR" means the Code of Federal Regulations.

"Circuit supervisor" means any employee of the Department in charge of rabbit inspection service in a designated geographical area.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind.

"Commissioner" means the Commissioner of Agriculture or any other officer or employee of the Department to who there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his or her stead.

"Condition" means any condition, including, but not being limited to, the state of preservation, cleanliness, or soundness, of any product or the processing, handling, or packaging which may affect such product.

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

"Director" means the Director of the Meat Inspection Service, employed by the Board to act for it in matters as prescribed by these rules and regulations for Meat Inspection.

"District Supervisor" or technical supervisor" means the officer in charge of the rabbit inspection service in a circuit consisting of a group of stations within an area.

"Edible product" means any product derived from ready-to-cook domestic rabbits.

"Federal Food, Drug, and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat.1040), and act amendatory thereof or supplementary thereto.

"Federal Meat Inspection Act" means the act so entitled approved March 4, 1907 (34 Stat. 1260) as amended by the Wholesome Meat Act (8 Stat.584).

"Giblets" means the liver from which the bile sac has been removed and the heart from which the pericardium has been removed and the kidneys.

"Holiday" or **"legal holiday"** shall mean the legal public holidays proclaimed by the Governor of the state of Oklahoma.

"Identify" means to apply official identification to product or to containers thereof.

"Inspection certificate" means a statement, either written or printed, issued by an inspector, pursuant to the regulations relative to the condition and wholesomeness of products.

"Inspection legend" means the inspection mark, and any other mark, or any variations in such marks, approved by the Board and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was inspected, or indicating the condition of the product, or for the purpose of maintaining the identity of products inspected under these regulations, including, but not limited to that set forth in 35:37-9-21.

"Inspector" means any person who is duly qualified and certified as an agent of the Oklahoma Department of Agriculture, Food, and Forestry.

"Interested party" means any person financially interested in a transaction involving any inspection.

"Intrastate commerce" means commerce within this state.

"Label" means a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, or any article.

"Laboratory" means:

(A) a room or building equipped for scientific experimentation or research.

(B) a place where drugs and chemicals are manufactured.

(C) a place for practice, observation or testing.

"Official certificate" means any certificate prescribed by regulation of the Board for issuance by an inspector or other person performing official functions pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act.

"Official device" means any device prescribed or authorized by the Board for use in applying any official mark.

"Official inspection legend" means any symbol prescribed by regulation of the Board showing that an article was inspected for wholesomeness in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act.

"Official mark" means the official inspection legend or any other symbol prescribed by regulation of the Board to identify the status of any article or rabbit pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act.

"Official plant" or "official establishment" means one or more buildings or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the

Commissioner as suitable and adequate for operation under inspection service.

"Person" means any individual, partnership, corporation, association, or other business unit. **"Pesticide chemical"**, **"food additive"**, **"color additive"**, and "raw agricultural commodity" means these terms shall have the same meanings for purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act as such term is defined by the Federal Food, Drug, and Cosmetic Act.

"Potable water" means water that has been approved by the State Health Department or the State Department of Agriculture, Food, and Forestry as safe for drinking and suitable for food processing.

"Processed" means slaughtered, canned, salted, stuffed, rendered, boned, cut-up, or otherwise manufactured, processed, or repackaged.

"Rabbit" means any domesticated rabbit, whether live or dead.

"Rabbit inspection service" means the personnel who are engaged in the administration, application, and direction of rabbit inspection programs and services pursuant to the regulations.

"Rabbit product" means any rabbit carcass, or part thereof; or any product which is made wholly or in part from any rabbit carcass or part thereof, excepting products which contain rabbit ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the animal food industry, and which are exempted by the Board from definition as a rabbit product under such conditions as the Board may prescribe to assure that the rabbit ingredients in such products are not adulterated and that such products are not represented as rabbit products.

"Rabbit products broker" means any person engaged in the business of buying or selling rabbit products on commission, or otherwise negotiating purchases or sales of such articles other than for his own account or as an employee of another person.

"Ready-to-cook domestic rabbit" means any rabbit that has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook rabbit also means any cut-up or disjointed portion of rabbit or any edible part thereof, as described in this paragraph.

"Regulations" means regulations promulgated by the Oklahoma State Board of Agriculture governing the inspection of rabbits and rabbit products.

"Renderer" means any person engaged in the business of rendering carcasses, or parts or products of the carcasses, of rabbits.

"Service" means the rabbit inspection program of the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-2. General terms and applications

(a) "Adulterated" shall apply to any carcass, part thereof, rabbit or rabbit products under one or more of the following circumstances:

- (1) if it bears or contains any toxic or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this paragraph if the quantity of such substance in or on such article does not ordinarily render it injurious to health,
- (2) if it bears or contains, by reason of administration of any substance to live rabbits or otherwise, any added poisonous or added deleterious substance, other than one which is:
 - (A) a pesticide chemical in or on a raw agricultural commodity,
 - (B) a food additive, or
 - (C) a color additive; which, may, in the judgment of the Board make such article unfit for human food;
- (3) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section Number 408 of the Federal Food, Drug, and Cosmetic Act,
- (4) if it bears or contains any food additive which is unsafe within the meaning of Section Number 409 of the Federal Food, Drug, and Cosmetic Act,
- (5) if it bears or contains any color additive which is unsafe within the meaning of Section Number 706 of the Federal Food, Drug, and Cosmetic Act. Provided, that an article which is not otherwise deemed adulterated under paragraph (2), (3), or (4), shall nevertheless be deemed adulterated if the use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Board in establishments at which inspection is maintained pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act.
- (6) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit or esthetically unacceptable for human food;
- (7) if it has been prepared, packed, or held under unsanitary conditions whereby it may become contaminated with filth, or whereby it may have been rendered injurious to health,
- (8) if it is, in whole or in part, the product of any rabbit which has died otherwise than by slaughter,
- (9) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health,
- (10) if it has been intentionally subjected to radiation unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section Number 409 of the Federal Food, Drug, and Cosmetic Act, or
- (11) if any valuable constituent has been in whole or in part omitted or abstracted; or if any substance has been substituted, wholly or in part therefore; or if damage or inferiority has been concealed in any manner; or if substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight,

or reduce its quality or strength, or make it appear better or of greater value than it is.

(b) "Capable of use as human food" shall apply to any carcass, or part or product of a carcass, of any rabbit, unless it is denatured or otherwise identified as required by regulations prescribed by the Board to deter its use as human food, or it is naturally inedible by humans.

(c) "Condition and Wholesomeness" refers to the condition of any product, its healthfulness or fitness for human food.

(d) "Inspection" or "inspection service" refers to any inspection by an inspector to determine:

- (1) the condition and wholesomeness of rabbits,
- (2) the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and passed, or
- (3) the condition and wholesomeness of any previously inspected and passed product if such product has not lost its identity as an inspected and passed product.

(e) "Labeling" refers to all labels and other written, printed, or graphic matter:

- (1) upon any article or any of its containers or wrappers, or
- (2) accompanying the article.

(f) "Misbranded" shall apply to any carcass, part thereof, rabbit meat or rabbit product under one or more of the following circumstances:

- (1) if its labeling is false or misleading in any particular,
- (2) if it is offered for sale under the name of another food,
- (3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated,
- (4) if its container is so made, formed, or filled as to be misleading, unless it bears a label showing:
 - (A) The true name of the product;
 - (B) An ingredients statement if the product is formulated from more than one item;
 - (C) The name, address and zip code of the manufacturer, packer or distributor;
 - (D) An accurate statement of the net quantity of contents;
 - (E) A special handling statement for all perishable products, such as; keep frozen;
 - (F) The official inspection legend that includes the plant number.

(5) if any word, statement, or other information required by or under authority of the Oklahoma Rabbit and Rabbit Products Inspection Act to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use,

(6) if it purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations of the Board unless:

(A) it conforms to the definition and standard, and
(B) its label bears the name of the food specified in the definition and standard and, insofar as may be required by the regulations, the common names of optional ingredients, other than spices, flavoring, and color, present in the food,

(7) if it purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations of the Board, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as the regulations specify, a statement that it falls below such standard,

(8) if it is not subject to the provisions of paragraph (6) unless its label bears:

(A) the common or usual name of the food, if any there be, and

(B) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings may, when authorized by the Board, be designated as spices, flavorings, and colorings without naming each. Provided, that to the extent that compliance with the requirements of this division is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board,

(9) if it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties as the Board, after consultation with the Secretary of Agriculture of the United States, determines to be and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses,

(10) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that, to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Board, or

(11) if it fails to bear on its containers, as the Board may by regulations prescribe, the official inspection legend, such other information as the Board may require in the regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition.

(g) "Inspected and passed" or "passed" refers to any product, that it has undergone an inspection and was found, at the time of inspection, to be sound, wholesome, and fit for human food.

(h) "Inspection of products for condition and wholesomeness" refers to inspection by an inspector to determine, in accordance with the regulations;

(1) the condition and wholesomeness of rabbits, or

- (2) the condition and wholesomeness of any edible product at any state of the preparation or packaging thereof in the official plant where inspected and passed, or
- (3) the condition and wholesomeness of any previously inspected and passed product if such product has not lost its identity as an inspected and passed product.

(i) "Program supervisor" refers to:

- (1) the officer in charge of the rabbit inspection service of the Department, and
- (2) other officers or employees of the Department designated by the officer in charge.

(j) "Inspector in charge" refers to any authorized individual who is designated to supervise rabbit inspection service in a large official plant or in a group of several small plants.

(k) "Official identification" refers to any symbol, stamp, label, or seal indicating that the product has been officially inspected and/or indicating the class or condition of the product approved by the Department and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-3. Basis of service

Any inspection service in accordance with these regulations shall be for condition and wholesomeness.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-4. Eligibility

(a) Only rabbits that are processed in official plants in accordance with these regulations may be inspected.

(b) All rabbits that are eviscerated in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness and no uninspected products shall be brought into such official plant.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-5. Supervision

All inspection service shall be subject to supervision at all times. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-6. Authority to waive provisions of Eligibility

The Department is authorized to waive the provisions of eligibility which pertains to the entry of uninspected edible products into official plants in specific instances where rabbits are to be brought into compliance with a law under the provisions of a court order. Such rabbits

shall be handled in an official plant in accordance with such procedures as the Department may prescribe to insure proper segregation and identity of the rabbits or rabbit products until they are shipped from the official plant.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-7. Financial interest of inspectors

No inspector shall render service on any product in which he or she is financially interested.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-8. Application of inspection provisions

(a) The Oklahoma Rabbit and Rabbit Products Inspection Act shall apply to any person that engages in the business of slaughtering any rabbits or processing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any rabbit, for intrastate commerce, for use as human food or animal food.

(b) The provisions of this Act shall not apply to:

(1) Any person who slaughters rabbits or processes or otherwise handles rabbit products which have been or are to be processed as required by recognized religious dietary laws.

(A) Any person desiring such exemption shall make application to the Oklahoma Department of Agriculture, Food, and Forestry. The application shall be in a form and contain the information as is required by the Board.

(B) The Board may impose conditions as to sanitary standards, practices, and procedures in granting an exemption as it deems necessary to effectuate the purposes of the Oklahoma Rabbit and Rabbit Products Inspection Act. Any person who processes rabbit or rabbit products under exemption from certain requirements as provided in this Section shall be subject to all of the other applicable provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act and the regulations promulgated pursuant thereto.

(C) Processing plants shall meet the sanitary requirements set forth in the Oklahoma Rabbit and Rabbit Products Inspection Act and shall be required to qualify for inspection and operate as official establishments;

(2) Any person who engages in the business of buying or selling, as rabbit products brokers, wholesalers, or otherwise, or transporting, in intrastate commerce, or storing in or for intrastate commerce, any carcasses, or parts or products of carcasses, of any rabbit; or

(3) Any person who engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying disabled, or diseased rabbit or parts of the carcasses of any rabbit

that died otherwise than by slaughter.

(4) Any person who is engaged in business specified in this subsection shall be registered with the Board, in or for intrastate commerce:

(A) as a meat broker, renderer, or animal food manufacturer, or engage in business in commerce as a wholesaler of any carcasses, or parts or products of the carcasses, of any rabbits whether intended for human food or other purposes; or

(B) as a public warehouseman storing any articles in or for commerce, or engage in the business of buying, selling, or transporting in such commerce any dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of any animals that died otherwise than by slaughter.

(c) The application for registration shall contain the name of such person, address of each place of business and all trade names under which such person conducts such business and such other information deemed necessary by the Board.

(1) Any person, firm, or corporation who is engaged in the business of buying, selling, or transporting in intrastate commerce dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in such commerce, any dead, dying, disabled, or diseased rabbits or parts of the carcasses of any such animals that died otherwise than by slaughter, shall comply with such regulations as the Board prescribes to assure that such animals, or the unwholesome parts or products thereof, will be prevented from being used for human food purposes.

(2) On and after September 1, 1989, no rabbit products intended for human food shall be allowed to be sold in this state without:

(A) first being inspected and approved by:

(i) the United States Department of Agriculture, or

(ii) the Oklahoma State Department of Agriculture, Food, and Forestry; or

(B) having been legally imported into this state pursuant to existing laws of the Federal Food Drug and Cosmetic Act.

(3) On and after September 1, 1989:

(A) Prior to slaughtering any rabbit or processing any rabbit products at any plant, a person owning or operating such plant shall have the plant approved by the Department.

(B) To receive plant approval, a person shall make application to the State Board of Agriculture. As part of the application, the person shall agree to comply with the terms and conditions of the Oklahoma Rabbit and Rabbit Products Inspection Act and any applicable regulations promulgated thereto.

(C) Prior to any approval, the plant and plant equipment shall be inspected by the Department of Agriculture, Food, and Forestry.

(D) Upon the approval of the plant and plant equipment by the Department, the plant shall be considered an official plant.

(E) No rabbits affected with any disease transmissible to man shall be slaughtered in any official establishment.

(F) No establishment or plant processing rabbits or rabbit products solely for intrastate commerce shall process any rabbits or rabbit product capable of use as human food except in compliance with the requirements of the Oklahoma Rabbit and Rabbit Products Inspection Acts.

(d) All inspection service shall be performed at all times by an inspector. The service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service and the requisite inspectors are available.

(1) Rabbits that are processed in official plants in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act shall be inspected.

(2) All rabbits that are slaughtered and processed in an official plant where inspection service is maintained shall be inspected for condition and wholesomeness. No uninspected rabbit products shall be brought into an official plant.

(3) Inspection shall not be provided at any establishment for the slaughter of rabbits which are not intended for human food.

(e) Any rabbit slaughtered or processed that is not intended for use as human food shall be decharacterized or otherwise identified as prescribed by regulations of the Board to deter its use for human food prior to its offer for sale, or transportation in intrastate commerce, unless naturally inedible by humans. Furthermore, no person, firm, or corporation shall buy, sell, transport, or offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses, parts thereof, meat or meat food products of any rabbits which are not intended for use as human food unless they are denatured or otherwise identified as required by the regulations of the Board or are naturally inedible by humans.

(f) All persons subject to the provisions of the Oklahoma Rabbit and Rabbit Products Inspection Act shall keep such records as will fully and correctly disclose all transactions involved in their businesses. All persons, subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the Board, afford a representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by a representative of the Board access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all records, and to take reasonable samples of their inventory. Any record required to be maintained shall be maintained for two years or as the Board may by regulations prescribe.

(g) On and after September 1, 1989, no person shall:

(1) Slaughter any rabbit or process any rabbit products that are capable of use as human food at any establishment processing any articles solely for intrastate commerce, except in compliance with the requirements of the Oklahoma Rabbit and Rabbit Products Inspection Act; and

(2) Sell, transport, offer for sale or transportation or receive for transportation, in intrastate commerce or from an official establishment, any slaughtered rabbit from which the blood, feet, head, or viscera have not been removed in accordance with regulations promulgated by the Board, except as may be authorized by regulations of the Board.

(h) No person shall:

(1) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:

(A) any rabbit products that are capable of use as human food and are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation, or

(B) any rabbit products required to be inspected pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act unless they have been so inspected and passed;

(2) Perform any act which is intended to cause or has the effect of causing such rabbit or rabbit products to be adulterated or misbranded;

(3) Use to their own advantage, or reveal other than to the authorized representatives of the state government or any other government in their official capacity, or as ordered by a court in any judicial proceedings, any information acquired under the authority of the Oklahoma Rabbit and Rabbit Products Inspection Act concerning any matter which is entitled to protection as a trade secret.

(i) No brand manufacturer, printer, or other person shall cast, print, lithograph, or otherwise make any device containing any official mark or simulation thereof, or any label bearing any such mark simulation, or any form of official certificate or simulation thereof, except as authorized by the Board.

(j) No person shall:

(1) forge any official device, mark, or certificate;

(2) without authorization from the Board use any official device, mark, or certificate, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or certificate including "Oklahoma Rejected" or "Oklahoma Retained" tags;

(3) Contrary to the regulations prescribed by the Board, fail to use, or to detach, deface, or destroy any official device, mark, or certificate;

(4) Knowingly possess, without promptly notifying the Board or its representative, any official device or any counterfeit, simulated, forged, or improperly altered official certificate or any device or label or any carcass of any rabbit, or part or product thereof, bearing any counterfeit, simulated, forged, or improperly altered official mark;

(k) Any plant approval given pursuant to the Oklahoma Rabbit and Rabbit Products Inspection Act may be suspended by the Department for:

- (1) Failure to maintain a plant and equipment in a satisfactory state of repair;
- (2) Failure to maintain plant or equipment in a sanitary manner on a continuing basis;
- (3) The use of operating procedures that are not in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act or regulations promulgated thereto;
- (4) Alterations of buildings, facilities, or equipment which cannot be approved in accordance with the Oklahoma Rabbit and Rabbit Products Inspection Act or regulations promulgated thereto;
- (5) Assault on an agent of the Board; or
- (6) Failure to properly denature condemned and inedible materials.

(l) During such period of suspension, inspection service shall not be rendered. Upon suspension of inspection service in an official plant, the plant approval shall also become suspended, and all labels, seals, tags or packaging material bearing official identification shall be destroyed, or the official identification completely obliterated, or sealed in a manner acceptable to the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-9-9. Filing of application

An application for inspection service shall be regarded as filed only when made pursuant to the rules in 35:37-9-10.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-10. Application for inspection service in official plants; approval

Any person desiring to process and pack products in a plant under inspection service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. An application for inspection service to be rendered in an official plant shall be approved according to the following procedure:

- (1) Initial survey. When application has been filed for inspection service, the Director, or a designee, shall examine the plant premises, and facilities and shall specify any additional facilities required for the service. Appeals with respect to any specification may be made to the Department.
- (2) Drawings and specifications to be furnished in advance of construction or alterations.
 - (A) Three copies of drawings or blueprints showing the features specified in this Subchapter shall be submitted to the Department. The drawings or blueprints shall be legible, made with sharp, clear lines, and properly drawn to scale, and shall consist of floor plan, plumbing plan and a plot plan.

(B) The plot plan shall show features like the limits of the plant's premises, locations in outline of buildings on the premises, one point of the compass, and roadways serving the plant, and the name and address of proposed owner.

(C) The floor plan shall show all space to be included in the official plant. If rooms or compartments shown on the drawings or blueprints are not to be included as part of the official plant, this shall be clearly indicated.

(D) The plumbing plan shall show the floor drainage system and the toilet soil lines for the entire plant as well as their size. Furthermore, the toilet soil lines must show that the two systems are separate to a point outside the building and must be complete for the official premises. Toilet soil lines must not discharge into grease catch basins.

(E) The sheets of paper on which drawings or blueprints are made shall not exceed a size 34 x 44. The drawings other than of the plot plan shall be made to a scale of at least 1/8" per foot, except that additional plans for some areas showing complex detail must be drawn to a scale of at least 1/4" per foot. The plot plan may be drawn to scale of not less than 1/32" per foot. The drawings shall indicate the scale used and shall also indicate the floor shown (e.g., basement, first, or second).

(3) Features required to be shown on floor plan. The following features shall be shown on the floor plan:

(A) The principal pieces of equipment drawn to scale in the proper locations.

(B) The name of the firm and the address of the plant by street and street number, or by other means properly identifying the location of the plant.

(C) One point of the compass (North).

(D) The doors and openings for passageways, designating those which are self-closing or permanently closed.

(E) All floor drain openings and gutter drains.

(F) Lavatories in toilet and processing rooms (lavatories which are other than hand-operated shall be so designated on the drawings or blueprints).

(G) All steam and hot and cold water outlets for cleanup purposes.

(H) Ice-making and storage facilities.

(I) The routes of the edible and inedible products.

(J) The location of fresh air inlets, exhaust fans, and hoods.

(4) Specifications. Specifications covering the following items shall accompany the drawings:

(A) Height of ceilings.

(B) Type of ceilings-open or closed.

(C) Finish of ceilings; for example-portland cement plaster, tile, rust resistant metal, cement, fiberglass, etc.

(D) Finish of walls; for example-portland cement plaster, glazed tile, glaze brick, glass blocks, etc.

(E) Screens-indicate whether all outside openings are screened or provided with other suitable devices against entrance of flies or other insects.

(F) Finish of floors-acid resistant concrete, brick, mastic material, etc.

(G) Drainage-indicate the amount of slope of floors to the drains in processing rooms, coolers, toilets, and refuse rooms, and give description of trapping and venting of drainage lines and of floor drain openings. Indicate size of drainage lines and whether house drainage lines and toilet soil lines are separate to a point outside of buildings.

(H) Heating-indicate type.

(I) Water supply-indicate whether public or private water supply, or both, and specify in terms of gallons of water available per minute for the processing needs of the plant. Non-potable water supplies are not permitted for use in any official establishment.

(J) Hot water facilities-specify facilities such as boilers, storage tanks, mixing valves, thermometers, etc., and indicate the size and number of boilers and storage tanks.

(K) Sewage disposal-indicate whether city sewer, cesspool, sedimentation tank, etc.

(5) Rooms and compartments which must be included in the official plant. The official plant shall include employees' toilet and dressing rooms, office space for the inspectors, storerooms for supplies, refuse rooms, and rooms, compartments, or passageways where rabbits or any ingredients to be used in the preparation of products under inspection will be handled or kept. It also may include other rooms or compartments located in the buildings comprising the official plant.

(6) Changes in drawings or blueprints. When changes are proposed in areas for which drawings or blueprints have been previously approved, one of the following types of revised drawings or blueprints shall be submitted for review and consideration.

(A) A completely revised sheet or sheets showing proposed alterations or additions, or

(B) Approved pasters of the proposed changes which may be affixed to the affected areas on the previously approved drawings or blueprints in a manner not obscuring essential data. Paster drawings and blueprints shall be prepared to the same scale and presented on a background similar to that of the originally approved drawing or blueprint.

(7) Final survey and plant approval. Prior to the inauguration of the inspection service, a final survey of the plant and premises shall be made by the Director or a designee to determine if the plant is constructed and facilities are in accordance with 35:37-9-41 through 35:37-9-57 and match the approved drawings and regulations described in this Part. The plant may be approved by the Department only when these requirements have been met,

except that conditional approval for a specified limited time may be granted only under emergency conditions of restricted availability of facilities and construction materials, provided practices suitable to the Department are employed to effect adequate sanitary conditions in the plant.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-9-11. Rejection of application for inspection

Any application for inspection may be rejected by the Department:

- (1) Whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available;
- (2) Whenever the product is owned by or located on the premises of a person currently denied the benefits of the Act;
- (3) Where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person;
- (4) Where the Department determines that the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection service;
- (5) Whenever the applicant, after an initial survey has been made in accordance with 35:37-9-10, fails to bring the plant, facilities, and operating procedures into compliance with the regulations within a reasonable period of time; or
- (6) Notwithstanding any prior approval whenever, before inauguration of service, the applicant fails to fulfill commitments concerning the inauguration of service.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-12. Inspection service may be denied for the following reasons

(a) Misrepresentation; deceptive or fraudulent acts or practices.

Any willful misrepresentation or any deceptive or fraudulent act or practice made or committed by any person in connection with:

- (1) The making or filling of any application for any inspection service;
- (2) The making of the product accessible for inspection;
- (3) The making, issuing, or using, or attempting to issue or use any inspection certificate, symbol, stamp, label, seal or identification, authorized pursuant to the regulations in this Part;
- (4) The use of the terms "U.S. Inspected" or "Government Inspected", or any term of similar import in the labeling or advertising of any product.

(b) Use of facsimile forms. Using or attempting to use a form which simulates, in whole or in part, any certificate, symbol, stamp, label, seal or identification authorized to be issued or used under the regulations in

this Part.

(c) **Willful violation of the regulations.** Any willful violation of the regulations in this Part or the Act.

(d) **Interfering with an inspector or employee of service.** Any interference with or obstruction or any attempted interference or obstruction of or assault upon any inspector or employee of the Service in the performance of or on account of his or her duties. The giving or offering directly or indirectly of any money, loan, gift, or anything of value to an employee of the Service or the making or offering of any contribution to or in any way supplementing the salary, compensation, or expenses of an employee of the Service, or the offering or entering into a private contract or agreement with an employee of the Service for any services to be rendered while employed by the Service.

(e) **Miscellaneous.** The existence of any of the conditions set forth in 35:37-9-11 constituting a basis for the rejection of an application for inspection service.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-13. Conditions for receiving inspection

(a) Before being granted an Oklahoma inspection, an establishment shall have developed written sanitation Standard Operating Procedures as required by 9 CFR Part 416.

(b) Before being granted an Oklahoma inspection, an establishment shall have conducted a hazard analysis and developed and validated a HACCP plan as required by 9 CFR 417.2 and 9 CFR 417.4. A conditional grant of inspection shall be issued for a period not to exceed 90 days, during which period, the establishment must validate its HACCP plan.

(c) Before producing a new product for distribution in commerce, an establishment shall have conducted a hazard analysis and developed a HACCP plan applicable to that product in accordance with 9 CFR 417.2. During a period not to exceed 90 days after the date the new product is produced for distribution in commerce, the establishment shall validate its HACCP plan, in accordance with 9 CFR 417.4.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 3. IDENTIFYING AND MARKING PRODUCTS

35:37-9-14. Approval of official identification

Any label or packaging material that bears any official identification shall be used only in a manner as the Department may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of the labels and packaging material have been approved by the Department. No label bearing official identification shall be printed for use until the printer's final proof has been approved by the Department. Final approval may be given to the printer's final proof or photostatic copies of labels for shipping containers or containers for institutional packs, and no labels

shall be used until the proofs or copies have been approved by the Department. A label that bears official identification shall not bear any statement that is false or misleading. The diameter of the inspection mark used on labels for inspected products shall be equal to at least one-tenth of the length of the label, plus at least one-tenth of the width of the label. If the labeling is printed or otherwise applied directly to the container, the principal display panel of the container shall, for this purpose, be considered as the label.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-15. Inspection mark with respect to product

The Department is authorized to prescribe and approve the form of the inspection mark that may be used.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-16. Marking inspected products

(a) **Wording and form of inspection mark.** Except as otherwise authorized, the inspection mark permitted to be used with respect to inspected and passed edible products shall include wording as follows: "Oklahoma Inspected and Passed." This wording shall be contained within an oval in the form and arrangement shown in 35:37-9-18. The appropriate plant number of the official plant shall be included in the oval. The Department may approve the use of abbreviations of inspection mark, and the approved abbreviations shall have the same force and effect as the inspection mark. The inspection mark or approved abbreviation, as the case may be, may be applied to the inspected and passed edible product or to the packaging material of the product. When the inspection mark, or the approved abbreviation, is used on packaging material, it shall be printed on material or on a label to be affixed to the packaging material and the name of the packer or distributor of the product shall be printed on the packaging material or label.

(b) **Wording on labels.** Each trade label to be approved for use pursuant to 35:37-9-14 to 35:37-9-18 with respect to any inspected and passed edible product shall bear the true name of the edible product (including an ingredients statement if necessary), the name and address of the packer or distributor thereof, an accurate statement of the net quantity of contents, a special handling statement for all perishable products such as "keep frozen", and in prominent letters and figures of uniform size, the inspection legend which includes the plant number. The class of the rabbits such as, "fryers" or "roasters" shall be shown on all labels for dressed or cut-up rabbits. The appropriate designation such as, "young" or "mature" may be used as a prefix to the word rabbit in lieu of the class name.

(c) **Labels in foreign languages.** Any trade label to be affixed to a container of any edible products may be printed in a foreign language. However, the inspection mark shall appear on the label in English, but, in addition, may be literally translated into such foreign language. Each trade label which is to be printed in a foreign language must be approved

pursuant to 35:37-9-14 to 35:37-9-18.

(d) Unauthorized use or disposition of approved labels.

(1) Labels approved for use pursuant to 35:37-9-14 to 35:37-9-18 shall be used only for the purpose for which approved and shall not otherwise be disposed of from the plant for which approved except with written approval of the Director. Any unauthorized use or disposition of approved labels or labels bearing official identification may result in cancellation of the approval and denial of the use of labels bearing official identification or denial of the benefits of the Act pursuant to the provisions of 35:37-9-14.

(2) The use of simulations or imitations of any official identification by any person is prohibited.

(e) Rescinding of approved labels. Once a year, or more often if requested, each applicant shall submit to the Department a list in triplicate of approved labels that have become obsolete, accompanied with a statement that such approvals are no longer desired. The approvals shall be identified by the date of approval and the name of product or other designation showing the class of material.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-17. Form of official identification

The form prescribed in 35:37-9-18 is subject to the requirements of 35:37-9-14 to 35:37-9-17, Identifying and Marking Products.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-18. Form of inspection mark

(a) The inspection mark approved for use on inspected and passed edible products shall be contained within an oval and include the following wording: "Est. No. R-38 Oklahoma Insp'd & P'S'D". NOTE: The number "R-38" is given as an example only, the establishment number of the official establishment where product is prepared shall be used in lieu of. The required size of the inspection mark will be appropriate to the size of product package or container.

(b) The form and arrangement of such wording shall be as illustrated in Appendix D of Chapter 37.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-9-19. Evidence of label approval

No inspector shall authorize the use of official identification for any inspected product unless the inspector has on file evidence that the official identification or packaging material bearing the official identification has been approved by the Department at our Oklahoma City office.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-20. Affixing of official identification

(a) No official identification or any abbreviation, copy, or representation thereof may be affixed to or placed on or caused to be affixed to or placed on any product or container thereof except by an inspector or under the authorization of an inspector. All such products shall have been inspected and passed. The inspector shall have supervision over the use and handling of all material bearing any official identification.

(b) Each container of inspected and passed products to be shipped from one official plant to another official plant for further processing shall be marked for identification and shall show the following information:

- (1) The name of the inspected and passed products in the container;
- (2) The name and address of the packer or distributor of the products;
- (3) The net weight of the container;
- (4) The inspection mark permitted to be used pursuant to the regulations in this Part unless the containers are sealed or identified in a manner as may be approved by the Department; and
- (5) The plant number of the official plant where the products were packed.
- (6) A handling statement such as keep refrigerated, or keep frozen for all perishable product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-21. Packaging

No container that bears or may bear any official identification or any abbreviation or copy or representation may be filled in whole or in part except with edible products that were inspected and passed and are, at the time of the filling, sound, wholesome, and fit for human food. All the filling of containers shall be under the authority of an inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-22. Retain and reject tags

An inspector may use such labels, devices, and methods as may be approved by the Department for the identification of:

- (1) Products which are held for further examination, and
- (2) All facilities, equipment and utensils which are to be held for proper cleaning, and/or repairs.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-23. Prerequisites to inspection

Inspection of products shall be rendered pursuant to the rules in this Part and under conditions and in accordance with methods as may be prescribed or approved by the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-24. Accessibility of products

Each product for which inspection service is requested shall be arranged to permit adequate determination of its class, quantity, and condition as the circumstances may warrant.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-25. Time of inspection in an official plant

The inspector who is to perform the inspection in an official plant shall be informed 24 hours in advance, by the applicant of the hours when the inspection is desired. Inspectors shall have access at all times to every part of any official plant to which the inspectors are assigned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 5. CHARGES

35:37-9-26. Payment of overtime charges

The management of an official establishment desiring to work under the conditions that will require the services of a rabbit inspector on any Saturday, Sunday, Holiday, or for more than 8 hours on any other day, shall, sufficiently in advance of the period of overtime, request the inspector in charge to furnish inspection service during the overtime period, and shall pay the Board a per hour per division inspector fee as established by the Board.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 7. INSPECTION PROCEDURES: ANTE-MORTEM INSPECTIONS

35:37-9-27. Manner of handling products in an official plant

Unless specified in the rules contained in this Part or by the Department, products that are to be further processed under inspection in an official plant shall be prepared and handled in the official plant under the supervision of an inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-28. Ante-mortem inspection

(a) An ante-mortem inspection of rabbits shall, where and to the extent considered necessary by the Department and under instructions as the inspector may issue from time to time, be made of rabbits on the day of slaughter in any official plant processing rabbits under inspection pursuant to the regulations in this Part.

(b) All rabbits held on official premises shall be held in a manner as to be adequately protected from extremes of heat, cold or drafty or insanitary conditions.

(c) No rabbits shall be held overnight on any official premises without being provided adequate clean potable water.

(d) All rabbits on official premises will be handled and stunned in a humane manner. When an inspector observes an incident of inhumane slaughter or handling in connection with slaughter, he/she shall inform the establishment operator of the incident and request that the operator take the necessary steps to prevent recurrence. If the establishment operator fails to take action or fails to promptly provide the inspector with satisfactory assurances that action will be taken, the inspector shall follow the procedures specified in Paragraph (1), (2), or (3) of this Subsection as appropriate.

(1) If the cause of inhumane treatment is the result of facility deficiencies, disrepair, or equipment breakdown, the inspector shall attach an Oklahoma Rejected tag. No equipment, alleyway, pen or compartment tagged shall be used until made acceptable to the inspector. The tag shall not be removed by anyone other than an inspector. All rabbits slaughtered prior to tagging may be dressed, processed, or prepared under inspection.

(2) If the cause of inhumane treatment is the result of establishment employee actions in the handling or moving of rabbits, the inspector shall attach an Oklahoma Rejected tag to the alleyways leading to the stunning area. After the tagging of the alleyway, no more rabbits shall be moved to the stunning area until the inspector receives satisfactory assurances from the establishment operator that there will not be a recurrence. The tag shall not be removed by anyone other than an inspector. All rabbits slaughtered prior to the tagging may be dressed, processed, or prepared under inspection.

(3) If the cause of inhumane treatment is the result of improper stunning, the inspector shall attach an Oklahoma Rejected tag to the stunning area. Stunning procedures shall not be resumed until the inspector receives satisfactory assurances from the establishment operator that there will not be a recurrence. The tag shall not be removed by anyone other than an inspector. All rabbits slaughtered prior to tagging may be dressed, processed, or prepared under inspection.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-29. Condemnation on ante-mortem inspection

Rabbits found in a dying condition on premises of an official plant shall be immediately destroyed and, together with any rabbits found dead on the premises, shall be disposed of in accordance with 35:37-9-38. Rabbits plainly showing, on ante-mortem inspection, any disease or condition, that under 35:37-9-35 to 35:37-9-37, inclusive, would cause condemnation of their carcasses on post-mortem inspection, shall be condemned. Rabbits which, on ante-mortem inspection, are condemned

shall not be dressed, nor shall they be conveyed into any department of the plant where rabbit products are prepared or held. Rabbits that have been condemned on ante-mortem inspection and have been killed shall, under the supervision of an inspector of the Inspection Service, receive treatment as provided in 35:37-9-38.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-30. Segregation of suspects on ante-mortem inspection

All rabbits which, on ante-mortem inspection, do not plainly show, but are suspected of being affected with any disease or condition that under 35:37-9-35 to 35:37-9-37, inclusive, may cause condemnation in whole or in part on post-mortem inspection, shall be segregated from the other rabbits and held for separate slaughter, evisceration, and post-mortem inspection. The inspector shall be notified when the segregated lots are presented for post-mortem inspection and inspection of the rabbits shall be conducted separately, at the end of routine slaughter operations. The procedure for the correlation of ante-mortem and post-mortem findings by the inspector, as may be prescribed or approved by the Director, shall be carried out.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-31. Quarantine of diseased rabbits

- (a) If live rabbits, that are affected by any contagious disease that is transmissible to man, are brought into an official establishment, the rabbits shall be segregated.
- (b) Permission to remove diseased rabbits from an official establishment must be received from the Board prior to removal of diseased rabbits from the official establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-32. Evisceration

No viscera or any part thereof shall be removed from any rabbits that are to be processed under inspection in any official plant, except at the time of evisceration and inspection. Each carcass to be eviscerated shall be opened to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook rabbit. Postmortem inspection procedures will be performed as prescribed by the State Board of Agriculture.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-33. Carcasses held for further examination

Each carcass, including all parts thereof, in which there is any lesion of disease or other condition, that might render a carcass or any part thereof unfit for human food, and with respect to which a final decision cannot be made on first examination by the inspector, shall be held for further examination. The identity of each carcass, including all

parts thereof, shall be maintained until a final examination has been completed.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-34. Condemnation and treatment of carcasses

Each carcass, or any part thereof, that is found to be unsound, unwholesome, or unfit for human food shall be condemned by the inspector and shall receive treatment, under the supervision of the inspector, as will prevent its use for human food and preclude dissemination of disease through consumption by animals.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 9. DISPOSITION OF DISEASED RABBIT CARCASSES AND PARTS

35:37-9-35. General

The carcasses or parts of carcasses of all rabbits inspected at an official establishment and found at the time of post-mortem inspection, or at any subsequent inspection, to be affected with any of the diseases or conditions named in other Sections in this Part, shall be disposed of in accordance with the Section pertaining to the disease or condition. Owing to the fact that it is impracticable to formulate rules for each specific disease or condition and to designate what state a disease process results in an unwholesome product, the decision as to the disposal of all carcasses, parts, or organs not specifically covered by the regulations, or by instructions of the Director issued pursuant thereto, shall be left to the inspector in charge, and if the Veterinary inspector in charge is in doubt concerning the disposition to be made, specimens from the carcasses shall be forwarded for laboratory diagnosis.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-36. Diseases or conditions evident which require condemnation

(a) Carcasses of rabbits affected with or showing lesions of any of the following named diseases or conditions shall be condemned: Tularemia, Anthrax, hemorrhagic septicemia, pyemia, septicemia, leukemia, acute enteritis, peritonitis, sarcomatosis, emaciation, necrobacillosis (Smorl's Disease), tuberculosis, metritis, streptobacillary pseudotuberculosis, and advanced stages of pasteurellosis. Rabbits raised in laboratories shall not be slaughtered for human food purposes without advance permission from the Director.

(b) Any organ or part of a rabbit carcass affected with a tumor shall be condemned and when there is evidence that the general condition of the rabbit has been affected by the size, position, or nature of the tumor, the whole carcass shall be condemned. In cases of malignant neoplasms

involving any internal organ to a marked extent, or affecting the muscles, skeleton, or body lymph glands, even primarily, the whole carcass shall be condemned.

(c) Carcasses of rabbits showing any disease such as generalized melanosis, pseudoleukemia, and the like, that systemically affect the rabbit, shall be condemned.

(d) Any organ or part of a carcass that is bruised or that is affected by an abscess, or a suppurating sore, shall be condemned. Parts or carcasses that are contaminated by pus shall be condemned.

(e) Carcasses of rabbits contaminated by volatile oils, paints, poisons, gases, or other substances that affect the wholesomeness of the carcass shall be condemned.

(f) All carcasses of rabbits so infected that consumption of the meat or meat food products may give rise to food intoxication shall be condemned. This includes all carcasses showing signs of any of the following diseases: Acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges; septicemia or pyemia, whether traumatic or without evident cause; gangrenous or severe hemorrhagic enteritis or gastritis; polyarthritis and acute nephritis. Immediately after the slaughter of any rabbit infected, the infected premises and implements used shall be thoroughly sanitized. The part or parts of any carcass coming into contact with the carcass or any part of the carcass of any rabbit covered by this Section other than those affected with acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, shall be condemned.

(g) Carcasses showing any degree of icterus with a parenchymatous degeneration of organs, the result of infection or intoxication, and those which, as a result of a pathological condition, show an intense yellow or greenish-yellow discoloration without evidence of infection or intoxication shall be condemned.

(h) Carcasses of rabbits affected with mange or scab in advanced stages, or showing emaciation or extension of the inflammation to the flesh, shall be condemned. When the diseased condition is slight, the carcass may be passed for food after removal and condemnation of the affected parts.

(i) In the disposal of carcasses and parts of carcasses showing evidence of infestation with parasites not transmissible to man, the following general rules shall govern: If the lesions are localized in a manner and are of a character that the parasites and the lesions caused by them may be radically removed, the nonaffected portion of the carcass, or part of the carcass, may be certified for food after the removal and condemnation of the affected portions. Where a part of a carcass shows numerous lesions caused by parasites, or the character of the infestation is such that complete extirpation of the parasites and lesions is difficult and uncertainly accomplished, or if the parasitic infestation or invasion renders the organ or part in any way unfit for food, the affected organ or part shall be condemned. Where parasites are found to be distributed in a carcass in a manner or to be of a character that their removal of the lesions caused by them are impracticable, no part of the carcass shall be certified for food and the entire carcass shall be condemned. Carcasses infested with a hydatid cyst or cysts (*Echinococcus granulosus*), transmissible to dogs and from dogs to man, shall in all cases be

condemned regardless of the degree of infestation.

(j) Carcasses of rabbits showing a degree of emaciation that would render the meat unwholesome, and carcasses that show a degeneration of the fat or a serous infiltration of the muscles shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-37. Decomposition

Carcasses of rabbits deleteriously affected by post-mortem changes shall be disposed of as follows:

- (1) Carcasses that have reached a state of putrefaction or stinking fermentation shall be condemned.
- (2) Carcasses affected by types of post-mortem changes that are superficial in nature may be certified for food after removal and condemnation of affected parts.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-38. Disposal of condemned carcasses and parts

All condemned carcasses, or parts of carcasses, shall be disposed of by one of the following methods, under the direct supervision of an inspector of the Department: (Facilities and materials for carrying out the requirements in this Section shall be furnished by the official establishment.)

- (1) Steam treatment (which shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure) or thorough cooking in a kettle or vat for a sufficient time to effectively destroy the product for human food purposes and preclude dissemination of disease through consumption by animals. Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in rooms or compartments separate from those used for the preparation of edible products. There shall be no direct connection, by means of pipes or otherwise, between tanks containing inedible products and those containing edible products.
- (2) Incineration or complete destruction by an approved method of burning.
- (3) Chemical denaturing, which shall be accomplished by the liberal application to all carcasses and parts thereof, of:
 - (A) Crude carbolic acid,
 - (B) Kerosene, fuel oil, or used crank case oil,
 - (C) Any phenolic disinfectant conforming to commercial standards CS 70-41 or CS 71-41 that shall be used in at least 2 percent emulsion or solution, or
 - (D) Any other substance that the Department approves that will decharacterize the carcasses or parts to the extent necessary to accomplish the purposes of this Section.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 11. REINSPECTION AND INGREDIENTS; APPEALS

35:37-9-39. Reinspection of edible products; ingredients

(a) Any inspected and passed edible product may be brought into an official plant only if the container of the product is marked for identification in the manner prescribed in 35:37-9-20 and the product is subject to reinspection by an inspector at the time it is brought into the plant. Upon reinspection, if any product or portion thereof is found to be unsound, unwholesome, or unfit for human food, the product, or portion thereof, shall be condemned.

(b) Any product that is prepared under inspection in an official plant shall be inspected in the plant as often as the inspector deems it necessary in order to ascertain whether the product is sound, wholesome, and fit for human food at the time the product leaves the plant. Upon any inspection, if any the product or portion thereof is found to be unsound, unwholesome, or unfit for human food, the product or portion shall be condemned and shall receive treatment as provided in 35:37-9-38.

(c) All substances and ingredients used in the manufacture and preparation of any edible product shall be clean, sound, wholesome, and fit for human food. Liquid and frozen egg products used in the preparation of any edible product shall have originated from an approved U.S.D.A. source.

(d) No inspection services will be rendered in any official establishment unless sufficient amount of decharacterizing agent approved by the Department is readily available on the premises of the official establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-40. Appeal inspections; how made

Any person receiving inspection service may, if dissatisfied with any decision of an inspector relating to any inspection, file an appeal from a decision: Provided, That the appeal is filed within 48 hours from the time the decision was made. Any appeal from a decision of an inspector shall be made to the inspector's immediate superior having jurisdiction over the subject matter of the appeal. Review of the appeal findings, when requested, shall be made by the immediate superior of the employee of the Department making the appeal inspection. The cost of any appeal shall be borne by the applicant if the Department determines that the appeal is frivolous.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

PART 13. SANITARY REQUIREMENTS

35:37-9-41. Minimum standards for sanitation, facilities, and operating procedures in official plants

(a) The provisions of 35:37-9-1 to 35:37-9-40 shall apply with respect to inspection service in all official plants.

(b) When upon inspection of a plant an inspector finds indication of any of the following conditions, the director shall be notified by telephone call of the fact:

(1) Nonpotable water being used in departments producing edible product. Nonpotable means unsafe by laboratory determinations.

(2) Product being prepared is subjected to an environment that allows or will allow bacterial growth and development or result in the entry of foreign matter in the product and therefore is unsanitary. This includes failure to control vermin and insects.

(3) When carcasses or parts show evidence of contamination or unsanitary condition or systemic disease condition or evidence of bearing diseases transmissible to man, or in any manner adulterated.

(4) Meats exhibiting the characteristics of spoilage being used in processing meat food products.

(5) The use of excessive amounts of approved chemicals. The presence of foreign material, prohibited chemicals, preservatives, and failure to properly treat or destroy trichinae.

(c) Further, the inspector shall inform the plant operator of the fact. If the director is not satisfied that the condition will be immediately corrected, the director may order the facility to immediately stop sale and may withdraw inspection. The Stop-Sale Order shall remain effective until lifted by the director, the Board, or appropriate court order. The Order shall include the setting of a show cause hearing before the director at a time and date certain when the plant operator may appear, with counsel if desired, to show cause why inspection should be restored. Appeal of the director's order following the show cause hearing shall be made to the Board for a full formal administrative hearing pursuant to the Administrative Procedures Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-42. Buildings

The buildings shall be of sound construction and kept in good repair, and shall be of a construction as to prevent the entrance or harboring of vermin.

(1) The doors, windows, skylights, and other outside openings of the plant, except receiving rooms and live rabbit holding rooms, shall be protected by properly fitted screens or other suitable devices against the entrance of flies and other insects.

(2) Outside doors, except in receiving rooms and live rabbit holding rooms, shall be self-closing and so hung that not over 1/4-inch clearance remains when closed. Screen doors shall open toward the outside of the building.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-43. Rooms and compartments

Rooms and compartments used for edible products shall be separate and distinct from inedible products departments and from rooms where rabbits are slaughtered and skinned. Separate rooms shall be provided when required for conducting processing operations in a sanitary manner, and all rooms shall be of sufficient size to permit the installation of the necessary equipment for processing operations and the conduct of operations in a sanitary manner.

(1) **Rooms for separate operation.** The official plant should have separate rooms for each of the following operations depending upon the various types of operations conducted, but, in no case, shall the receiving or holding of live rabbits or killing operations be permitted in rooms in which eviscerating operations are performed:

- (A) The receiving and feeding of live rabbits.
- (B) Killing and skinning operations.
- (C) Eviscerating, chilling, and packing operations for ready-to-cook rabbits.
- (D) Inedible products departments.
- (E) Refuse room.

(2) **Rooms for holding carcasses for further inspection.** Rooms and compartments in which carcasses or parts thereof are held for further inspection shall be in a number and location as the needs of the inspection in the plant may require. They shall be equipped with locks and keys and the keys shall not leave the custody of the inspector in charge of the plant. All rooms and compartments shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

(3) **Coolers and freezers.** Coolers and freezers of adequate size and capacity shall be provided to reduce internal temperature of ready-to-cook rabbits prepared and handled in the plant to 36 °F. within 24 hours.

(4) **Refuse rooms.** Refuse rooms shall be entirely separate from other rooms in the plant, and shall have tight fitting doors and be properly ventilated.

(5) **Storage and supply rooms.** The storage and supply rooms shall be in good repair, kept dry, and maintained in a sanitary condition. Adequate storage racks shall be provided to keep product at least 12 inches off the floor.

(6) **Boiler room.** The boiler room shall be a separate room, if necessary, to prevent its being a source of dirt and objectionable odors entering any room where ready-to-cook rabbits are prepared, processed, handled, and stored.

(7) **Inspector's office.** Furnished office space, including, but not being limited to, light, heat, air conditioning and janitor service shall be provided rent free in the official plant for the exclusive use for official purposes of the inspector and the Department. The room or rooms set apart for this purpose must meet with the approval of the Department and be conveniently located, properly ventilated, and provided with lockers or cabinets suitable for the

protection and storage of supplies and with facilities suitable for inspectors to change clothing.

(8) **Toilet rooms.** Toilet rooms shall not open directly into rooms where rabbit products are exposed and shall have self-closing doors and shall be ventilated to the outside of the building.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-44. Floors, walls, ceilings, etc.

(a) **Floors.** All floors in rooms where exposed products are prepared or handled shall be constructed of or finished with materials impervious to moisture, so they can be readily and thoroughly cleaned. The floors in killing, ice cooling, ice packing, eviscerating, cooking, boning, and cannery rooms shall be graded for complete runoff with no standing water.

(b) **Walls, posts, partitions, doors.** All walls, posts, partitions, and doors in rooms where exposed products are prepared or handled shall be smooth and constructed of non-rusting materials impervious to moisture to a height to 6 feet above the floor to enable thorough cleaning. All surfaces above this height must be smooth and finished with moisture-resistant material that is amenable to proper and adequate cleaning.

(c) **Ceilings.** Ceilings must be moisture-resistant in rooms where exposed products are prepared or handled, and finished and sealed to prevent collection of dirt or dust that might sift through flooring above or fall from collecting surfaces on equipment or exposed product. Ceilings shall be free of condensation.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-45. Drainage and plumbing

There shall be an efficient drainage and plumbing system for the plant and premises.

(1) **Drains and gutters.** All drains and gutters shall be properly installed with approved traps, covers and vents. The drainage and plumbing system must permit the quick runoff of all water from plant buildings, and surface water around the plant and on the premises, and all the water shall be disposed of in a manner as to prevent a nuisance or health hazard.

(2) **Sewage and plant wastes.** The sewerage system shall have adequate slope and capacity to remove readily all waste from the various processing operations and to minimize, and if possible to prevent, stoppage and surcharging of the system.

(A) Grease traps that are connected with the sewerage system shall be suitably located but not near any edible products department or in any area where products are unloaded from or loaded into vehicles. To facilitate cleaning, the traps shall have inclined bottoms and be provided with suitable covers. Grease traps must be located outside of the official premise building.

(B) Toilet soil lines shall be separate from house drainage lines to a point outside the buildings unless they are positively trapped to prevent backing up. Drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(C) All floor drains shall be equipped with traps, constructed to minimize clogging, and the plumbing shall be installed as to prevent sewerage from backing up and from flooding the floor.

(D) Floor drainage lines should be of acceptable material and at least 4 inches in diameter and open into main drains of at least 6 inches in diameter and shall be properly vented to outside air.

(E) Where refrigerators are equipped with drains, the drains should be properly trapped and should discharge through an air gap into the sewer system. All new installations, and all replacements, or refrigerators equipped with drains shall meet these requirements.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-46. Water supply

The water supply shall be ample, clean, and potable with adequate facilities for its distribution in the plant and its protection against contamination and pollution.

(1) Hot water at a temperature not less than 180°F. shall be available for sanitation purposes.

(2) Hose connections with steam and water mixing valves or hot water hose connections shall be provided at convenient locations throughout the plant for cleaning purposes.

(3) The refuse rooms shall be provided with adequate facilities for washing refuse cans and other equipment in the rooms; the rooms, cans, and equipment shall be cleaned after each day's use.

(4) Adequate measures shall be taken to prevent back siphonage.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-47. Lavatory accommodations

Modern lavatory accommodations and properly located facilities for cleaning utensils and hands shall be provided.

(1) Adequate lavatory and toilet accommodations, including, but not being limited to, running hot water and cold water, soap, and towels, shall be provided. The accommodations shall be in or near toilet and locker rooms and also at other places in the plant as may be essential to the cleanliness of all personnel handling products.

(2) Sufficient acceptable containers shall be provided for used towels and other wastes.

(3) An adequate number of hand washing facilities serving areas where dressed rabbits and edible products are prepared shall be

operated by other than hand-operated controls, or shall be of a continuous flow type which provides an adequate flow of water for washing hands.

(4) Durable signs shall be posted conspicuously in each toilet room and locker room directing employees to wash their hands before returning to work.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-48. Lighting and ventilation

There shall be ample light, either natural or artificial or both, of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary conditions.

(1) All rooms in which rabbits are killed, eviscerated, or otherwise processed shall have at least 30 foot candles of light intensity on all working surfaces except that at the inspection stations the light intensity shall be of 50 foot candles. In all other rooms, there shall be provided at least 10 foot candles of light intensity when measured at a distance of 30 inches from the floor.

(2) All rooms shall be adequately ventilated to eliminate objectionable odors and minimize moisture condensation.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-9-49. Equipment and utensils

Equipment and utensils used for the preparation, processing, or other handling of any product in the plant shall be suitable for the purpose intended and shall be of material and construction as will facilitate their thorough cleaning and insure cleanliness in the preparation and handling of products.

(1) Live rabbit holding pens shall be so constructed as to allow satisfactory ante-mortem examination and to permit proper cleaning.

(2) Sufficient acceptable refuse containers shall be provided, and the containers shall be kept covered.

(3) As practical, equipment and utensils shall be made of metal or other impervious material. Trucks and receptacles used for handling inedible products shall be of similar construction and shall be conspicuously and distinctly marked with letters at least 2 inches in height and shall not be used for handling any edible products.

(4) Chilling vats or tanks used for chilling ready-to-cook rabbits shall be made of metal or other hard-surfaced impervious material.

(5) Where grading bins are used for ready-to-cook rabbits, they shall be of sufficient number and capacity to handle the grading adequately without the use of makeshift bins and all ready-to-cook rabbits shall be kept off the floor. Grading bins may be made of metal and shall be constructed and maintained in a manner as to allow easy and thorough cleaning.

(6) Except as provided in this Subchapter, all equipment and utensils used in the killing, skinning, eviscerating, chilling, and packing rooms shall be of metal or other impervious material and constructed to permit proper and complete cleaning.

(7) Conveyors:

(A) Conveyors used in the preparation of ready-to-cook rabbits shall be of metal or other acceptable material and of a construction as to permit thorough and ready cleaning and easy identification of viscera with its carcass.

(B) Overhead conveyors shall be so constructed and maintained that they do not allow grease, oil, or dirt to accumulate on the drop chain or shackle, that shall be of noncorrosive metal.

(C) Nonmetallic belt-type conveyors used in moving edible products shall be of waterproof composition.

(8) Inspection, eviscerating, and cutting tables shall be made of acceptable material and have coved corners and be constructed and placed to permit thorough cleaning.

(9) In plants where no conveyors are used, each carcass shall be eviscerated in an individual tray made of acceptable material with seamless construction.

(10) Water spray washing equipment shall be used for washing carcasses inside and out.

(11) Watertight receptacles of acceptable material shall be used for entrails and other waste resulting from preparation of ready-to-cook rabbits.

(12) Watertight trucks and receptacles for holding or handling diseased carcasses and diseased parts of carcasses shall be constructed to be readily and thoroughly cleaned; the trucks and receptacles shall be marked in a conspicuous manner with the word "condemned" in letters not less than 2 inches high and, when required by the inspector in charge, shall be equipped with facilities for locking and sealing.

(13) Freezing rooms should be adequately equipped to freeze ready-to-cook rabbits solid in less than 48 hours. ready-to-cook rabbits should be frozen at temperatures of -10°F. to -40°F. and should be stored at 0°F. or below, with the temperature maintained as constant as possible. Freezing rooms should be equipped with floor racks or pallets and fans to insure air circulation

(14) Cooling racks shall be made of acceptable materials and be readily accessible for thorough washing and cleaning.

(15) Trucks and receptacles in which carcasses or parts thereof are held for further inspection shall be in such number and location as the needs of the inspection in the plant may require. They shall be equipped for locking by means of lock and key and the key shall not leave the custody of the inspector in charge of the plant. The trucks and receptacles shall be marked conspicuously with the word "retained" in letters not less than 2 inches high.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-50. Accessibility

All equipment shall be placed as to be readily accessible for all processing and cleaning operations.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-51. Restrictions on use

Equipment and utensils used in the official plant shall not be used outside the official plant except under conditions as may be prescribed or approved by the Department, and equipment used in the preparation of any article (including, but not being limited to, animal food) from inedible material shall not be used outside of the inedible products department except under conditions as may be prescribed or approved by the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

**PART 15. MAINTENANCE OF SANITARY CONDITIONS
AND PRECAUTIONS AGAINST CONTAMINATION OF
PRODUCTS**

35:37-9-52. General

The premises shall be kept free from refuse, waste materials, and all other sources of objectionable odors and conditions.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-53. Cleaning of rooms and compartments

Rooms, compartments, or other parts of the official plant shall be kept clean and in sanitary condition.

- (1) All blood, offal, rabbits or parts of rabbits too severely damaged to be salvaged and all discarded containers and other materials shall be completely disposed of daily.
- (2) All windows, doors, and light fixtures in the official plant shall be kept clean.
- (3) All docks and rooms shall be kept clean and free from debris and unused equipment and utensils.
- (4) Live rabbit receiving docks and receiving rooms shall be of such construction as readily to permit their thorough cleaning, and the docks and rooms should be kept clean at all times.
- (5) Floors in live rabbit holding rooms shall be cleaned with regularity as may be necessary to maintain them in a sanitary condition.
- (6) The killing and skinning room shall be kept clean and free from offensive odors at all times.

(7) The walls, floors, and all equipment and utensils used in the killing and skinning room shall be thoroughly washed and cleaned immediately after each day's operation.

(8) The floor in the killing and skinning rooms shall be cleaned frequently during killing and skinning operations and be kept reasonably free from accumulated blood, offal, water, and dirt.

(9) All equipment in the toilet room and locker room, as well as the room itself, shall be kept clean, sanitary, and in good repair.

(10) Cooler and freezer rooms shall be free from objectionable odors of any kind and shall be maintained in a sanitary condition (including, but not being limited to, the prevention of drippings from refrigerating coils onto products).

(11) When temperature of processing areas is not maintained at or below 50° F., a midshift cleanup of equipment surfaces contacting product (trays, tables, chutes, belt conveyors, handtools, etc.) shall be required within 5 hours from start of operations, and at least every 5 hours thereafter.

(A) Complex equipment (grinder, stuffers, etc.) will also be cleaned as stated in this rule, unless;

(i) it is reused within 3 hours, and

(ii) product is processed (cooked, frozen, or dried) within 4 hours after its temperature rises to 50° F.

If any schedule in this rule is delayed by breakdown(s), product must be adequately refrigerated until normal processing is resumed.

(B) Regardless of room temperature, all used equipment shall be cleaned and sanitized at least every 24 hours.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-54. Cleaning of equipment and utensils

Equipment and utensils used for preparing or handling any product shall be kept clean and in a sanitary condition and in good repair.

(1) Pens shall be cleaned regularly and the manure removed from the plant daily.

(2) All equipment and utensils used in the killing and skinning rooms shall be thoroughly washed and cleaned after each day's operation. The eviscerating, chilling, and packing room and equipment and utensils used therein shall be maintained in a clean and sanitary condition.

(3) Graders' and packers' gloves and grading bins shall be washed daily and used only for grading or packing, as the case may be.

(4) All crates or pens used for transporting live rabbits to the plant shall be cleaned regularly.

(5) Chilling vats or tanks, shall be emptied after each use. They shall be thoroughly cleaned once daily and, after each cleaning operation, they shall be sanitized with compounds or by methods as may be approved or prescribed by the Department.

(6) When synchronized overhead conveyors and tray conveyors are used, the trays shall be completely washed and sanitized after

being automatically emptied of inedible viscera.

(7) When a conveyor tray operation is used, each carcass shall be eviscerated in an individual tray of acceptable material with seamless construction, and the trays shall be completely washed and sanitized after each use.

(8) Tables, shelves, bins, trays, pans, knives, and all other tools and equipment used in the preparation of ready-to-cook rabbits shall be kept clean and sanitary at all times. Cleaned equipment and utensils shall be drained on racks and shall not be nested.

(9) Drums, cans, tanks, vats, and other receptacles used to hold or transport ready-to-cook rabbits shall be kept in a clean and sanitary condition.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-55. Operations and procedures

Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods.

(1) There shall be no handling or storing of materials that create an objectionable condition in rooms, compartments, or other places in the plant where any product is prepared, stored, or handled.

(2) Blood from the killing operation shall be confined to a relatively small area and kept from being splashed about the room.

(3) In the final washing, the carcass shall be passed through a system of sprays providing an abundant supply of fresh clean water.

(4) The floors in the eviscerating room shall be kept clean and reasonably dry during eviscerating operations and free of all refuse.

(5) Conveyors shall be operated at speeds as will permit a sanitary eviscerating operation and will permit adequate inspection for condition and wholesomeness.

(6) Mechanized packaging equipment shall be maintained in good sanitary condition.

(7) All offal resulting from the eviscerating operation shall be removed as often as necessary to prevent the development of a nuisance.

(8) Paper and other material used for lining containers in which products are packaged shall be of such kinds as do not tear readily during use, but remain intact when moistened by the product.

(9) Protective coverings shall be used for the product in the plant and as it is distributed from the plant, as will afford adequate protection for the product against contamination by any foreign substance (including, but not being limited to, dust, dirt, and insects), considering the means intended to be employed in transporting the product from the plant.

(10) Refuse may be moved directly to loading docks only for prompt removal.

(11) Cleanliness and hygiene of personnel:

(A) All employees coming in contact with exposed edible products or edible products handling equipment shall wear clean outer garments other than street clothes and should wear caps or hair nets, and shall keep their hands clean at all times while thus engaged.

(B) Hands of employees handling edible products or edible products handling equipment shall be free of infected cuts, boils, and open sores at all times while thus engaged.

(C) Every person, after each use of toilet or change of garments, shall wash their hands thoroughly before returning to duties that require the handling of edible products or containers therefore or edible products handling equipment.

(D) Neither smoking nor chewing of tobacco shall be permitted in any room where exposed edible products are prepared, processed, or handled.

(12) Organs or parts can be collected for pharmaceutical purposes provided that the operation does not create a nuisance or unsanitary condition on the plant premises.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-56. Temperatures and cooling and freezing procedures

Temperatures and procedures that are necessary for cooling and freezing of rabbits in accordance with sound commercial practice shall be maintained in the coolers and freezers, and chilling temperatures and procedures shall also be in accordance with sound commercial practice.

(1) Cooling. Immediately after evisceration and washing of the carcass, it shall be placed in a cooling tank containing running cold tap water to remove the animal heat from the carcass. Carcasses shall not be allowed to remain in the cooling tank for longer than 1 hour. The internal temperature of the carcass shall be brought down to a temperature of 40 degrees F. within 4 hours.

(2) Freezing.

(A) When ready-to-cook rabbits are packaged in bulk or shipping containers, the carcasses should be individually wrapped or packaged in water-vapor resistant paper to assure adequate overlapping of the lining to completely surround the carcasses and to permit unsealed closure or sealing in a manner that water-vapor loss from the product is considerably retarded or prevented. The rabbit carcasses should receive an initial rapid freezing under the packaging, temperature, air circulation, and stacking conditions that will result in freezing the carcasses solid in less than 48 hours.

(B) Frozen ready-to-cook rabbits shall be held under conditions that will maintain the product in a solidly frozen state with temperature maintained as constant as possible.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-9-57. Vermin

Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from the official plant. Dogs, cats, and other pets shall be excluded from official premises.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-58. Exclusion of diseased persons

No person affected with any communicable disease (including, but not being limited to, tuberculosis) in a transmissible stage shall be permitted in any room or compartment where exposed or unpacked edible products are prepared, processed, or handled.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-9-59. Detention; seizure and condemnation

(a) **Product or rabbit subject to administrative detention.** Any carcass, part of a carcass, meat or meat food product of rabbit is subject to detention for a period not to exceed 20 days when found by any authorized representative of the Board upon any premises where it is held for purposes of or during or after distribution of intrastate commerce, and there is reason to believe that:

- (1) Any article is adulterated or misbranded and is capable of use as human food; or
- (2) Any article has not been inspected, in violation of the rabbit and rabbit products inspection Act or the Federal Food, Drug, and Cosmetic Act; or
- (3) Any article or rabbit has been or is intended to be distributed in violation of any provisions.

(b) **Method of detention; form, or detention tag.** An authorized representative of the Board shall detain any article or rabbit to be detained under this part, by affixing an official "Oklahoma Retained Tag" to the article or rabbit.

(c) **Notification of detention to the owner of the article or rabbit detained, or the owner's agent, or person having custody.**

- (1) An authorized agent of the Board shall give oral notification of detention to the immediate custodian of the article or rabbit being detained.
- (2) An authorized agent of the Board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained article or rabbit.
- (3) If the owner of the detained article or rabbit, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an

authorized agent of the Board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.

(4) The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business.

(d) Notification of governmental authorities having jurisdiction over article or rabbit detained; form or written notification. Within 48 hours after the detention of any rabbit or article pursuant to this part an authorized representative of the Board shall give oral or written notification of the detention to any State authorities not connected with the Division, and any State or other governmental authorities, having jurisdiction over rabbit or article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit.

(e) Movement of article or rabbit detained; removal of official marks. No article or rabbit detained in accordance with the provisions in this part shall be moved by any person from the place at which it is located when detained, until released by an authorized representative of the Board: Provided, that any article or rabbit may be moved from the place at which it is located so detained, for refrigeration, freezing, or storage purposes if the movement has been approved by an authorized representative of the Board: And provided further, that the article or rabbit moved will be detained by an authorized representative of the Board after the movement until the detention is terminated. When the detention of the article or rabbit is terminated, the owner, or the owner's agent or the carrier or other person in possession of the article or rabbit who was notified when the article or rabbit was detained, will receive notification of the termination. The notification "Notice of Termination of Detention" shall be served by either delivering the notice to the person, or by certified mail to the person's last known residence or principal office or place of business. All official marks may be required by the representative to be removed from the article or rabbit before it is released unless it appears to the satisfaction of the representative that the article or rabbit is eligible to retain the marks.

(f) Articles or rabbit subject to judicial seizure and condemnation. Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased rabbit, that is being transported in commerce or is subject to the Act, or is held for sale in the State after transportation, is subject to seizure and condemnation, in a judicial proceeding under the Act if the article or rabbit:

(1) Is or has been prepared, sold, transported, or distributed or offered or received for distribution in violation of the Act, or

(2) Is capable of use as human food and is adulterated or misbranded, or

(3) In any other way is in violation of the Act.

(g) Procedure for seizure, condemnation, and disposition. Any article or rabbit subject to seizure and condemnation under this part shall be liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any district court, or other proper court specified in the Act, within the jurisdiction of which the article or rabbit is found.

(h) **Authority for condemnation or seizure under other provisions of law.** The provisions of this part relating to seizure, condemnation and disposition of articles or rabbit do not derogate from authority for condemnation or seizure conferred by other provisions of the Act, or other laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

SUBCHAPTER 11. EXOTIC LIVESTOCK AND EXOTIC LIVESTOCK PRODUCTS

PART 1. GENERAL PROVISIONS

35:37-11-1. Purpose

The rules of this Subchapter have been adopted for the purpose of complying with the provisions of the Exotic Livestock and Exotic Livestock Products Inspection Act, 2 O.S. Supp., Sections 6-290.1 through 6-290.15. These rules known as the Exotic Livestock and Exotic Livestock Products Inspection Rules shall assist in assuring that the health and welfare of consumers in the state of Oklahoma is protected by requiring that slaughtered exotic livestock and exotic livestock products distributed to them are wholesome, free of adulteration, properly marked, properly labeled, properly packaged, and properly transported and distributed in intrastate commerce.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-2. Statutory citations

Citations to statutes in this Subchapter refer to the most recent codification of the statute.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-3. Statutory definitions

The following terms are defined in 2 O.S. Section 6-290.3.

- (1) adulterated
- (2) animal food manufacturer
- (3) board
- (4) capable of use as human food
- (5) department
- (6) exotic livestock
- (7) exotic livestock broker
- (8) federal meat inspection act
- (9) federal food, drug, and cosmetic act
- (10) inspection or inspection service
- (11) inspector
- (12) intrastate commerce
- (13) label

- (14) labeling
- (15) misbranded
- (16) official certificate
- (17) official device
- (18) official inspection legend
- (19) official mark
- (20) official plant or official establishment
- (21) person
- (22) pesticide chemical, food additive, color additive and raw agricultural commodity
- (23) processed
- (24) product
- (25) renderer

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-4. Additional definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Artificial coloring" means a coloring containing any dye or pigment, which dye or pigment was manufactured by a process of synthesis other similar artifice, or a coloring that was manufactured by extracting a natural dye or natural pigment from a plant or other material in which such dye or pigment was naturally produced.

"Artificial flavoring" means a flavoring containing any sapid or aromatic constituent, which constituent was manufactured by a process of synthesis or other similar artifice.

"Biological residue" means any substance, including metabolites, remaining in exotic livestock at the time of slaughter or in any of its tissues after slaughter as a result of treatment or exposure of the exotic livestock to a pesticide, organic or inorganic compound, hormone, hormone like substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent.

"CFR" means Code of Federal Regulations.

"Carcass" means all parts, including viscera, of any slaughtered exotic livestock.

"Chemical preservative" means any chemical that, when added to an exotic meat or exotic meat food product, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, or substances added to exotic meat and exotic meat food products by exposure to wood smoke.

"Circuit supervisor" means an authorized employee of the Board who has supervisory responsibilities for enforcing the rules of this Subchapter with jurisdiction over a defined geographical area of Oklahoma which contains one or more districts, district supervisors, and inspectors assigned thereto.

"Commerce" means intrastate commerce within this State.

"Director" means the Director of Meat Inspection, employed by the Board to act for it in matters as prescribed by the rules of this Subchapter.

"District supervisor" means an authorized employee of the Board who has supervisory responsibilities for enforcing the rules of this Subchapter, and has jurisdiction over a defined geographical district of Oklahoma and the inspectors assigned thereto.

"Edible" means intended for use as human food.

"Immediate container" means the receptacle or other covering in which any product is directly contained or wholly or partially enclosed.

"Inedible" means adulterated, uninspected, or not intended for use as human food.

"Official establishment" means any slaughtering, cutting, boning, curing, smoking, salting, packing, rendering, or similar establishment at which inspection is maintained under the rules of this Subchapter.

"Oklahoma condemned" means that the exotic livestock so identified has been inspected and found to be in a dying condition, or to be affected with any other condition or disease that would require condemnation of its carcass.

"Oklahoma inspected and condemned" means that the carcass, viscera, or other part of carcass, or other product so identified has been inspected, found to be adulterated, and condemned under the rules in this Subchapter.

"Oklahoma inspected and passed" means that the meat, the byproducts, or the products derived from exotic livestock marked have been inspected and passed under the rules in this Subchapter, and at the time they were inspected, passed, and marked, they were found to be sound, healthful, wholesome, and fit for human food.

"Oklahoma passed for cooking" means that the meat or byproduct derived from exotic livestock so identified has been inspected and passed on condition that it be heat treated or rendered as prescribed by the rules in this Subchapter.

"Oklahoma passed for refrigeration" means that the meat or byproduct derived from exotic livestock so identified has been inspected and passed on condition that it be refrigerated or handled as prescribed by the rules in this Subchapter.

"Oklahoma retained" means that the carcass, viscera, other part of the carcass, or other product, or article so identified, is held by an inspect or for further examination to determine its disposal.

"Oklahoma suspect" means that the exotic livestock so identified is suspected of being affected with a disease or condition which may require its condemnation, in whole or in part, when slaughtered, and is subject to further examination by a veterinarian to determine its disposal.

"Prepared" means slaughtered, salted, rendered, boned, cut up, or manufactured or processed.

"Shipping container" means the outside container (box, bag, barrel, crate, or other receptacle or covering) containing or wholly or partly enclosing any product packed in one or more immediate containers.

PART 3. APPLICATION OF INSPECTION LAWS AND OTHER REQUIREMENTS

35:37-11-5. Establishments requiring inspection

The requirements of the Exotic livestock and Exotic Livestock Products law shall be effective immediately for the following:

- (1) Every official establishment, except as provided in 35:37-11-7, in which any exotic livestock are slaughtered for sale or transportation or sales as articles in intrastate commerce, or in which any products of, or derived from carcasses of exotic livestock are, wholly or in part, prepared for transportation or sale as articles in intrastate commerce that are intended for use as human food;
- (2) Every official establishment, except as provided in 35:37-11-7, at which any exotic livestock are slaughtered or any products of any exotic livestock are prepared for use as human food solely for distribution within such jurisdiction;
- (3) Every official establishment as generally defined in 35:37-3-6 at which a mobile slaughtering operation is conducted; and
- (4) Every official establishment designated by the Director as one producing adulterated products that would clearly endanger the public health.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-6. Exotic livestock and products entering official establishments

All exotic livestock and all products entering any official establishment and all products prepared in whole or in part therein, shall be inspected, handled, stored, prepared, packaged, marked, and labeled as required by the rules in this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-7. Exemptions

Exemptions are as specified in 2 O.S., Section 6-290.5 (A)(1).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 5. APPLICATION FOR INSPECTION: GRANT OR REFUSAL

35:37-11-8. Application for inspection; tenants, subsidiaries and construction standards for establishments

(a) Before any inspection is granted, each person conducting operations at an official establishment subject to this Subchapter, whether operator,

landlord, or owner, shall make application to the Director as provided for in this part.

(b) Every application shall be made on an official form furnished by the Oklahoma Department of Agriculture, Food, and Forestry, Food Safety Division, and shall be completed to include all information requested. Any trade names of the applicant(s) for labeling purposes shall be given as well. Each applicant(s) for inspection will be held responsible for compliance with the provisions of 2 O.S. Sections 6-290.5 through 6-290.13 and the rules of this Subchapter if inspection is granted.

Slaughtering and preparation of any exotic game animal and products derived therefrom and other operations at the establishment for which inspection is granted may be conducted only by the applicant(s) and the applicant's immediate employees.

(c) In cases when ownership, landlord, operator, or location changes are made, a new application shall be made as required by this rule.

(d) The rules governing the construction of packing plants and the facilities and equipment used therein are contained in Subchapter 7, "Construction Standards for Meat Packing Plants". Subsequent amendments to Subchapter 7 are to be considered as amended rules and regulations, when adopted in accordance with the laws governing rule making.

(e) The rules and regulations governing the construction of mobile exotic livestock slaughtering establishments and the facilities and equipment used therein are contained in Part 3 of Subchapter 3, with additional requirements specified in Part 11, 35:37-11-21. Subsequent amendments to Part 3 of Subchapter 3 are to be considered as amended rules and regulations, when adopted in accordance with the laws governing rule making.

(f) Additional requirements may be issued by the Director as the Director deems necessary, after due consideration of the species involved, to effectuate proper handling of exotic livestock and the products derived therefrom.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-9. Drawings and information to be furnished; grant or refusal of inspection

(a) Each applicant for inspection shall submit all necessary drawings, specifications, and other required information to: Oklahoma Department of Agriculture, Food, and Forestry, Food Safety Division, Meat Inspection Services.

(b) Notice in writing shall be given to each applicant granted inspection, specifying the official establishment to which the grant applies.

(c) The Director is authorized to grant inspection upon the Director's determination that the applicant and the establishment are eligible and to refuse to grant inspection at any establishment if the Director determines that it does not meet the requirements of this Part or in Parts 7, 11, and 15 of this Subchapter, or that the applicant has not received approval of labeling and containers to be used at the establishment as required in Parts 31 and 33 of this Subchapter. When inspection is

refused for any reason, the applicant shall be informed of the action and the reasons and afforded an opportunity to present the applicant's views. (d) Inspection may also be refused in accordance with 2 O.S. Section 6-290.4(9) and the applicable rules of practice.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-9.1. Conditions for receiving inspection

(a) Before being granted an Oklahoma inspection, an establishment shall have developed written sanitation Standard Operating Procedures as required by 9 CFR Part 416.

(b) Before being granted an Oklahoma inspection, an establishment shall have conducted a hazard analysis and developed and validated a HACCP plan as required by 9 CFR 417.2 and 9 CFR 417.4. A conditional grant of inspection shall be issued for a period not to exceed 90 days, during which period, the establishment must validate its HACCP plan.

(c) Before producing a new product for distribution in commerce, an establishment shall have conducted a hazard analysis and developed a HACCP plan applicable to that product in accordance with 9 CFR 417.2. During a period not to exceed 90 days after the date the new product is produced for distribution in commerce, the establishment shall validate its HACCP plan, in accordance with 9 CFR 417.4.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 7. OFFICIAL NUMBERS; INAUGURATION OF INSPECTION; WITHDRAWAL OF INSPECTION; REPORTS OF VIOLATIONS

35:37-11-10. Official numbers, and fees

(a) An official number shall be assigned to each establishment granted inspection. The number shall be used to identify all inspected and passed products prepared in the establishment. More than one number shall not be assigned to an establishment.

(b) Two or more official establishments under the same ownership or control may be granted the same official number, provided a serial letter is added in each case to identify each establishment and the products thereof.

(c) When inspection has been granted to any applicant at an establishment, it shall not be granted to any other person at the same establishment. However, persons operating as separate entities in the same building or structure may operate establishments therein only under their own grant of inspection. All persons operating separate establishments in the same building or structure shall be responsible for compliance with 2 O.S. Sections 6-290.5 through 6-290.13 and this Subchapter in their own establishments, which shall include common areas, e.g., hallways, stairways, and elevators.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-11. Separation of official establishments

- (a) Each official establishment shall be separate and distinct from any unofficial establishment.
- (b) The slaughter or other preparation of products of horses, mules, or other equines is prohibited in any establishment approved for slaughtering or processing exotic livestock and exotic livestock products.
- (c) Inspection shall not be inaugurated in any building, any part of which is used as living quarters, unless the part for which inspection is requested is separated from quarters by floors, walls, and ceilings of solid concrete, brick, or similar material, and the floors, walls, and ceilings are without openings that directly or indirectly communicate with any part of the building used as living quarters.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-12. Sanitation and adequate facilities

Inspection shall not be inaugurated if an establishment is in an insanitary condition or fails to provide adequate facilities for conducting the inspection.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-13. Inauguration of inspection

When inspection is granted, the Director shall, at or prior to the inauguration of inspection, inform the operator of the establishment of the requirements of the rules. If the establishment, at the time inspection is inaugurated, contains any product that has not been inspected, passed, and marked in compliance with this Subchapter, the identity of the same shall be maintained, and it shall not be distributed in commerce, or processed for such purposes. The operator shall adopt and enforce all necessary measures for complying with all directions as the Board may prescribe for carrying out the requirements of 2 O.S. Sections 6-290.3 through 6-290.13 and the rules of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-14. Withdrawal of inspection; statement of policy

- (a) The Board may withdraw inspection from an official establishment where the sanitary conditions are such that its products are adulterated, or for failure of the operator to destroy condemned products as required by 2 O.S. Section 6-290.10. and the rules of this Subchapter. Inspection will be suspended in accordance with 2 O.S. Section 6-290.10 and the applicable rules of practice.
- (b) Inspection service may be withheld by the Director when the operator of any official establishment or any officer, employee, or agent of the operator acting within the scope of office, employment, or agency forcibly assaults, resists, opposes, impedes, intimidates, or interferes

with any inspection employee while engaged in or on account of the performance of their official duties. This withholding of inspection will continue in effect until assurances acceptable to the Board are received that there cannot be any recurrences.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-15. Reports of violations

Inspection employees shall report, in a manner prescribed by the Board, all violations of 2 O.S. Sections 6-290.5 through 6-290.13 or the rules of this Subchapter of which they have information.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 9. ASSIGNMENT AND AUTHORITY OF DIVISION EMPLOYEES

35:37-11-16. Designation of inspection personnel

The Director shall designate a circuit supervisor in charge of the inspection in each circuit and a district supervisor(s) and as many inspectors as needed to adequately carry out the requirements of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-17. Division employees to have access to establishments

For the purpose of any examination or inspection necessary to prevent the use in intrastate commerce of any adulterated product, inspection employees shall have access at all times, by day or night, whether the official establishment is operated or not, to every part of any official establishment to which they are assigned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-18. Identification of inspectors

Each inspector will be furnished with an official identification card issued by the Board and a numbered official badge, which the inspector shall possess at all times, and the inspector shall wear this identification in a manner and at times as the Board may prescribe. They shall be sufficient identification to entitle the inspector to admittance at all regular entrances and to all parts of the establishments and premises to which the inspector is assigned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-19. Assignment of division employees where members of family employed; soliciting employment; procuring product from official establishments

(a) Except as specifically authorized by the Board, no inspection employee shall be detailed for duty at an establishment where any member of the inspector's family is employed by the operator of the establishment, nor shall any supervisor be continued on duty at a plant where any member of the supervisor's family is employed at any establishment under the supervisor's jurisdiction. Inspection employees are forbidden to solicit for any person, employment at any official establishment.

(b) Inspection employees shall not procure product from any official establishment unless the establishment from which the purchase is made is open to the general public and the price paid by the employee is the same as the price paid by the general public. Inspection employees must pay, and obtain receipts for money paid to these establishments for all products and keep the receipts subject to examination by supervisory employees or other authorized personnel as the Board may designate.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-20. Appeals

Any appeal of a decision made by any inspection employee shall be made to the immediate supervisor having jurisdiction over the subject matter of the appeal, except as provided in the applicable rules of practice.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 11. SPECIAL FACILITIES REQUIREMENTS

35:37-11-21. Additional requirements for mobile slaughtering establishments

In addition to the facility requirements for mobile slaughter establishments contained in Part 3 of Subchapter 3, the additional facilities are required.

- (1) Adequate lighting, with protective covering, of at least 50 foot candles in all areas where postmortem inspection is conducted, and at least 30 foot candles elsewhere.
- (2) Acceptable rust-resistant trays, pans, and other receptacles of adequate size and constructed of materials that are easily sanitized, for the purpose of efficient postmortem inspection.
- (3) Adequate refrigeration and air circulation to prevent carcass spoilage during transportation.
- (4) Suitable lockers or other storage facilities in which brands bearing the official inspection legend and other devices (excluding labels) and official certificates shall be kept when not in use. All the lockers and facilities shall be equipped for sealing or locking with locks or seals to be supplied by inspection services, and kept in the possession of inspection personnel.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 13. TIME OF INSPECTION OF OFFICIAL ESTABLISHMENTS

35:37-11-22. Hours of operation of official establishments

Hours of operation of official establishments are as specified in 35:37-3-18.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-23. Designation of days and hours of operation by director

Designation of days and hours of operation by director are as specified in 35:37-3-19.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-24. Overtime work of inspectors

Overtime work of inspectors is as specified in 35:37-3-20.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 15. SANITATION

35:37-11-25. Examination and specifications for equipment and sanitation prior to granting inspection

Prior to the inauguration of inspection, an examination of the establishment and premises shall be made by an inspection employee designated by the Director and the requirements for sanitation and the necessary facilities for inspection shall be specified by the inspection employee in accordance with rules 35:37-11-8(d), 35:37-11-8(e), and 35:37-11-21.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-26. Establishments; requirements for sanitary conditions

(a) Official establishments shall be maintained in sanitary condition, and to this end the requirements of this Section shall be complied with.

(b) There shall be abundant light of good quality and well distributed, and sufficient ventilation for all rooms and compartments to insure sanitary condition.

(c) There shall be an efficient drainage and plumbing system for the establishment and premises, and all drains and gutters shall be properly installed with traps and vents approved by inspection services.

(d) There shall be an ample supply of clean potable water with adequate facilities for its distribution in the plant and its protection against contamination and pollution. This shall include sealing of wells as

prescribed by methods and rules as adopted by the Oklahoma Health Department. To assure the potability of the water, a sample from its source and at various places inside the plant must be taken for analyses by the Oklahoma Department of Agriculture laboratory or by the appropriate local health department laboratories. Water samples shall be obtained at least one time a year for approved municipal or approved rural water systems, and at least two times a year (each six months) for private water systems. A certificate of water potability acceptance must be issued by the appropriate testing laboratory and it must be posted in a conspicuous place in the plant or available for review as approved by the appropriate district supervisor.

(e) Reuse of water will be approved only to the extent permitted by the Oklahoma State Health Department.

(f) An ample supply of clean potable water of not less than 180°F. shall be furnished and used for the cleaning of inspection equipment, floors, walls, and other equipment that are subject to contamination by the dressing or handling of diseased carcasses, their viscera, and other parts. In lieu of 180°F. water for cleaning and sanitizing mobile slaughter establishments, acceptable chemical sanitizing agents may be used as specified in Part 3 of OAC 35:37-3. The requirements for 180°F. water, however, shall not be waived for plants processing exotic livestock and exotic livestock products. To determine compliance with these requirements, conveniently located thermometers shall be installed by the operator of the official establishment to show the temperature of the water at the point of use.

(g) Ample hot water for general cleaning of rooms and equipment shall be delivered under adequate pressure to conveniently located outlets and shall be of a temperature as to accomplish a thorough cleanup when used with approved detergents and other cleaning agents.

(h) The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish as will make them susceptible to proper and adequate cleaning. The floors shall be watertight. The rooms and compartments used for edible product shall be separate and distinct from those used for inedible product.

(i) Rails shall be located, and passageway space provided, so that exposed product does not come in contact with posts, walls, and other fixed parts of the building, or with barrels, boxes, and other containers trafficked through holding and operating areas. Exposed product shall not be placed or stored beneath carcasses in coolers or holding areas.

(j) The rooms and compartments in which any product is prepared or handled shall be free from dust and from odors from dressing and toilet rooms, catch basins, hide cellars, casing rooms, inedible tank and fertilizer rooms, and livestock pens.

(k) Every practicable precaution shall be taken to exclude flies, rats, mice, and other vermin from official establishments. The use of poisons for any purpose in rooms or compartments where any unpacked product is stored or handled is forbidden, except under restrictions and precautions as are prescribed by the Board in specific cases. The use of insecticides, rodenticides, and similar pest control substances in hide cellars, inedible product departments, outbuildings, or similar places, or in store rooms containing canned or tierced products is not forbidden but

only those approved by the Board may be used. So-called rat viruses shall not be used in any part of an establishment or the premises thereof.

(l) Dogs, cats, and other pets shall be excluded from the interior of official establishments; however, dogs may be permitted on the outer premises for guard purposes.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-27. Sanitary facilities and accommodations; specific requirements

Adequate sanitary facilities and accommodations shall be furnished by every official establishment. Of these, the following are specifically required:

(1) Dressing rooms, toilet rooms, and urinals shall be sufficient in number, ample in size, and conveniently located. The rooms shall be provided with facilities to provide abundant light of good quality and well distributed. They shall be properly ventilated, and meet all requirements of the rules in this part as to sanitary construction and equipment. They shall be separate from the rooms and compartments in which products are prepared, stored, or handled. Where both sexes are employed, separate facilities shall be provided.

(2) Acceptable lavatories, including running hot and cold water, soap, towels, and used towel receptacles, shall be placed in or near toilet and urinal rooms and also at other places in the establishment as may be essential to assure cleanliness of all persons handling any product.

(3) Toilet soil lines shall be separate from plant drainage lines to a point outside the building and drainage from toilet bowls and urinals shall not be discharged into a grease catch basin.

(4) Properly located facilities shall be provided for cleansing and disinfecting utensils and hands of all persons handling any product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-28. Equipment must be easily cleaned and that used for inedible products must be so marked

Equipment and utensils used for preparing and handling any product shall be of materials and construction as will make them susceptible to being readily and thoroughly cleaned and will insure strict cleanliness in the preparation and handling of all products. As practicable, equipment shall be made of rust resistant metal or other acceptable impervious material. Trucks and receptacles used for inedible material shall bear the word "inedible" in lettering that contrasts clearly and conspicuously with its background, so its intended purpose is clearly and concisely identified.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-29. Sanitation of knife scabbards

Scabbards and similar devices used for the temporary retention of knives, steels, hooks, triers, etc., by butchers, and other workers at official establishments shall be kept clean, and shall be constructed of rust-resisting metal or other acceptable impervious material, that can be readily cleaned and sanitized.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-30. Sanitation of rooms, compartments, etc.

Rooms, compartments, areas, equipment, and utensils used for preparing, storing, or handling any product, and all other parts of the establishment, shall be kept clean and in a sanitary condition. There shall be no handling or storing of materials that create an objectionable condition in rooms, compartments, or places where any product is prepared, stored or handled.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-31. Sanitation requirements of slaughtering and processing operations, condensation and chilling requirements

(a) Operations and procedures involving the preparation, storing, or handling of any product shall be strictly in accord with clean and sanitary methods.

(b) All areas in which inspections are made and those in which exotic livestock are slaughtered or any product is prepared shall be kept sufficiently free of steam and vapors to enable inspection personnel to make inspections and to insure clean operations. The walls, ceilings, and overhead structure of rooms and compartments in which product is prepared, handled, or stored shall be kept reasonably free from moisture to prevent dripping and contamination of products.

(c) Butchers and others who dress or handle diseased carcasses or parts shall, before handling or dressing other carcasses or parts, cleanse their hands with liquid soap and hot water, and rinse them in clean water. Implements used in dressing diseased carcasses shall be thoroughly cleansed with hot water having a minimum temperature of 180°F. or in a disinfectant approved by the Board, followed by rinsing in clean water. The employees of the establishment who handle any product shall keep their hands clean, and in all cases after visiting the toilet rooms or urinals shall wash their hands before handling any product or implements used in the preparation of product.

(d) Aprons, frocks, and other clothing worn by persons who handle any product shall be of material that is readily cleansed. Clean garments shall be worn at the start of each working day and the garments shall be changed during the day when required by the inspector in charge.

(e) Practices as spitting on whetstones; spitting on the floor; placing skewers, tags, or knives in the mouth; inflating lungs or casings with air from the mouth; or testing with air from the mouth such receptacles as tierces, kegs or casks, containing or intended as containers of any product, are prohibited. Only mechanical means may be used for testing.

Care shall be taken to prevent the contamination of product with perspiration, hair, cosmetics, medications, and similar substances.

(f) Equipment or substances that generate gases or odors shall not be used in official establishments except as permitted in this Subchapter or by the circuit supervisor in specific cases in which the supervisor determines that the use will not result in adulteration of any product.

(g) Carcasses (including edible offal) will be placed in chill coolers immediately after final washing. The carcasses shall be spaced as to encourage rapid chilling and to avoid the condition known as "Touchers". Should this condition occur, the affected portions will be trimmed before further processing in or removal from the official establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-32. Protective handling of products

Products shall be protected from contamination from any source such as dust, dirt, or insects during storage, loading, or unloading, and transportation from official establishments. With the exception of mobile slaughtering establishments transporting carcasses to an official processing establishment, carcasses and products shall have a maximum temperature of 50°F. before removal from the official establishment. All forms of transportation, shall be capable of maintaining a temperature of product not to exceed 55°F. at the point of destination.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-33. Sanitation requirements for inedible areas, storage rooms, and outside premises

All operation and storage rooms and departments of official establishments used for inedible materials shall be maintained in acceptably clean condition. The outer premises of every official establishment, including docks and areas where cars and vehicles are loaded, and the driveways, approaches, yards, pens, and alleys, shall be of acceptable dust free all weather construction, adequately drained and kept in a clean and orderly condition. All catch basins on the premises shall be of such construction and location, and shall be given attention, as will insure their being kept in acceptable condition as regarding odor and cleanliness. Catch basins shall not be located in departments where any product is prepared, handled, or stored. The accumulation on the premises of official establishments of any material in which flies may breed, such as hair, bones, paunch contents, or manure, is forbidden. Other conditions that may result in adulteration of product or interfere with inspection shall not be allowed in any official establishment or on its premises.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-34. Employment of diseased persons

No operator of an official establishment or other person preparing product in an official establishment shall employ, in any department

where any product is handled or prepared, any person showing evidence of a communicable disease in a transmissible stage, or known to be a carrier of such a disease, or while affected with boils, sores, infected wounds, or other abnormal sources or microbiological contaminants.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-35. Tagging insanitary equipment, utensils, rooms or compartments

When, in the opinion of an authorized inspection employee, any equipment, utensil, room, or compartment at an official establishment is unclean or its use would be in violation of any of the rules in this Subchapter, the inspection employee will attach an "Oklahoma Rejected" tag. No equipment, utensil, room, or compartment tagged shall again be used until made acceptable. Tags attached shall not be removed by anyone other than an authorized inspection employee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 17. ANTEMORTEM INSPECTION

35:37-11-36. Antemortem inspection in pens of official establishment

(a) No exotic livestock will be offered for antemortem inspection at any official establishment when it would be in conflict with any existing quarantine authority residing within the Department.

(b) All exotic livestock offered for slaughter in an official establishment shall be examined and inspected on the day of and prior to slaughter by an authorized inspection employee.

(c) The antemortem inspection shall be made in pens on the premises of the establishment at which the exotic livestock are offered for slaughter before they shall be allowed to enter into any department of the establishment where they are to be slaughtered or dressed or in which edible products are handled. When the holding pens of an official establishment are located in a public stockyard and are reserved for the exclusive use of the establishment, the pens shall be regarded as part of the premises of that establishment and the operator of the establishment shall be responsible for compliance with all requirements of the rules in this Subchapter with respect to the pens.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-37. Antemortem field inspection at mobile slaughtering establishments

(a) No exotic livestock will be offered for antemortem inspection at any official mobile slaughtering establishment when it would be in conflict with any existing quarantine authority residing within the Department.

(b) Antemortem field inspection of exotic livestock offered for slaughter at official mobile slaughtering establishments shall be performed on the

day of and immediately prior to slaughter by an authorized inspection employee.

(c) The antemortem inspection shall be performed in a thorough manner prescribed by the Director but without unnecessary delay, to enable the shooter to quickly and humanely dispatch the animal. Furthermore, the antemortem inspection shall be performed at a distance close enough for the inspector to properly ascertain the overall soundness and acceptability of the animal.

(d) The Director may refuse to render field antemortem inspection service whenever the director believes a high incidence of disease exists in a group of exotic livestock offered for slaughter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-38. Exotic livestock suspected of being diseased or affected with certain conditions; identifying suspects and the disposition of suspects

(a) Any exotic livestock that on antemortem inspection does not clearly show, but is suspected of being affected with any disease or conditions that may cause condemnation of the carcass on postmortem inspection, and any exotic livestock that show on antemortem inspection any disease or condition that would cause condemnation of only part of the carcass on postmortem inspection, shall be handled as to retain its identity as a suspect until it is given final postmortem inspection, when the carcass shall then be marked and disposed of as provided in this Subchapter, or until it is disposed of as provided in this Part.

(b) All seriously crippled animals commonly termed "downers," shall be identified as "Oklahoma Suspects" and disposed of as provided in 35:37-11-57 unless they are required to be classed as "Oklahoma Condemned" under 35:37-11-39.

(c) With the exception of exotic livestock presented for antemortem inspection at mobile slaughtering establishments, each animal required by this Subchapter to be treated as an "Oklahoma Suspect" shall be identified as suspect by or under the supervision of an inspector with an official device in accordance with 35:37-11-43(a). The device shall not be removed except by an authorized inspection employee.

(d) Each animal identified as an "Oklahoma Suspect" on antemortem inspection shall be set apart and shall be slaughtered separately from other livestock at the establishment unless disposed of as provided in this Subchapter.

(e) When any exotic livestock identified as an "Oklahoma Suspect" is released for any purpose or reason, as provided in this Subchapter, the official identification device shall be removed only by an authorized inspection employee, and the inspection employee shall report the action to the immediate circuit supervisor. When a suspect is to be released for a purpose other than slaughter, the operator of the official establishment or the owner of the animal shall first obtain permission for the removal of the animal from the appropriate State or Federal livestock health officials.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-39. Dead, dying, disabled, or diseased exotic livestock

(a) Exotic livestock found to be dead or in a dying condition on the premises of an official establishment shall be identified as "Oklahoma Condemned" and disposed of in accordance with 35:37-11-42.

(b) Exotic livestock plainly showing on antemortem inspection, any disease or condition that would cause condemnation of their carcasses on postmortem inspection shall be identified as "Oklahoma Condemned" and disposed of in accordance with 35:37-11-42.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-40. Exotic livestock suspected of having biological residues

(a) Exotic livestock suspected of having been treated with or exposed to any substance that may impart a biological residue that would make the edible tissues unfit for human food or adulterated, shall be handled in compliance with the provisions of this Section. The suspected exotic livestock shall be identified at official establishments as "Oklahoma Suspect". These exotic livestock shall be held under the custody of an inspector or other official designated by the Board until metabolic processes have reduced the residue sufficiently to make the tissues fit for human food and not adulterated. When the required time has elapsed, the exotic livestock if returned for slaughter, must be re-examined on antemortem inspection. To aid in determining the amount of residue present in the tissues, the Board may permit the slaughter of any livestock to collect tissues for analysis for the residue.

(b) All carcasses and edible organs and other parts thereof, in which are found any biological residues that render articles adulterated, shall be marked "Oklahoma Condemned" and disposed of in accordance with 35:37-11-98.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-41. Exotic livestock used for research

(a) No exotic livestock used in any research investigation involving experimental biological product, drug, or chemical shall be eligible for slaughter at an official establishment unless the operator of the establishment, the sponsor of the investigation, or the research investigator has submitted to the Director, data or a summary evaluation of the data, that demonstrates that the use of the biological product, drug, or chemical will not result in the products of the exotic livestock being adulterated, and the Director has approved the slaughter.

(b) The inspector in charge may deny or withdraw the approval for slaughter of any livestock subject to the provisions of this Section when the inspector deems it necessary to assure that all products prepared at the official establishment are free from adulteration.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-42. Disposition of condemned exotic livestock

(a) Except as provided in this Section exotic livestock identified as "Oklahoma Condemned" shall be killed by the official establishment, if not already dead. The animals shall not be taken into the official establishment to be slaughtered or dressed; nor shall they be conveyed into any department of the establishment used for edible products; but they shall be disposed of in the manner provided for condemned carcasses in Part 27 of this Subchapter. The official "Oklahoma Condemned" tag shall not be removed from, but shall remain on the carcass until it is tanked or is disposed of as prescribed in Part 27 of this Subchapter, at which time the tag may be removed by an authorized inspection employee only.

(b) When exotic livestock under the provisions of this Section are to be released for a purpose other than slaughter, the operator of the official establishment or the owner of the exotic livestock shall first obtain permission for the movement of exotic livestock from the appropriate State or Federal livestock health officials having jurisdiction.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-43. Official marks and devices for purposes of antemortem inspection

(a) With the exception of exotic livestock offered for slaughter at mobile slaughtering establishments, all exotic livestock required by this part to be identified as "Oklahoma Suspects" shall be tagged with a serially numbered metal ear tag bearing the term "Oklahoma Suspect".

(b) All exotic Livestock required by this part to be identified as "Oklahoma Condemned" shall be tagged with a serially numbered metal ear tag bearing the term "Oklahoma Condemned".

(c) The devices described in Subsections (a) and (b) of this Section shall be the official devices or identification of exotic livestock required to be identified as "Oklahoma Suspect" or "Oklahoma Condemned" as provided in this part.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

PART 20. POSTMORTEM INSPECTION

35:37-11-44. Extent and time of postmortem inspection

A careful postmortem examination and inspection shall be made of the carcasses and parts thereof of all exotic livestock slaughtered at official establishments. The inspection and examination shall be made at the time of slaughter unless, because of unusual circumstances, prior arrangements acceptable to the Director have been made in specific cases by the circuit supervisor, for making the inspection and examination at a later time.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-45. Identification of carcass, severed parts, and the animal from which derived

The head, tail, tongue, thymus gland, and all viscera of each slaughtered animal, and all blood and other parts of the animal to be used in the preparation of meat food products or medical products, shall be handled in a manner as to identify them from the rest of the carcass and as being derived from the particular animal involved, until the postmortem examination of the carcass and parts thereof has been completed.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-46. Retention of carcasses and parts

Each carcass, including all detached organs and other parts, in which any pathological lesion or other condition is found that might render the meat or any part unfit for food purposes, or adulterated, would require a subsequent inspection, and the animal shall be retained by the inspector at the time of inspection. The identity of every retained carcass, detached organ, or other part shall be maintained until the final inspection has been completed. Retained carcasses shall not be washed or trimmed unless authorized by the inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-47. Tagging of carcasses and parts

Devices and methods approved by the Director may be used for the temporary identification of retained carcasses, organs, and other parts. In all cases, the identification shall be further established by affixing "Oklahoma Retained" tags as soon as practicable and before final inspection. These tags shall not be removed except by an authorized inspection employee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-48. Condemned carcasses and parts to be so marked; tanking, separation

Each carcass or part that is found on final inspection to be unsound, unhealthful, unwholesome, or adulterated shall be

conspicuously marked, on the surface tissues, by an authorized inspection employee at the time of inspection, as "Oklahoma Condemned". Condemned detached organs and other parts of the character that they cannot be so marked shall be placed immediately in acceptable trucks or receptacles that shall be kept plainly marked "Oklahoma Condemned", on a background of contrasting color, in letters not less than 2 inches high. All condemned carcasses and parts shall remain in the custody of an inspection employee and shall be disposed of as required in Part 27 of this Subchapter at or before the close of the day on which they are condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-49. Marking carcasses and parts passed for cooking

Carcasses and parts passed for cooking shall be marked conspicuously on the surface tissues thereof by an inspector at the time of inspection, "Oklahoma Passed for Cooking". All carcasses and parts shall be cooked in accordance with Part 29 of this Subchapter, and until cooked shall remain in custody of the inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-50. Passing and marking of carcasses and parts

Carcasses and parts found to be sound, healthful, wholesome, and not adulterated shall be passed and marked as provided in Part 31 of this Subchapter. In all cases where carcasses showing localized lesions are passed for food or for cooking and "Oklahoma Retained" tags are attached to the carcasses, the affected tissues shall be removed and condemned before the tags are removed. "Oklahoma Retained" tags shall be removed only by an authorized inspection employee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-51. Sternum to be split; abdominal and thoracic viscera to be removed

The sternum of each carcass of bovidae, cervidae, and antilocapridae, shall be split at the time of slaughter. Furthermore, the abdominal and thoracic viscera of all exotic livestock, shall be removed at the time of slaughter in order to allow proper inspection.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-52. Handling of bruised parts

When only a portion of a carcass is to be condemned due to slight bruises, the bruised portion shall be removed immediately and disposed of in accordance with Part 27 of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-53. Disposition of lungs

- (a) Exotic livestock lungs shall not be saved for human food.
- (b) Lungs not found to be affected with disease or pathology or to have been adulterated with chemical or biological residues may be saved for pet food or other non-human food purposes. They shall be maintained under inspectional control in the manner prescribed in 35:37-11-134.
- (c) All other exotic livestock lungs shall be properly identified as condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-54. Contamination of carcasses, organs, or other parts

- (a) Carcasses, organs, and other parts shall be handled in a sanitary manner to prevent contamination with fecal material, urine, bile, hair, dirt, or foreign matter; however, if contamination occurs, it shall be promptly removed in a manner satisfactory to the inspector.
- (b) Brains, cheek meat, and head trimmings from animals stunned by lead, sponge iron, or frangible bullets shall not be saved for use as human food but shall be handled as prescribed in 35:37-11-98.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-55. Inspection of kidneys

An employee of the establishment shall open the kidney capsule and expose the kidneys of all bovidae, cervidae, and antilocapridae, at the time of slaughter for the purpose of examination by the inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-56. Postmortem inspection procedures

Due to the wide variation of species involved, the postmortem inspection procedures for exotic Livestock carcasses shall be those prescribed by the Director. They shall be appropriate and sufficient for proper disposition of each individual species.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 21. DISPOSAL OF DISEASED OR ADULTERATED CARCASSES AND PARTS

35:37-11-57. General requirements for disposal of diseased or adulterated carcasses and parts

- (a) The carcasses or parts of carcasses of all animals slaughtered at an official establishment and found at the time of slaughter, or at any subsequent inspection, to be affected with any of the diseases or conditions named in this part shall be disposed of according to the Section pertaining to the disease or condition: Provided, That no product shall be passed for human food under any Section unless it is found to not be adulterated. Products passed for cooking or refrigeration under

this part must be handled at the official establishment where the products are initially prepared, unless the products are moved to another official establishment for handling, or in the case of products passed for refrigeration, are moved for refrigeration to a freezing facility approved by the Director in specific cases: Provided, that when moved the products are shipped in containers bearing official inspection seals or in an officially sealed means of conveyance. Owing to the fact that it is impracticable to formulate rules covering every case and to designate at what stage a disease process or a condition results in adulteration of a product, the decision as to the disposal of all carcasses, organs, or other parts not specifically covered in this part shall be left to the Veterinarian. The Veterinarian in charge shall exercise judgment regarding the disposition of all carcasses or parts of carcasses under this part in a manner that will insure that only wholesome, unadulterated product is passed for human food.

(b) In cases of doubt as to a condition, a disease, or the cause of a condition, or to confirm a diagnosis, representative specimens of the affected tissues, properly prepared and packaged, shall be sent for examination to the laboratories of the College of Veterinary Medicine, Oklahoma State University.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-58. Arthritis

(a) Carcasses affected with arthritis that is localized and not associated with systemic change may be passed for human food after removal and condemnation of all affected parts. Affected joints with corresponding lymph nodes shall be removed and condemned. In order to avoid contamination of the meat that is passed, a joint capsule shall not be opened until after the affected joint is removed.

(b) Carcasses affected with arthritis shall be condemned when there is evidence of systemic involvement.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-59. Bovidae carcasses affected with anasarca or generalized edema

(a) Carcasses of bovidae found on postmortem inspection to be affected with anasarca in advanced stages and characterized by an extensive or well-marked generalized edema shall be condemned.

(b) Carcasses of bovidae including their detached organs and other parts, found on postmortem inspection to be affected with anasarca to a lesser extent than as described in Subsection (a) of this Section may be passed for human food after removal and condemnation of the affected tissues, provided the lesion is localized.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-60. Actinomycosis and actinobacillosis

(a) The definition of generalization as outlined for tuberculosis in 35:37-11-84 shall apply for actinomycosis, actinobacillosis, and carcasses of livestock with generalized lesions. Exotic livestock with these disease shall be condemned.

(b) Carcasses of livestock in a well-nourished condition showing uncomplicated localized lesions of actinomycosis or actinobacillosis may be passed for human food after the infected organs or other infected parts have been removed and condemned, except as provided in Subsection (c) and (d) of this Section.

(c) Heads affected with actinomycosis or actinobacillosis, including the tongue, shall be condemned, except that when the disease of the jaw is slight, strictly localized, and without suppuration, fistulous tracts, or lymph node involvement, the tongue, if free from disease, may be passed, or, when the disease is slight and confined to the lymph nodes, the head including the tongue, may be passed for human food after the affected nodes have been removed and condemned.

(d) When the disease is slight and confined to the tongue, with or without involvement of the corresponding lymph nodes, the head may be passed for human food after removal and condemnation of the tongue and corresponding lymph nodes.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-61. Neoplasms

(a) An individual organ or other part of a carcass affected with a neoplasm shall be condemned. If there is evidence of metastasis or the general condition of the animal has been adversely affected by the size, position, or nature of the neoplasm, the entire carcass shall be condemned.

(b) Carcasses affected with malignant lymphoma shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-62. Pigmentary conditions; melanosis, xanthosis, ochronosis, etc.

(a) Except as provided in 35:37-11-68 carcasses of livestock showing generalized pigmentary deposits shall be condemned.

(b) The affected parts of carcasses showing localized pigmentary deposits of a character as to be unwholesome or adulterated shall be removed and condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-63. Abrasions, bruises, abscesses, pus, etc.

All slight, well-limited abrasions on the tongue and inner surface of the lips and mouth, when without lymph node involvement shall be carefully excised, leaving only sound, normal tissue, that may be passed for human food. Any organ or other part of a carcass that is badly bruised or that is affected by an abscess, or a suppurating sore shall be condemned; and when the lesions are of a character or extent as to affect

the whole carcass, the whole carcass shall be condemned. Portions of carcasses that are contaminated by pus or other diseased material shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-64. Brucellosis

Carcasses affected with localized lesions of brucellosis may be passed for human food after the affected parts are removed and condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-65. Carcasses infected that consumption of the meat may cause food poisoning

(a) All carcasses of exotic livestock so infected that consumption of the products may give rise to food poisoning shall be condemned. This includes all carcasses showing signs of:

- (1) Acute inflammation of the lungs, pleura, pericardium, peritoneum, or meninges.
- (2) Septicemia or pyemia, whether puerperal, traumatic, or without any evident cause.
- (3) Gangrenous or severe hemorrhagic enteritis or gastritis.
- (4) Acute diffuse metritis or mammitis.
- (5) Phlebitis of the umbilical veins.
- (6) Septic or purulent traumatic pericarditis.
- (7) Any acute inflammation, abscess, or suppurating sore, if associated with acute nephritis, fatty and degenerated liver, swollen soft spleen, marked pulmonary hyperemia, general swelling of lymph nodes, diffuse redness of the skin, cachexia, icteric discoloration of the carcass or similar condition, either singly or in combination.
- (8) Salmonellosis.

(b) Implements contaminated by contact with carcasses affected with any of the disease conditions mentioned in this Section shall be thoroughly cleaned and sanitized as prescribed in Part 15 of this Subchapter. The equipment used in the dressing of carcasses, such as viscera trucks or inspection tables shall be sanitized with hot water having a minimum temperature of 180°F. Carcasses or parts of carcasses contaminated by contact with diseased carcasses shall be condemned unless all contaminated tissues are removed within 2 hours.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-66. Necrobacillosis, pyemia, and septicemia

From the standpoint of meat inspection, necrobacillosis may be regarded as a local infection at the beginning, and carcasses in which the lesions are localized may be passed for human food if in a good state of nutrition, after those portions affected with necrotic lesions are removed and condemned. However, when emaciation, cloudy swelling of the

parenchymatous tissue of organs or enlargement of the lymph nodes is associated with the infection, it is evident that the disease has progressed beyond the condition of localization to a state of toxemia, and the entire carcass shall be condemned as both unwholesome and noxious. Pyemia or septicemia may intervene as a complication of the local necrosis, and when present the carcass shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-67. Caseous lymphadenitis

(a) A thin carcass showing well-marked lesions in the viscera and the skeletal lymph nodes, or a thin carcass showing extensive lesions in any part shall be condemned.

(b) A thin carcass showing well-marked lesions in the viscera with only slight lesions elsewhere or showing well-marked lesions in the skeletal lymph nodes with only slight lesions elsewhere may be passed for cooking.

(c) A thin, carcass showing only slight lesions in the skeletal lymph nodes and in the viscera may be passed for human food without restriction.

(d) A well-nourished carcass showing well-marked lesions in the viscera and with only slight lesions elsewhere or showing well-marked lesions confined to the skeletal lymph nodes with only slight lesions elsewhere may be passed for human food without restriction.

(e) A well-nourished carcass showing well-marked lesions in the viscera and the skeletal lymph nodes may be passed for cooking; but where the lesions in a well-nourished carcass are both numerous and extensive, it shall be condemned.

(f) All affected organs and nodes of carcasses passed for human food without restriction or passed for cooking shall be removed and condemned.

(g) As used in this Section, the term "thin" does not apply to a carcass that is anemic or emaciated; and the term "lesions" refers to lesions of caseous lymphadenitis.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-68. Icterus

Carcasses showing any degree of icterus shall be condemned. Yellow fat conditions caused by nutritional factors or characteristic of certain species or exotic livestock shall not be confused with icterus. The carcasses should be passed for human food, if normal.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-69. Mange or scab

Carcasses of exotic livestock affected with mange or scab in advanced stages, showing cachexia or extensive inflammation of the flesh, shall be condemned. When the disease is slight, the carcass may be passed after removal of the affected portion.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-70. Tapeworm cysts in bovidae

(a) Carcasses of bovidae affected with tapeworm cysts shall be disposed of as follows:

(1) Carcasses of bovidae infected with tapeworm cysts shall be condemned if the infestation is excessive or if the meat is watery or discolored. Carcasses shall be considered excessively infested if incisions in various parts of the musculature expose one or more cysts on most of the cut surfaces.

(2) Carcasses of bovidae in which tapeworm cyst infestation is limited to one dead and degenerated cyst may be passed for human food after removal and condemnation of the cyst.

(3) Carcasses of bovidae showing a slight or moderate tapeworm cyst infestation other than that indicated in Paragraph (2) of this Subsection but not so extensive as indicated in Paragraph (1) of this Subsection, as determined by a careful examination of the heart, muscles of mastication, diaphragm and its pillars, tongue, and portions of the carcass rendered visible by the process of dressing, may be passed for human food after removal and condemnation of the cysts with surrounding tissues: Provided, that the carcasses, appropriately identified by the Oklahoma Retained tags, are held in cold storage at a temperature not higher than 15° F. continuously for a period of not less than 10 days: And provided further, that the boned meat from the carcasses when in boxes, tierces, or other containers, appropriately identified by Oklahoma Retained tags, is held at a temperature of not higher than 15° F. continuously for a period of not less than 20 days. As an alternative to retention in cold storage as provided in this Paragraph, the carcasses and meat may be heated throughout to a temperature of at least 140° F.

(b) The edible viscera of carcasses passed for human food or passed for human food after refrigeration or heating under Subsection (a), Paragraphs (2) or (3) of this Section may be passed for human food without refrigeration or heating if they are found to be free from cysts on final inspection. This shall not include the lungs, fat, muscles of the oesophagus, and the heart, which shall be disposed of in the same manner as the rest of the carcasses under Subsection (a) of this Section. The intestines, oesophagi, and bladders from bovidae carcasses affected with tapeworm cysts that have been passed for human food or passed for human food after refrigeration or heating under Subsection (a), Paragraphs (2) or (3) of this Section may be used for casings after they have been subjected to the usual method of preparation. They may be used for the purpose upon completion of the final inspection of the carcasses.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-71. Parasites not transmissible to man; tapeworm cysts in cervidae; hydatid cysts; flukes; gid bladder worms

- (a) In the disposal of carcasses, edible organs, and other parts of carcasses showing evidence of infestation with parasites not transmissible to man the following general rules shall govern except as provided in this Section: if the lesions are localized in a manner and are of a character that the parasites and the lesions caused by them can be completely removed, the non-affected portion of the carcass, organ, or other part of the carcass may be passed for human food after the removal and condemnation of the affected portions. If an organ or other part of a carcass shows numerous lesions caused by parasites, or if the character of the infestation is such that complete extirpation of the parasitic infestation or invasion renders the part in any way unfit for human food, the affected part shall be condemned. If parasites are found to be distributed in a carcass in a manner or to be of a character that their removal and the removal of the lesions caused by them is impracticable, no part of the carcass shall be passed for human food. If the infestation is excessive, the carcass shall be condemned. If the infestation is moderate, the carcass may be passed for cooking, but in case the carcass is not cooked, as required by Part 29 of this Subchapter, it shall be condemned.
- (b) In the case of cervidae carcasses affected with tapeworm cysts (*Cysticercus ovis*, so-called sheep measles, not transmissible to a man), the carcasses may be passed for human food after the removal and condemnation of the affected portions: Provided, however, that if, upon the final inspection of cervidae carcasses retained on account of measles, the total number of cysts found embedded in muscular tissue, or in immediate relation with muscular tissue, excluding the heart, exceeds five, the entire carcass shall be condemned, or the carcass shall be heated throughout to a temperature of at least 140° F. after removal and condemnation of all affected portions.
- (c) Carcasses found infested with gid bladder worms (*Coenurus cerebralis*, *Multiceps multiceps*) may be passed for human food after condemnation of the affected organ (brain or spinal cord).
- (d) Organs or other parts of carcasses infested with hydatid cysts (*echinococcus*) shall be condemned.
- (e) Livers infested with flukes or fringed tapeworms shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-72. Emaciation

Carcasses of livestock too emaciated to produce wholesome meat, and carcasses that show a serous infiltration of muscle tissues, or a serous or mucoid degeneration of the fatty tissue, shall be condemned. A gelatinous change of the fat of the heart and kidneys of well-nourished carcasses and mere leanness shall not be classed as emaciation.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-73. Injured animals slaughtered at unusual hour

When it is necessary for humane reasons to slaughter an injured animal at unusual hours or on weekends or a holiday when the inspector cannot be obtained, the carcass and all parts shall be kept for inspection, with the head and all viscera except the stomach, bladder, and intestines held by the natural attachments. If all parts are not kept for inspection, the carcass shall be condemned. If, on inspection of a carcass slaughtered in the absence of an inspector, any lesion or other evidence is found indicating that the animal was sick or diseased, or affected with any other condition requiring condemnation of the animal on ante-mortem inspection, or if there is lacking evidence of the condition that rendered emergency slaughter necessary, the carcass shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-74. Carcasses of immature exotic livestock

Carcasses of immature exotic livestock are unwholesome and shall be condemned if:

- (1) The meat has the appearance of being water-soaked, is loose, flabby, tears easily, and can be perforated with the fingers; or
- (2) Its color is grayish-red; or
- (3) Good muscular development as a whole is lacking, especially noticeable on the upper shank of the leg, where small amounts of serous infiltrates or small edematous patches are sometimes present between the muscles; or
- (4) The tissues that later develops as the fat capsule of the kidneys is edematous, dirty yellow, or grayish red, tough, and intermixed with islands of fat.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-75. Unborn and stillborn animals

All unborn and stillborn animals shall be condemned and no hide or skin shall be removed from the carcass within a room in which edible products are handled.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-76. Livers affected with carotenosis; livers designated as "telangiectatic", "sawdust", or "spotted"

- (a) Livers affected with carotenosis shall be condemned.
- (b) Bovidae, Cervidae, and Antilocapridae livers showing the conditions sometimes designated as "telangiectatic," "sawdust," or "spotted" shall be disposed of as follows:
 - (1) When any or all of the conditions are slight in the organ, the whole organ shall be passed for human food without restriction.
 - (2) When any or all of the conditions are more severe than slight and involve less than one-half of the organ, while in the remainder of the organ the conditions are slight or nonexistent, the remainder shall be passed for human food without restriction and

the other portion shall be condemned.

(3) When any or all of the conditions are more severe than slight and involve one-half or more of the organ, the whole organ shall be condemned.

(4) The division of an organ into two parts as contemplated in this Paragraph for disposition, shall be accomplished by one cut through the organ. This, of course, does not prohibit incisions that are necessary for inspection.

(c) "Telangiectatic," "sawdust," or "spotted" livers and parts of livers that are condemned for human food may be shipped from an official establishment only for purposes other than human food in accordance with 35:37-11-100.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-77. Vesicular diseases

(a) Any carcass affected with a vesicular disease shall be condemned if the condition is acute and if the extent of the condition is such that it affects the entire carcass or there is evidence of absorption or secondary change.

(b) Any carcass affected with a vesicular disease to a lesser extent than as described in Subsection (a) of this Section may be passed for human food after removal and condemnation of the affected parts, if the carcass is healthy.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-78. Listeriosis

Carcasses of livestock identified as Oklahoma Suspects because of a history of listeriosis may be passed for human food after condemnation of the head if the carcass is normal.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-79. Anemia

Carcasses of livestock too anemic to produce wholesome meat shall be condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-80. Muscular inflammation, degeneration, or infiltration

(a) If muscular lesions are found to be distributed in a manner or to be of a character that removal is impractical, the carcass shall be condemned.

(b) If muscular lesions are found to be distributed in a manner or to be of a character that removal is impractical, the following rules shall govern the disposal of the carcasses, edible organs, and other parts of carcasses showing muscular lesions. If the lesions are localized in a manner and are of a character that the affected tissues can be removed, the non-affected parts of the carcass may be passed for human food after the removal and condemnation of the affected portion. If a part of the

carcass shows numerous lesions, or if the character of the lesion is such that complete extirpation is difficult and uncertainly accomplished, or if the lesion renders the part in any way unfit for human food, the part shall be condemned.

(c) If the lesions are slight or of a character as to be insignificant from a standpoint of wholesomeness, the carcass or parts may be passed for use in the manufacture of comminuted cooked product, after removal and condemnation of the visibly affected portions.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-81. Coccidioidal granuloma

(a) Carcasses that are affected with generalized coccidioidal granuloma or that show systemic changes because of disease shall be condemned.

(b) Carcasses affected with localized lesions of this disease may be passed for human food after the affected parts are removed and condemned.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-82. Odors, foreign and urine

(a) Carcasses that give off a pronounced odor of medicinal, chemical, or other foreign substance shall be condemned.

(b) Carcasses that give off a pronounced urine odor shall be condemned.

(c) Carcasses, organs, or parts affected by odor to a lesser degree than as described in Subsections (a) and (b) of this Section and in which the odor can be removed by trimming or chilling may be passed for human food, after removal of affected parts or dissipation of the condition.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-83. Biological residues

Carcasses, organs, or other parts of carcasses of exotic livestock shall be condemned if it is determined that they are adulterated because of the presence of any biological residues.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-84. Tuberculosis

(a) The entire carcass shall be condemned if any of the following conditions occur:

(1) When the lesions of tuberculosis are generalized (tuberculosis is considered to be generalized when the lesions are distributed in a manner made possible only by entry of bacilli into the systemic circulation).

(2) When the animal was observed to have a fever on antemortem inspection that was found to be associated with an active tuberculosis lesion on postmortem inspection.

(3) When there is an associated cachexia.

(4) When a tuberculosis lesion is found in any muscle or intramuscular tissue, or bone, or joint or any abdominal organ or in any lymph node as a result of draining a muscle, bone, joint, or abdominal organ.

(5) When the lesions are extensive in organs and tissues of either the thoracic or the abdominal cavity.

(b) Carcasses may be passed without restriction for human food only when the carcass of an exotic animal not identified as a reactor to a tuberculin test administered by APHIS, State or accredited veterinarian specifically approved by the Director is found free of tuberculosis lesions during postmortem inspection.

(c) When the carcass of exotic livestock of the families, bovidae, cervidae and antilocapridae identified as a reactor to a tuberculin test administered by APHIS, State, or approved accredited veterinarian is found free of lesions of tuberculosis, the carcass may be passed for cooking. Carcasses and parts passed for cooking may be used for the preparation of meat food products, provided all carcasses or parts are heated to a temperature not lower than 170° F. for a period of not less than 30 minutes either before being used in or during the preparation of the finished product. Product passed for cooking will not be removed from an official establishment until properly cooked in the official establishment or until arrangements acceptable to the Director have been made to adequately assure control over restricted product transported to another official establishment for cooking within the State of Oklahoma. Uncooked product that has been passed for cooking shall not be passed for use as animal food.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 23. OFFICIAL MARKS AND DEVICES

35:37-11-85. General

The marks and devices prescribed or referenced in this part shall be official marks and devices for the purposes of 2 O.S. Sections 6-290.1 through 6-290.13 and the rules of this Subchapter and shall be used in accordance with the provisions of this part and the rules cited therein.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-86. Official marks and devices to identify inspected and passed carcasses and products of exotic livestock

The official inspection legend or mark of inspection required by this Subchapter to be applied to inspected and passed exotic livestock carcasses, parts of carcasses, products, containers of products, and labels for products, shall be in the form and wording illustrated in Appendix E of Chapter 37. The number "G-38" shown in the illustration is given as an example only. The establishment number, assigned by the Director, for the official establishment where exotic livestock are slaughtered and dressed, or product is prepared, shall be used in lieu of,

except in ratites that shall bear the standard poultry stamp specified in 35:37-5-18. The size of the inspection legend shall be determined by the Director, and will be of sufficient proportion for the size of the carcasses, product packages, labels, and containers.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-87. Official antemortem inspection marks and devices

The official marks and devices used in connection with antemortem inspection are those prescribed in 35:37-11-43.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-88. Official seals for transportation of products

The official mark for use in sealing trucks or other means of conveyance as prescribed in Part 37 of this Subchapter shall be the inscription and serial number on any seal, approved by the Director for applying the mark. This seal shall be an official device for the purposes of 2 O.S. Section 6-290.9 and this Subchapter. This seal shall be attached to and removed from, the means of conveyance only by an authorized inspection employee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-89. Official marks and devices in connection with postmortem inspection and identification of adulterated products and insanitary equipment and facilities

(a) The official marks required by Parts 15 and 20 of this Subchapter, for use in postmortem inspection and identification of adulterated products and insanitary equipment and facilities are:

- (1) The "Oklahoma Retained" tag that is used to retain carcasses and parts of carcasses in the slaughter department; it is Red and White, and bears the legend "Oklahoma Retained." It is a four section tag used for all exotic livestock.
- (2) The "Oklahoma Retained" mark that is applied to products and articles as prescribed in Part 20 of this Subchapter by means of a paper tag bearing the legend "Oklahoma Retained".
- (3) The "Oklahoma Rejected" mark that is used to identify insanitary buildings, rooms, or equipment as prescribed in Part 15 of this Subchapter and is applied by means of a paper tag bearing the legend "Oklahoma Rejected."
- (4) The "Oklahoma Passed for Cooking" mark is applied on products passed for cooking as prescribed in Part 20 of this Subchapter by means of a brand (stamp) and is in the form illustrated in Appendix E of this Chapter.
- (5) The "Oklahoma Condemned" mark shall be applied to products condemned as prescribed in Part 20 of this Subchapter by means of a brand (stamp) and is in the form illustrated in Appendix E of this Chapter.

(b) The Oklahoma Retained and Oklahoma Rejected tags, and all other brands, stamps, labels, and other devices approved by the Director and bearing any official mark prescribed in this Section, shall be official devices for their prescribed purposes.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-90. Official detention marks and devices

The official mark for articles and livestock detained under Part 41 of this Subchapter shall be the designation of "Oklahoma Retained" and the official device for applying the mark shall be the official tag as prescribed in 35:37-11-89(a)(2).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 25. HUMANE SLAUGHTER AND HANDLING OF EXOTIC LIVESTOCK

35:37-11-91. Humane slaughter requirements for mobile slaughter establishments

- (a) It shall be required that all exotic livestock offered for slaughter at official mobile slaughtering establishments be stunned or killed in a humane manner with no undue distress or pain to the animal.
- (b) The minimum acceptable results of the killing or stunning of exotic livestock shall in all cases be complete unconsciousness and surgical anesthesia of the animal before it is thrown, cast, or cut.
- (c) It is understood that the stunning and killing of exotic livestock at official mobile slaughter establishments is generally done with firearms. Therefore, the individual performing this task must be highly competent and skilled in performing any stunning or killing of exotic livestock.
- (d) All firearms employed for the purpose of stunning or killing exotic livestock shall have sufficient power to discharge a projectile, whether factory loaded or a specially fabricated handload; of sufficient caliber, sufficient weight, and having sufficient mass and sectional density, with sufficient velocity, penetration, and resulting terminal energy; to consistently deliver complete unconsciousness with resulting surgical anesthesia or death to the animal with one shot. It is therefore recognized that small bore rimfire firearms are generally unacceptable for this task unless special permission for the use of these firearms is granted by the Director on an individual basis after due consideration of the shooting distances and of the species involved.
- (e) Furthermore, the projectile shall be delivered into the animal's brain or cervical portion of the spinal column only. This is necessary to insure that gross destruction does not occur to other internal organs that are required to be inspected for proper postmortem disposition of the carcass.
- (f) If the operator of the official mobile slaughtering establishment fails to meet any of the requirements of this Section, inspection services shall be immediately suspended by the inspector in charge until all requirements

of this Section are complied with.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-92. Pens, driveways, and ramps for exotic livestock

Pens, driveways, and ramps for exotic livestock are as specified in 9 CFR 313.1.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-93. Handling of exotic livestock

Handling of exotic livestock is as specified in 9 CFR 313.2.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-94. Acceptable methods of stunning

Acceptable methods of stunning are as specified in 9 CFR 313.15, and 313.30.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-95. Tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connections with slaughter

Tagging of equipment, alleyways, pens, or compartments to prevent inhumane slaughter or handling in connection with slaughter is as specified in 9 CFR 313.50.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 27. HANDLING AND DISPOSAL OF CONDEMNED CARCASSES AND PARTS OR OTHER INEDIBLE PRODUCTS

35:37-11-96. Carcasses of livestock condemned on antemortem inspection not to pass through edible product areas

Carcasses of livestock condemned on antemortem inspection shall not be taken through rooms or compartments in which an edible product is prepared, handled, or stored.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-97. Dead animal carcasses

(a) With the exception of dead exotic livestock that have died en route and are received with exotic livestock for slaughter at an official establishment, no dead animal or part of the carcass of any exotic livestock that died other than by slaughter may be brought on the premises of an official establishment unless advance permission is

obtained from the Director.

(b) Under no circumstances shall the carcasses of any animal that has died other than by slaughter, or any part thereof, be brought into any room or compartment in which any edible product is prepared, handled, or stored.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-98. Disposal of condemned carcasses and parts

All condemned carcasses, or parts of carcasses, shall be disposed of by one of the following methods, under the direct supervision of an authorized inspector: Facilities and materials for carrying out the requirements in this Section shall be furnished by the official establishment.

(1) Steam treatment (that shall be accomplished by processing the condemned product in a pressure tank under at least 40 pounds of steam pressure) or thorough cooking in a kettle or vat for a sufficient time to effectively destroy the product for human food purposes and preclude dissemination of disease through consumption by animals. Tanks and equipment used for this purpose or for rendering or preparing inedible products shall be in rooms or compartments separate from those used for the preparation of edible products. There shall be no direct connection, by means of pipes or otherwise, between tanks containing inedible products and those containing edible products.

(2) Incineration or complete destruction by an approved method of burning.

(3) Chemical denaturing, that shall be accomplished by the liberal application to all carcasses and parts thereof, of:

(A) Crude carbolic acid,

(B) Kerosene, fuel oil, or used crank case oil,

(C) Any phenolic disinfectant conforming to commercial standards CS 70-41 or CS 71-41 that shall be used in at least 2 percent emulsion or solution, or

(D) Any other substance that the Director approves that will decharacterize the carcasses or parts to the extent necessary to accomplish the purposes of this Section.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-99. Specimens for education, research, or other nonfood purposes

(a) Specimens of condemned or other inedible materials, including embryos and specimens of animal parasites, may be released for educational, research, or other nonfood purposes under permit issued by the Director: Provided, that the person desiring the specimens makes a written application to the Director for the permit and arranges with and receives permission from the official establishment to obtain the specimens. Permits shall be issued for a period not longer than one year.

The Director may revoke the permit if the specimens are not used as stated in the application, or if the collection or handling of the specimens interferes with inspection or the maintenance of sanitary conditions in the establishment.

(b) The specimens referred to in Subsection (a) of this Section shall be collected and handled only at a time and place and in a manner as not to interfere with the inspection or to cause any objectionable condition and shall be identified as inedible when they leave the establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-100. Livers condemned because of parasitic infestation and for other causes

(a) Livers condemned due to fluke infestation may be shipped from an official establishment only for purposes other than human food and only if they are first freely slashed, then identified and handled as provided in this Subsection. The identification shall be accomplished by either; dipping the slashed livers in a hot solution composed of one part FD&C green No. 3 or methyl violet to 5,000 parts of water, followed by washing in fresh water until the washings are no longer colored; or the application of charcoal. The liver shall be either frozen or cooked as prescribed in this Paragraph. Freezing shall be preceded by chilling the livers to a temperature not above 40° F. Livers packed in containers not more than 7 inches thick shall then be held for a period of not less than 10 days at a temperature not higher than 15° F. or for a period of not less than 5 days at a temperature not higher than 10° F. Livers packed in containers over 7 inches but less than 27 inches thick shall be held not less than 20 days at a temperature not higher than 15° F., or for not less than 10 days at a temperature not higher than 10° F. In lieu of freezing, the livers may be thoroughly cooked. It is essential that the livers be sufficiently identified through discoloration by the dye or charcoal to preclude their use as human food. Freezing may be accomplished in the regular freezer in a properly separated compartment or receptacle held under lock or seal by the inspector.

(b) Livers condemned due to hydatids or fringed tapeworms may be shipped from an official establishment only for purposes other than human food and only if they are thoroughly cooked, slashed, and identified as provided in Subsection (a) of this Section.

(c) Livers condemned due to parasites other than flukes, hydatids, or fringed tapeworms may be shipped from an official establishment without refrigeration or cooking but only for purposes other than food and only after slashing and identifying as indicated in Subsection (a) of this Section.

(d) Livers condemned for telangiectasis, angioma, "sawdust" condition, cirrhosis, or other nonmalignant change, being abscesses, or contamination, when these conditions are not associated with infectious diseases in the carcasses, may be shipped from an official establishment without refrigeration or cooking but only for purposes other than human food, and only if all tissue affected with abscesses is removed and destroyed within the establishment, and all the livers are slashed and

identified as indicated in Subsection (a) of this Section or with any proprietary substances approved by the Director in specific cases. (e) Livers identified as specified in this Section shall be placed in containers plainly marked "inedible" when shipped in commerce.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

PART 29. DISPOSAL OF CARCASSES AND PARTS PASSED FOR COOKING

35:37-11-101. Carcasses and parts passed for cooking; utilization for food purposes after cooking

Carcasses and parts passed for cooking may be used for the preparation of meat food products, provided all the carcasses or parts are heated to a temperature not lower than 170 degrees F. for a period of not less than 30 minutes either before being used in or during the preparation of the finished product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-102. Disposal of products passed for cooking if not handled according to this part

Products passed for cooking if not handled and processed in accordance with the provisions of this part, shall be disposed of in accordance with 35:37-11-98.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 31. MARKING PRODUCTS AND PRODUCT CONTAINERS

35:37-11-103. Authorization required to make devices bearing official marks

No brand manufacturer, printer, or other person shall cast, print, lithograph, or make or cause to be made any device containing any official mark or simulation without prior written authority from the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-104. Approval required for official marks

No device containing any official mark shall be made or caused to be made for use on any product until approved by the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-105. Use of official marks prohibited except under supervision of authorized inspection employee; removal of official marks, when required

(a) No person shall affix or place, or cause to be affixed or placed, the official inspection legend or any other official mark, or any abbreviation or simulation of any official mark, to or on any product, or container, except under the supervision of an authorized inspection employee.

(b) No person shall fill, or cause to be filled, in whole or in part, with any product, any container bearing or intended to bear any official mark, or any abbreviation or simulation of any official mark, except under the supervision of an authorized inspection employee.

(c) Product bearing any official mark shall not be canned, cooked, cured, smoked, salted, packed, rendered, or prepared by any person for commercial purposes unless:

(1) Preparation is performed at an official establishment; or

(2) Preparation is conducted under State or other recognized governmental inspection and the prepared product is marked to show that fact; or

(3) The official marks are removed, defaced, or destroyed before or during preparation; or

(4) The preparation of the product consists solely of cutting up operations at any establishment exempted from inspection under 2 O.S. Section 6-290.5 A(1).

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-106. Marking devices

(a) The operator of each official establishment shall furnish ink brands, burning brands, and any other devices for marking products with official marks as the Director may determine is necessary for marking products at the establishment. The official inspection legend or device shall be as prescribed in Part 23 of this Subchapter.

(b) All official devices for marking products with the official inspection legend, or other official marks, including self-locking seals, shall be used only under supervision of an authorized inspection employee and, when not in use for marking shall be kept locked in properly equipped lockers or compartments, the keys shall not leave the possession of the inspector, or the locker or compartment, shall be sealed with an official seal as prescribed in Part 23 of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-107. Branding ink; to be furnished by official establishment; approval by the Director; color

(a) The operator of each official establishment shall furnish all ink for marking products with the official marks at the establishment. Ink must be made with harmless ingredients that are approved for the purpose by the Director. Samples of ink shall be submitted to the State laboratory from time to time as deemed necessary by the inspector in charge.

(b) Only ink approved for the purpose shall be used to apply ink brands bearing official marks to carcasses of exotic livestock and fresh meat cuts derived therefrom. Any ink containing FD&C violet No. 1 shall not be considered an approved ink within the meaning of this Section.

(c) Green ink shall not be used to apply marks to carcasses of exotic livestock or fresh meat cuts derived therefrom.

(d) Except as provided in Subsection (b) of this Section, blue or purple branding ink, approved for the purpose by the Director in specific cases, may be used to apply ink brands, bearing official marks, to processed meat cuts derived from exotic livestock

(e) Ink used must assure legibility and permanence of the markings and the color of ink shall provide acceptable contrast with the color of the product to which it is applied.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-108. Products not to be removed from official establishments unless marked in accordance with the rules

No person shall remove or cause to be removed from an official establishment any products that the rules in this Subchapter require to be marked in any way unless they are clearly and legibly marked in compliance with the rules.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-109. Marking devices not to be false or misleading; style and size of lettering; approval required

No brand or other marking device shall be false or misleading. The letters and figures shall be of a style and type as will make a clear and legible impression. All markings to be applied to products in an official establishment shall be approved prior to use by the Director as provided for in 35:37-11-115.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-110. Products to be marked with official marks

Each carcass that has been inspected and passed in an official establishment shall be marked at the time of inspection with the official inspection legend containing the number of the official establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-111. Marking of outside containers

(a) When any inspected and passed product for domestic commerce is moved from an official establishment, the outside container shall bear an official inspection legend as prescribed in Part 23 of this Subchapter.

(b) When any product prepared in an official establishment for domestic commerce has been inspected and passed and is enclosed in a cloth or other wrapping, the wrapping shall bear the official inspection legend and official establishment number applied by the approved brand in the

form prescribed in Part 23 of this Subchapter; Provided, that the brand may be omitted if the official inspection legend and official establishment number on the product itself are clearly legible through the wrapping, or the wrapping is labeled in accordance with Part 33 of this Subchapter: Provided further, that plain unprinted wrappings, such as stockinettes, cheesecloth, paper, and crinkled paper bags, for properly marked products, that are used solely to protect the product against soiling or excessive drying during transportation or storage, need not bear the official inspection legend.

(c) The outside containers of any product that has been inspected and passed for cooking, shall bear the markings prescribed in Part 37 of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-112. Custom prepared products to be marked "not for sale"

Carcasses and parts of carcasses that are prepared on a custom basis shall be marked at the time of preparation with the term "Not for Sale" in letters at least three-eighths inch (3/8) in height, except that products need not be marked if in immediate containers properly labeled in accordance with the rules in 35:37-11-125. Ink used for marking the products must comply with the requirements of 35:37-11-107.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 33. LABELING

35:37-11-113. Labels required; supervision by inspector

(a) When, in an official establishment, any inspected and passed product is placed in any receptacle or covering constituting an immediate container, there shall be affixed to the container a label as described in 35:37-11-114 except that the following do not have to bear a label.

(1) Wrappings of dressed carcasses and primal parts in an unprocessed state, bearing the official inspection legend, if the wrappings are intended solely to protect the product against soiling or excessive drying during transportation or storage and the wrappings bear no information except company brand names, trade marks, or code numbers that do not include any information required by 35:37-11-114;

(2) Uncolored transparent coverings, such as cellophane, that bear no written, printed, or graphic matter and that enclose any unpackaged or packaged product bearing all markings required by Part 31 of this Subchapter that are clearly legible through the coverings;

(3) Animal and transparent artificial casings bearing only the markings required by this Subchapter;

(4) Stockinettes used as "operative devices", such as those applied to cured meats in preparation for smoking, whether or not

the stockinettes are removed following completion of the operations for which they were applied;

(5) Containers such as boil-in bags, trays of frozen dinners, and pie pans that bear no information except company brand names, trademarks, code numbers, directions for preparation and serving suggestions, and that are enclosed in a consumer size container that bears a label as described in 35:37-11-114;

(6) Containers of products passed for cooking or refrigeration and moved from an official establishment under 35:37-11-57.

(b) Folders and similar coverings made of paper or similar materials, whether or not they completely enclose the product and that bear any written, printed, or graphic matter, shall bear all features required on a label for an immediate container.

(c) No covering or other container that bears or is to bear a label shall be filled, in whole or in part, except with product that has been inspected and passed in compliance with the rules in this Subchapter, that is not adulterated and that is strictly in accordance with the statements on the label. No container shall be filled, in whole or in part, and no label shall be affixed to the container, except under supervision of an inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-114. Labels; required features

(a) Any word, statement, or other information required by this part to appear on the label must be prominently placed thereon with such conspicuousness (as compared with words, statements, designs, or devices, in the labeling) and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. In order to meet this requirement, information must appear on the principal display panel except as otherwise permitted in this part.

(b) Labels of all products shall show the following information on the principal display panel (except as otherwise permitted in this part), in accordance with the requirements of this Part.

(1) The name of the product, which in the case of a product that purports to be or is represented as a product for which a definition and standard of identity or composition is prescribed, shall be the name of the food specified in the standard, and in the case of any other product shall be the common or usual name of the food, if any, and if there is none, a truthful descriptive designation, as prescribed in Subsection (d) of this Section;

(2) If the product is fabricated from two or more ingredients, the word "ingredients" followed by a list of the ingredients as prescribed in Subsection (e) of this Section;

(3) The name and place of business of the manufacturer, packer, or distributor for whom the product is prepared, as prescribed in Subsection (f) of this Section;

(4) An accurate statement of the net quantity of contents, as prescribed in Subsection (g) of this Section;

- (5) An official inspection legend and, except as provided in Subsection (h) of this Section, the number of the official establishment, in the form required by Part 23 of this Subchapter;
- (6) Any other information necessary for the safe handling and storage of the product as required by the rules in this Part.

(c) The principal display panel shall be the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for sale. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon with clarity and conspicuousness and without obscuring of the information by designs or vignettes or crowding. In determining the area of the principal display panel, exclude tops, bottoms, flanges at tops and bottoms of cans, and shoulders and necks of bottles or jars. The principal display panel shall be:

(1) in the case of a rectangular package, one entire side, the area of which is at least the product of the height times the width of that side.

(2) in the case of a cylindrical or nearly cylindrical container:

(A) An area that is 40 percent of the product of the height of the container times the circumference of the container, or

(B) an area of at least one third of the product of the height times the circumference of the container; if immediately to the right or left of the area, there is an area reserved for information prescribed in Subsection (b), Paragraphs (2),(3), and (5) of this Section, equal to not more than 20 percent of the circumference.

(3) in the case of a container of any other shape, 40 percent of the total surface of the container.

(d) Any descriptive designation used as a product name for a product that has no common or usual name shall clearly and completely identify the product. Product that has been prepared by salting, smoking, drying, cooking, chopping, or other means shall be described on the label unless the name of the product implies, or the manner of packaging shows, that the product was subjected to the preparation. The unqualified terms "meat," "meat byproduct," "meat food product," and terms common to the meat industry but not common to consumers such as "picnic," "butt," "cala," "square," loaf," "spread," "delight," "roll," "plate," "luncheon," and "daisy" shall not be used as names of a product unless accompanied with terms descriptive of the product or with a list of ingredients, as deemed necessary in any specific case by the Director in order to assure that the label will not be false or misleading.

(e) The list of ingredients shall show the common or usual names of the ingredients arranged in their descending order of predominance, except as otherwise provided in this Subsection.

(1) The terms "flavorings" may be used to designate natural spices, essential oils, oleoresins and other natural spice extractives, and the term "spices" may be used to designate

natural spices, without naming each.

(2) The term "corn syrup" may be used to designate either corn syrup or corn syrup solids.

(3) When a product is coated with fat, gelatin, or other approved substance and a specific declaration of the coating appears contiguous to the name of a product, the ingredient statement need not make reference to the ingredients of the coating.

(4) On containers of frozen dinners, entrees, and similarly packaged consumer sized products in cartons, the ingredient statement may be placed on the front riser panel: Provided, that the words "see ingredients" followed immediately by an arrow is placed on the principal display panel immediately above the location of the statement without intervening print or designs.

(f) The name or trade name of the person that prepared the product may appear as the name of the manufacturer or packer without qualification on the label. Otherwise the name of the distributor of the product shall be shown with a phrase such as "Prepared for ***." The place of business of the manufacturer, packer or distributor shall be shown on the label by city, state, and postal zip code when the business is listed in a telephone or city directory, and if not listed in a directory, then the place of business shall be shown by street address, city, state, and postal zip code. The name and place of business of the manufacturer, packer, or distributor may be shown:

(1) On the principal display panel or

(2) On the 20 percent panel adjacent to the principal display panel reserved for required information or

(3) On the front riser panel of frozen food cartons.

(g) The requirements for the statement of net quantity of contents are:

(1) The statement of net quantity of contents shall appear on the principal display panel of all containers to be sold at retail intact and shall appear on all containers in conspicuous and easily legible boldface print or type in distinct contrast to other matter on the package and shall be declared in accordance with the provisions of this Subsection.

(2) The statement as it is shown on a label shall not be false or misleading and shall express an accurate statement of the quantity of contents of the container exclusive of wrappers and packing substances. Reasonable variations caused by loss or gain of moisture during the course of good distribution practices or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

(3) The statement shall be placed on the principal display panel within the bottom 30 percent of the area of the panel in lines generally parallel to the base: Provided, that on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the statement meets the other requirements of this Subsection. In any case, the statement may appear in more than one line, The terms "net

weight" or "net wt." shall be used when stating the net quantity of contents in terms of weight, and the term "net contents" or "content" when stating the net quantity of contents in terms of fluid measure.

(4) Where no general consumer usage to the contrary exists, the statement shall be in terms of liquid measure, if the product is liquid, or in terms of weight if the product is solid, semi-solid viscous or a mixture of solid and liquid. For example, a declaration of 3/4 pound avoirdupois weight shall be expressed as "Net Wt. 12 oz. except as provided for in Paragraph (5) of this Subsection for random weight packages; a declaration of 1 1/2 pounds avoirdupois weight shall be expressed as "Net Wt. 24 oz. (1 1/2 lbs.)" or "Net Wt. 24 oz. (1.5 lbs.)."

(5) On packages containing 1 pound or 1 pint and less than 4 pounds or 1 gallon, the statement shall be expressed as a dual declaration both in ounces and (immediately thereafter in parenthesis) in pounds, with any remainder in terms of ounces or common or decimal fraction of pound, or in the case of liquid measure, in the largest whole units with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart, except that on random weight packages the statement shall be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places, for packages over 1 pound, and for packages which do not exceed 1 pound the statement may be in decimal fractions of the pound in lieu of ounces.

(6) The statement shall be in letters and numerals in type size established in relationship to the area of the principal display panel of the same package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

(A) Not less than one-sixteenth inch in height on packages, the principal display panel of which has an area of 5 square inches or less;

(B) Not less than one-eighth inch in height on packages, the principal display panel that has an area of more than 5 but not more than 25 square inches;

(C) Not less than three-sixteenths inch in height on packages, the principal display panel of which has an area of more than 25 but not more than 100 square inches.

(D) Not less than one-quarter inch in height on packages, the principal display panel of which has an area of more than 100 but not more than 400 square inches.

(E) Not less than one-half inch in height on packages, the principal display panel of which has an area of more than 400 square inches.

(7) The ratio of height to width of letters and numerals shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide). Heights pertain to upper case of capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the

minimum standards. When fractions are used, each component numeral shall meet one-half the height in standards.

(8) The statement shall appear as a distinct item on the principal display panel and shall be separated by a space at least equal to the height of the lettering used in the statement from other printed label information appearing above or below that statement and by a space at least equal to twice the width of the letter "N" of the style of type used in the quantity of contents statement from other printed label information appearing to the left or right of the statement. It shall not include any term qualifying a unit of weight, measure, or count such as "jumbo quart," "full gallon," "giant quart," "when packed," "Minimum" or words of similar import.

(9) The following exemptions from the requirements contained in this Subsection are hereby established.

(A) Individually wrapped and labeled packages of less than 1/2 ounce net weight that are in a shipping container, need not bear a statement of net quantity of contents as specified in this Subsection when the statement of net quantity of contents on the shipping container meets the requirements of this Subsection.

(B) Random weight consumer size packages bearing labels declaring net weight, price per pound, and total price, shall be exempt from the type size, dual declaration and placement requirements of this Subsection, if an accurate statement of net weight is shown conspicuously and on the principal display panel of the package.

(10) Labels for containers that bear any representation as to the number of servings contained therein shall bear, contiguous to the representation, and in the same size type as is used for the representation, a statement of the net quantity of each serving.

(11) As used in this Section a "random weight package" is one that is one of a lot, shipment, or delivery of packages of the same product with varying weights and with no fixed weight pattern.

(12) On a multiunit retail package, a statement of the net quantity of contents shall appear on the outside of the package and shall include the number of individual units, the quantity of each individual unit, and in parentheses, the total net quantity of contents of the multiunit package in terms of avoirdupois or fluid ounces, except that the declaration of total quantity need not be followed by an additional parenthetical declaration in terms of the largest whole units and Subdivisions thereof, as required by Paragraph (5) and of this Subsection. For the purposes of this Subsection, "multiunit retail package" means a package containing two or more individually packaged units of the identical commodity and in the same quantity, with the individual packages intended to be sold as part of the multiunit retail package but capable of being individually sold in full compliance with all requirements of the rules in this Part. Open multiunit retail packages that do not obscure the number of units and the labeling thereon are not subject to this Subsection if the labeling

of each individual unit complies with the requirements of Paragraphs (2), (3), (5), and (8) of this Subsection. On multiunit retail packages, consisting of varied cuts, in the same package destined for resale as a complete unit, shall be labeled to indicate species, proper name of each cut and net weight of each cut or component part. In addition, the total net contents of the entire unit will be shown along with other label features.

(h) The requirements for the inspection legend and establishment number are:

(1) The official establishment number shall be either embossed or lithographed on all hermetically sealed metal, plastic or glass containers of products fully processed within the containers in an official establishment, except that the containers that bear labels lithographed directly on the container and in which the establishment number is incorporated need not have the establishment number separately embossed or lithographed thereon. Labels shall not be affixed to containers so as to obscure the embossed or lithographed establishment number.

(2) When any product is placed in a carton or in a wrapper of paper or cloth or in any other type of container approved by the Director, that is labeled in accordance with this Part, the official inspection legend and the official establishment number as specified in Subsection (b) of this Section, may be applied by means of a sticker to be securely and prominently affixed, along with the name of the product, at a place on the label reserved for the purpose. In case there are two or more display panels featuring the name of product, the inspection sticker shall be affixed to each panel.

(3) The official establishment number may be omitted from the official inspection legend on the immediate containers of frozen dinners and pies, and similarly packaged products when the official establishment number is placed on an end panel at the time of packaging and when it is presented on a single colored background in a prominent and legible manner in a size sufficient to insure easy recognition.

(4) The official establishment number may be omitted from the official inspection legend on consumer size packages of sliced meat food products when the official establishment number is printed on the label at the time of packaging and when it is presented on a single colored background in a prominent and legible manner in a size sufficient to insure easy recognition.

(5) The official establishment number may be omitted from the official inspection legend on consumer size containers of meat food products in aluminum pans or trays when the official establishment number is embossed on the pans or trays and when a statement such as "Est. No. on Pan" is placed contiguous to the official inspection legend on the container.

(6) The official establishment number may be omitted from the official inspection legend printed on artificial casings or bags enclosing meat food products when the official establishment number is etched in ink on a flat surface of a metal clip used to

close the container in a prominent and legible manner in a size sufficient to insure easy recognition and when a statement, such as, "Est. No. on Metal Clip" is placed contiguous to the official inspection legend on the casing or bag.

(7) The official establishment number may be omitted from the official inspection legend printed on paper labels of canned products when the official establishment number is printed on the principal display panel at the time of labeling the container, or the official establishment number may be printed on the back of the paper label when the statement "Est. No. On Back of Label" is printed contiguous to the official legend, in a prominent and legible manner in a size sufficient to insure easy recognition.

(i) Labels of any product within any of the following Paragraphs shall show the information required by the Paragraph for the product:

(1) A label for product that is an imitation of another food shall bear the word "imitation" immediately preceding the name of the food imitated and in the same size and style of lettering as in that name and immediately thereafter the word "ingredients" and the names of the ingredients arranged in the order of their predominance.

(2) If a product purports to be or is represented for any special dietary use by man, its label shall bear a statement concerning its vitamin, mineral, and other dietary properties upon which the claim for use is based in whole or in part and shall be in conformity with rules the Director may prescribe.

(3) When an approved artificial smoke flavoring or an approved smoke flavoring is added as an ingredient in the formula of a meat food product, there shall appear on the label, in prominent letters and contiguous to the name of the product, a statement such as "Artificial Smoke Flavoring Added" or "Smoke Flavoring Added," as may be applicable, and the ingredient statement shall identify any artificial smoke flavoring so added as an ingredient in the formula of the meat food product.

(4) When any other artificial flavoring is to be added to a product, the ingredient statement shall identify it as "Artificial Flavoring."

(5) When product is placed in a casing to which artificial coloring is applied there shall appear on the label, in a prominent manner and contiguous to the name of the product, the words, "Artificially colored."

(6) If a casing is removed from product at an official establishment and there is evidence of artificial coloring on the surface of the product, there shall appear on the label, in a prominent manner and contiguous to the name of product, the words "Artificially colored."

(7) When a casing is colored prior to its use as a covering for product and the color is not transferred to the product enclosed in the casing, no reference to color need appear on the label but no casing may be used if it is misleading or deceptive with respect to color, quality, or kind of product, or otherwise.

(8) Product that bears or contains any other artificial coloring shall bear a label stating that fact on the immediate container or

if there is none, on the product.

(9) When an antioxidant is added to product as permitted under Part 35 of this Subchapter, there shall appear on the label in prominent letters and contiguous to the name of the product, a statement identifying the officially approved specific antioxidant by its common name or abbreviation thereof and the purpose for which it is added, such as, "BHA, BHT and Propylgallate added to help protect flavor."

(10) Containers or other product packed in, bearing, or containing any chemical preservative shall bear a label stating that fact.

(j) Packaged products that require special handling to maintain their wholesome condition shall have prominently displayed on the principal display panel of the label the statement: "Keep Refrigerated," "Keep Frozen," "Perishable Keep Under Refrigeration," or a similar statement as the Director may approve in specific cases. Products that are distributed frozen during distribution and thawed prior to or during display for sale at retail shall bear the statement on the shipping container: "Keep Frozen." The consumer-size container for the products shall bear the statement "Previously Handled Frozen for Your Protection, Refreeze or Keep Refrigerated." For all perishable canned products the statement shall be shown in upper case letters one-fourth inch in height for containers having a net weight of 3 pounds or less, and for containers having a net weight over 3 pounds, the statement shall be in upper case letters at least one-half inch in height.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-115. Preparation of marking devices bearing inspection legend without advanced approval prohibited

Except for the purpose of submitting a sample or samples of the same to the Director for approval, no person shall procure, make or prepare, or cause to be procured, made, or prepared, labels, brands, or other marking devices bearing the inspection legend or any abbreviations, copy or representation thereof, for use on any product without the written authority of the Director. However, when any sample label, brand, or other marking device is approved by the Director, new supplies of the labels and new brands and other marking devices of a character exactly similar to the approved samples may be procured, made, or prepared, for use in accordance with the rules in this Subchapter, without further approval by the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-116. Labels to be approved by director

(a) Except as provided in Subsection (d) of this Section no label shall be used on any product until it has been approved in its final form by the Director. For the convenience of the establishment, sketches or proofs of new labels may be submitted in triplicate through the inspector in charge to the Director for approval and the preparation of finished labels deferred until the approval is obtained. All finished labels shall be

submitted in triplicate through the inspector in charge to the Director for approval. Postage fees for submittal of labels or sketches shall be at the establishment's expense.

(b) In case of lithographed labels, paper takeoffs in lieu of Section of the metal containers shall be submitted for approval. The paper takeoffs shall be in the form of a negative but shall be a complete reproduction of the label as it will appear on the package, including any color scheme involved. In case of fiber containers, printed layers, such as the kraft paper sheets, shall be submitted for approval in lieu of the complete container.

(c) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter and for use on, or to be placed within, containers and coverings of product shall be submitted for approval in the same manner as provided for labels in Subsection (a) of this Section, except that the inspector in charge may permit use of the devices that contain no reference to product and bear no misleading feature.

(d) Stencils, labels, box dies, and brands may be used on shipping containers and on immediate containers as tierces, barrels, drums, boxes, crates, and large-size fiberboard containers provided the markings are applicable to the product, are not false or deceptive, and are used with the approval of the inspector in charge. The inspection legend for use in combination with markings shall be approved by the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-117. Inspector in charge may permit modifications of approved labels

The inspector in charge may permit modification of approved labels, or markings, under the following circumstances, provided the labeling or marking as modified is used as not to be false or misleading:

- (1) When all features of the label or marking are proportionately enlarged and the color scheme remains the same;
- (2) When there is substitution of the abbreviations as "lb." for "pound," or "oz." for "ounce," or the word "pound" or "ounce" is substituted for the abbreviations;
- (3) When a master or stock label has been approved from which the name and address of the distributor are omitted and the name and address are applied before being used (in such case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
- (4) When during Christmas and other holiday seasons, wrappers or other covers bearing floral or foliage designs or illustrations of rabbits, chicks, fireworks, or other emblematic holiday designs are used with approved labels or markings. (The use of the designs will not make necessary the application of labeling not otherwise required);
- (5) When there is a slight change in arrangement of directions pertaining to the opening of cans or the serving of the product;

(6) When there is a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label: Provided, that the change in quantity of ingredients complies with any minimum or maximum limits for the use of an ingredients prescribed in Parts 35 and 37 of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-118. Approved labels to be used only on products to which they are applicable

Labels shall be used only on products for which they are approved, and only if they have been approved for the products: Provided, that existing stocks of labels approved prior to the effective date of this Section and the quantity of which has been identified to the inspector in charge as being in storage on said date at the official establishment or other identified warehouse for the account of the operator of the official establishment may be used until the stocks are exhausted, but not later than one year after the effective date of this Section unless the labels conform to all the requirements of this Part. The Director may upon the show of good cause grant individual extensions of times as deemed necessary.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 22 Ok Reg 2310, eff 7-11-05]

35:37-11-119. False or misleading labeling or practices

No product or any of its wrappers, packaging, or other containers shall bear any false or misleading marking, label, or other labeling and no statement, word, picture, design, or device that conveys any false impressions or gives any false indication of origin or quality or is false or misleading shall appear in any marking or other labeling. No product shall be wholly or partly enclosed in any wrapper, packaging, or other container that is made, formed, or filled as to be misleading.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-120. Reuse of official inspection marks, reuse of containers bearing official marks, labels, etc.

(a) No official inspection legend or other official mark that has been previously used shall be used again for the identification of any product, except as provided for in Subsection (b) of this Section.

(b) All stencils, marks, labels, or other labeling on previously used containers, whether relating to any product or otherwise, shall be removed or obliterated before the containers are used for any product, unless the labeling correctly indicates the product to be packed therein and the containers are refilled under the supervision of an inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-121. Labeling, filling of containers, handling of labeled products to be only in compliance with rules

(a) No person shall in any official establishment apply or affix, or cause to be applied or affixed, any label to any product prepared or received in an establishment, or to any container, or fill any container at an establishment, except in compliance with the rules in this Subchapter.

(b) No covering or other container shall be filled, in whole or in part, at any official establishment with any product unless it has been inspected and passed in compliance with the rules in this Subchapter, it is not adulterated, and is strictly in accordance with the statements on the label, and the filling is done under the supervision of an inspector.

(c) No person shall remove, or cause to be removed from an official establishment any product bearing a label unless the label is in compliance with the rules in this Subchapter, or any product not bearing a label required by the rules.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-122. Relabeling products; requirements

When it is claimed by an official establishment that any of its products that bore labels bearing official marks has been transported to a location other than an official establishment, and it is desired to relabel the product because the labels have become mutilated or damaged, a request for relabeling the product shall be sent to the Director, accompanied with a statement of the reasons. Labeling material intended for relabeling inspected and passed product shall not be transported from an official establishment until permission has been received from the Director. The relabeling of inspected and passed product with labels bearing any official marks shall be done under the supervision of an inspector. The official establishment shall reimburse the Meat Inspection Services, in accordance with the rules of the Board, for any cost involved in supervising the relabeling of the product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-123. Storage and distribution of labels and containers bearing official marks

Labels, wrappers, and containers bearing any official marks, with or without the establishment number, may be transported from one official establishment to any other official establishment provided the shipments are made with the prior authorization of the inspector in charge at point of origin, who will notify the inspector in charge at destination concerning the date of shipment, quantity, and type of labeling material involved. No material shall be used at the establishment to which it is shipped unless the use conforms with the requirements of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-124. Reporting of obsolete labels

Once a year or more often if necessary, the operator of each official establishment shall submit to the Director in quadruplicate, a list of approved labels no longer used or a list of the documents issued by the Director approving the labels involved. The approved labels shall be identified by the approved number, the date of approval, and the name of the product, or other designation showing the class of labeling material.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-125. Labeling and containers of custom prepared products

(a) Products that are custom prepared must be packaged immediately after preparation and labeled in lieu of information otherwise required by this Part with the following information in accordance with 35:37-11-114 conspicuously displayed on the principal display panel:

- (1) The words "Not for Sale" in lettering not less than three-eighths inches in height;
- (2) The name of the product.
- (3) The word "ingredients" followed by a list of ingredients if the product is made from two or more ingredients;
- (4) The name and place of business of the custom operator who prepared the product;
- (5) An accurate statement of the quantity of contents;
- (6) Handling instructions, if necessary, to insure that the public will be informed of the manner of handling required to maintain the product in a wholesome condition; and
- (7) Any other information required to appear on the label, except the official inspection legend.

(b) The exempted custom prepared products shall not have false or misleading labeling on containers or be misbranded.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

**PART 35. ENTRY INTO OFFICIAL ESTABLISHMENT;
REINSPECTION AND PREPARATION OF PRODUCTS**

35:37-11-126. Products and other articles entering official establishments

(a) Except as otherwise provided in Subsections (e) and (f) of this Section or 35:37-11-134, no product shall be brought into an official establishment unless it has been prepared only in an official establishment, State or Federal, and previously inspected and passed by such and is identified by an official inspection legend as inspected and passed. Products received in an official establishment during the inspector's absence shall be identified and maintained in a manner acceptable to the inspector. Product entering any official establishment shall not be used or prepared until it has been reinspected in accordance

with 35:37-11-127. Any product originally prepared at any official establishment may not be returned into any part of establishment, except the receiving area approved under 35:37-11-128, until it has been reinspected by the inspector.

(b) The operator of the official establishment shall furnish information as is necessary to determine the origin of any product or other article entering the official establishment. Information shall include, but is not limited to, the name and address of the seller or supplier, transportation company, agent, or broker involved in the sale or delivery of the product or article in question.

(c) Every article for use as an ingredient in the preparation of meat food products, when entering any official establishment and at all times while it is in the establishment, shall bear a label showing the name of the article, the amount or percentage of any substances restricted by this Part or Part 33 of this Subchapter, and a list of ingredients in the article if composed of two or more ingredients. In addition, the label must show the name and address of the shipper.

(d) Dyes, chemicals, or other substances, the use of which is restricted to certain products, may be brought into or kept in an official establishment only if the products are prepared at the establishment. No prohibited dye, chemical, preservative or other substance shall be brought into or kept in an official establishment.

(e) Carcasses of game animals, and carcasses derived from the slaughter by any person of livestock of the person's own raising and parts of the carcasses, may be brought into an official establishment for preparation, packaging, and storing in accordance with the provisions of this Subchapter.

(f) Glands and organs, such as cotyledons, ovaries, prostrate glands, tonsils, spinal cords, and detached lymphatic, pineal, pituitary, parathyroid, suprarenal, pancreatic and thyroid glands, used in preparing pharmaceutical, organotherapeutic or technical products and that are not used as human food (whether or not prepared at official establishments) may be brought into and stored in edible product departments of inspected establishments if packaged in suitable containers so that the presence of the glands and organs will in no way interfere with the maintenance of sanitary conditions or constitute an interference with inspection. Glands or organs that are regarded as human food products, such as livers, testicles, and thymus glands, may be brought into official establishments for pharmaceuticals organotherapeutic or technical purposes, only if inspected and passed and identified.

(g) Any product or other article that is brought into an official establishment contrary to any provision of this Section may be required by the Director to be removed immediately from the establishment by the operator, and failure to comply with the requirement shall be deemed a violation of this Subchapter.

35:37-11-127. Reinspection, retention, and disposal of exotic livestock products at official establishments

(a) All products brought into any official establishment shall be identified by the operator of the official establishment at the time of receipt at the official establishment and shall be subject to reinspection by an inspector at the official establishment in a manner and at times as may be deemed necessary by the District Supervisor to assure compliance with the rules in this Subchapter.

(b) All products, whether fresh, cured, or prepared, even though previously inspected and passed, shall be reinspected by authorized inspection employees as often as the inspector may deem necessary in order to ascertain that the products are not adulterated or misbranded at the time the products enter or leave official establishments and that the requirements of the rules in this Subchapter are complied with.

(c) Reinspection may be accomplished through use of statistically sound sampling plans that assure a high level of confidence. The District Supervisor shall designate the type of plan and the inspector shall select the specific plan to be used in accordance with instructions issued by the District Supervisor.

(d) An Oklahoma retained tag shall be placed by an inspector at the time of reinspection at any official establishment on all products that are suspected on reinspection of being adulterated or misbranded, and the products shall be held for further inspection. The tags shall be removed only by authorized inspection employees. When further inspection is made, if the product is found to be adulterated, all official inspection legends or other official marks for which the product is found to be ineligible under the rules in this subchapter, shall be removed or defaced and the product will be subject to condemnation and disposal in accordance with Part 27 of this Subchapter, except that a determination regarding adulteration may be deferred if a product has become soiled or unclean by falling on the floor or in any other accidental way or if the product is affected with any other condition that the inspector deems capable of correction, in that case the product shall be cleaned (including trimming if necessary) or handled in a manner approved by the inspector to assure that it will not be adulterated or misbranded and shall then be presented for reinspection and disposal in accordance with this Section. If upon final inspection, the product is found to be neither adulterated nor misbranded, the inspector shall remove the Oklahoma retained tag. If a product is found upon reinspection to be misbranded, it shall be held under an Oklahoma retained tag, pending correction of the misbranding, or the institution of a judicial seizure action or other appropriate action. The inspector shall make a complete record of each transaction under this Subsection and shall report the action to the district supervisor.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-128. Designation of places of receipt of products and other articles for reinspection

Every official establishment shall designate, with the approval of the Circuit Supervisor, a dock or place at which products and other

articles subject to reinspection under 35:37-11-127 shall be received, and the products and articles shall be received only at the dock or place.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-129. Preparation of products to be officially supervised; responsibilities of official establishments

(a) All processes used in curing, pickling, rendering, canning, or preparing any product in official establishments shall be supervised by authorized inspectors. No fixtures or appliances, such as tables, trucks, trays, tanks, vats, machines, implements, cans or containers of any kind, shall be used unless they are of such materials and construction as will not contaminate or adulterate the product and are clean and sanitary. All steps in the preparation of edible products shall be conducted carefully and with strict cleanliness in rooms or compartments separate from those used for inedible products.

(b) It shall be the responsibility of the operator of every official establishment to comply with the Act and the rules in this Subchapter. In order to effectively carry out the operator's responsibility, the operator of the establishment shall institute appropriate control programs to assure the maintenance of the establishment and the preparation, marking, labeling, packaging and other handling of its product strictly in accordance with the sanitary and other requirements of this Subchapter. The efficiency of the control programs will be subject to review by an authorized inspector.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-130. Requirements concerning procedures

(a) Care shall be taken to assure that product is not adulterated when placed in the freezer. If there is doubt as to the soundness of any frozen product, the inspector will require the defrosting and reinspection of a sufficient quantity of the product to determine its actual condition.

Frozen product may be defrosted in water or pickle in a manner and with the use of facilities that are acceptable to the inspector. Before the product is defrosted, careful examination shall be made to determine its condition. If necessary, this examination shall include defrosting of representative samples by means other than in water or pickle.

(b) Care shall be taken to remove bones and parts of bones from product that is intended for chopping.

(c) Kidneys for use in the preparation of meat food products shall first be freely sectioned and then thoroughly soaked and washed. All detached kidneys, shall be inspected before being used in or shipped from the official establishment.

(d) Clotted blood shall be removed from hearts before they are shipped from the official establishment or used in the preparation of exotic meat food products.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-131. Requirements concerning ingredients and other articles used in preparation of products

All ingredients and other articles used in the preparation of any product shall be clean, sound, healthful, wholesome, and will not result in the product's being adulterated. Official establishments shall furnish inspectors accurate information on all procedures involved in product preparation including product composition and any changes in the procedures essential for inspectional control of the product.

- (1) Due to the inevitable presence of bone splinters, detached spinal cords shall not be used in the preparation of edible product.
- (2) Testicles if handled as an edible product may be shipped from the official establishment as such, but they shall not be used as an ingredient of a meat food product.
- (3) Tonsils shall be removed and shall not be used as ingredients of meat food products.
- (4) Intestines shall not be used as ingredients of meat food products.
- (5) Poultry products and egg products (other than shell eggs) that are intended for use as ingredients of exotic livestock products shall be considered acceptable for use only when identified as having been inspected and passed for wholesomeness and when found to be sound and acceptable when presented for use. Poultry products and egg products (other than shell eggs) that have not been inspected and passed for wholesomeness shall not be used in the preparation of meat food products.
- (6) Dry milk products that are intended for use as ingredients of eat food products shall be considered acceptable for use only when produced in a plant approved by U.S.D.A. and when found to be sound and acceptable when presented for use. Dry milk products prepared in a plant not approved shall not be used in the preparation of exotic livestock food products.
- (7) Ingredients for use in any product may not bear or contain any pesticide chemical or other residues in excess of levels permitted in 35:37-11-137.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-132. Approval of substances for use in the preparation of products

- (a) No chemical substance may be used in the preparation of any product unless it is approved in this Part of this Subchapter or by the Director in specific cases.
- (b) No product shall bear or contain any substance that would render it adulterated or that is not approved in this Part of this Subchapter or by the Director in specific cases.
- (c) Under appropriate declaration as required in Parts 31 and 33 of this Subchapter, the following substances may be added to products:
 - (1) Common salt, approved sugars [sucrose (cane or beet sugar), maple sugar, dextrose, invert sugar, honey, corn syrup solids, corn

syrup and glucose syrup], wood smoke, vinegar, flavorings, spices, sodium nitrate, sodium nitrite, potassium nitrate, potassium nitrite, and other substances specified in Paragraph (3) of this Subsection may be added to products under conditions, if any, specified in this Part or in Part 33 of this Subchapter.

(2) Other harmless artificial flavoring may be added to products with the approval of the Director in specific cases.

(3) A list of additional substances that are acceptable for use in the preparation of exotic livestock products, including the substances intended use and limits is available upon request.

(d) No substance may be used in or on any product if it conceals damage or inferiority or makes the product appear to be better or of greater value than it is.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-133. Samples of products, water, dyes, chemicals, etc., to be taken for examination

Sample of products, water, dyes, chemical, preservatives, spices, or other articles in any official establishment shall be taken, without cost to the Department, for examination, as often as deemed necessary for the efficient conduct of the inspection.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-134. Manufacture of dog food or similar uninspected article at official establishment

(a) When dog food or similar uninspected article is manufactured in a part of an official establishment, the area in which the article is manufactured shall be separated from edible product departments in the manner required for separation between edible product departments and inedible product departments. Sufficient space must be allotted and adequate equipment provided so that the manufacture of the uninspected article does not interfere with the proper functioning of the other operations at the establishment. Nothing in this Section shall be construed as permitting any deviation from the requirement that dead animals, condemned products, and similar materials of whatever origin, must be placed in the inedible product handling area, and without undue delay. The manufacture of the uninspected article must be such as not to interfere with the maintenance of general sanitary conditions on the premises, and it shall be subjected to inspectional supervision similar to that exercised over other inedible product departments. There shall be no movement of any product from an inedible product department to any edible product department. Trucks, barrels, and other equipment shall be cleaned before being returned to edible product departments from inedible product departments. Inoffensive material prepared outside edible product departments may be stored in, and distributed from edible product departments only if packaged in clean, properly identified, sealed containers.

(b) Animal food shall be distinguished from articles of human food to avoid distribution of the animal food as human food. To accomplish this, the animal food shall be properly decharacterized and labeled as animal food.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-135. Adulteration of products by flood water, etc.; procedures for handling

(a) Any product at any official establishment that has been adulterated by contamination with flood water, harbor water, or other polluted water, shall be condemned. This would not apply to product in sound, hermetically sealed containers.

(b) After flood water has receded at an official establishment, the operator shall cause its employees to thoroughly cleanse all walls, ceilings, posts, and floors of the rooms and compartments involved, including the equipment, under the supervision of an inspector. An adequate supply of hot water under pressure, is essential for effective cleansing of the rooms and equipment. After cleansing, a solution of sodium hypochlorite containing approximately half of 1 percent available chlorine (5,000 parts per million) or other disinfectant approved for the purposes of Part 15 of this Subchapter shall be applied to the surface of the rooms. Where the solution has been applied to equipment that will afterwards contact meat, the equipment shall be rinsed with potable water before being used. All metal should be rinsed with potable water to prevent corrosion.

(c) Hermetically sealed metal containers of product that have been submerged or contaminated by flood water, harbor water, or other polluted water shall be rehandled promptly under supervision of an inspector at the official establishment as follows:

(1) Separate and condemn all product the containers of which show extensive rusting or corrosion, as might materially weaken the container, as well as any swollen, leaky or suspected container.

(2) Remove paper labels and wash the containers in warm soapy water using a brush where necessary to remove rust or other foreign material, immerse in a solution of sodium hypochlorite containing not less than 100 parts per million of available chlorine or other disinfectant approved for the purposes of Part 15 of this Subchapter and rinse in potable water and dry thoroughly.

(3) After handling as described in Paragraph (2) of this Subsection, the containers may be relacquered, if necessary, and then relabeled with approved labels applicable to the product therein.

(4) The identity of the canned product shall be maintained throughout all stages of the rehandling operations, to insure correct labeling of the containers.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-136. Tagging chemicals, preservatives, cereals, spices, etc., "Oklahoma retained"

When any chemical, preservative, cereal, spice, or other substance is intended for use in an official establishment it shall be examined by an inspector and if found to be unfit or unacceptable for the use intended, or if final decision regarding acceptance is deferred pending laboratory or other examination, the inspector shall attach an "Oklahoma Retained" tag to the substance or container. The substance tagged shall be kept separate from other substances as the inspector in charge may require and shall not be used until the tag is removed, and the removal shall be made only by an inspector after a finding that the substance can be accepted, or, in the case of an unacceptable substance, when it is removed from the establishment.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-137. Pesticide chemicals and other residues in products

(a) Residues of pesticide chemicals, food additives and color additives, and other substances in or on ingredients (other than meat, meat by-products, and meat food products) used in the formulation or products shall not exceed the levels permitted under the Federal Food, Drug, and Cosmetic Act, and nonmeat ingredients must be in compliance with the requirements under that Act.

(b) Products, and products used as ingredients of products, shall not bear or contain any pesticide chemical, food additives, or color additives, or color additive residue in excess of the level permitted under the Federal Food, Drug, and Cosmetic Act, and the rules in this Subchapter, or any other substance that is prohibited by rules or that makes the products adulterated.

(c) Instructions specifying the standards and procedures for determining when ingredients of finished products are in compliance with this Section shall be issued to the inspectors by the Director. Copies of the instructions will be made available to interested persons upon request made to the Director.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-138. Animal drug residues

Animal drug residues are not permitted in exotic livestock and exotic livestock products except at the current permissible tolerance levels established and published as the maximum allowed levels for food animals by the Federal Food and Drug Administration.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

**PART 37. STANDARDS OF IDENTITY; RECORD;
REGISTRATION AND TRANSPORTATION**

35:37-11-139. General requirements

(a) Fabricated products derived from exotic livestock or a combination of exotic livestock and other inspected species that are ground, chopped, mixed, stuffed, formed, salted, spiced, flavored, seasoned, cooked, smoked, dried, fermented, pickled, canned, or subjected to recognized and acceptable processing methods, and that shall be offered for sale as articles of intrastate commerce, shall be properly labeled and identified as required in Part 33 of this Subchapter.

(b) Therefore, all products described in Subsection (a) of this Section shall be thoroughly evaluated by the Director before any label approval is granted.

(c) If the products described in Subsection (a) of this Section are similar to products that are processed from other domestic livestock species for which a recognized standard(s) exist, the product name shall then be the same as the name of the recognized product after proper specification of the species as part of the product name.

(d) If the products described in Subsection (a) of this Section are not similar to any products that are processed from other domestic livestock species for which a recognized standard(s) exist, the name of the product shall then be a name that completely and accurately describes the product and its contents.

(e) The requirements of this part shall not derogate from other labeling requirements in Part 33 of this Subchapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-140. Records, registration and reports

Records, registration, and reports are as specified in 2 O.S., Section 6-290.8.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-141. General requirements

General requirements for transportation are as specified in OAC 35:37-3-22.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

PART 39. CANNING [RESERVED]

PART 41. DETENTION, SEIZURE AND CONDEMNATION

35:37-11-142. Exotic livestock and products subject to administrative detention

Any carcass, part of a carcass, meat or meat food product of exotic livestock is subject to detention for a period not to exceed 20 days when

found by any authorized representative of the Board upon any premises where it is held for purposes of or during or after distribution of intrastate commerce, and there is reason to believe that:

- (1) Any article is adulterated or misbranded and is capable of use as human food; or
- (2) Any article has not been inspected, in violation of the Exotic Livestock and Exotic Livestock Products Inspection Act or the Federal Food, Drug, and Cosmetic Act; or
- (3) Any article or exotic livestock has been or is intended to be distributed in violation of any laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-143. Method of detention; form, or detention tag

An authorized representative of the Board shall detain any article or exotic livestock to be detained under this part, by affixing an official "Oklahoma Retained Tag" to the article or exotic livestock.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-144. Notification of detention to the owner of the article or exotic livestock detained, or agent, or person having custody

- (a) An authorized agent of the Board shall give oral notification of detention to the immediate custodian of the article or exotic livestock being detained.
- (b) An authorized agent of the Board shall furnish, as soon as possible, a copy of a completed "Notice of Detention" to the immediate custodian of the detained article or exotic livestock.
- (c) If the owner of the detained article or exotic livestock, or the owner's agent is not the immediate custodian at the time of detention and if the owner, or owner's agent, can be ascertained and notified, an authorized agent of the Board shall furnish, as soon as possible, a copy of the completed "Notice of Detention" to the owner, or the owner's agent.
- (d) The "Notice of Detention" shall be delivered by personal service or certified mail to the owner or owner's agent at the last known residence or principal place of business.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-145. Notification of governmental authorities having jurisdiction over article or exotic livestock detained; form or written notification

Within 48 hours after the detention of any exotic livestock or article pursuant to this part an authorized representative of the Board shall give oral or written notification of the detention to any State authorities not connected with the Division, and any State or other governmental authorities, having jurisdiction over exotic livestock or article. In the event notification is given orally, it shall be confirmed in writing, as promptly as circumstances permit.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-146. Movement of article or exotic livestock detained; removal of official marks

No article or exotic livestock detained in accordance with the provisions in this part shall be moved by any person from the place at which it is located when detained, until released by an authorized representative of the Board: Provided, that any article or exotic livestock may be moved from the place at which it is located when detained, for refrigeration, freezing, or storage purposes if movement has been approved by an authorized representative of the Board: And provided further, that the article or exotic livestock moved will be detained by an authorized representative of the Board after the movement until the detention is terminated. When the detention of the article or exotic livestock is terminated, the owner, or agent or the carrier or other person in possession of the article or exotic livestock who was notified when the article or exotic livestock was detained, will receive notification of the termination. The notification "Notice of Termination of Detention" shall be served by either delivering the notice to the person, or by certified mail to the last known residence or principal office or place of business. All official marks may be required by the representative to be removed from the article or exotic livestock before it is released unless it appears to the satisfaction of the representative that the article or exotic livestock is eligible to retain the marks.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-147. Articles or exotic livestock subject to judicial seizure and condemnation

Any carcass, part of a carcass, meat or meat food product, or any dead, dying, disabled, or diseased exotic livestock, that is being transported in commerce or is subject to the Act, or is held for sale in the State after transportation, is subject to seizure and condemnation, in a judicial proceeding under the Act if the article or exotic livestock:

- (1) is or has been prepared, sold, transported, or distributed or offered or received for distribution in violation of the Act, or
- (2) is capable of use as human food and is adulterated or misbranded, or
- (3) in any other way is in violation of the Act.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-148. Procedure for seizure, condemnation, and disposition

Any article or exotic livestock subject to seizure and condemnation under this part shall be liable to be proceeded against and seized and condemned, and disposed of, at any time, on an appropriate pleading in any district court, or other proper court specified in the Act, within the jurisdiction of which the article or exotic livestock is found.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-149. Authority for condemnation or seizure under other provisions of law

The provisions of this part relating to seizure, condemnation, and disposition of articles or exotic livestock do not derogate from authority for condemnation or seizure conferred by other provisions of the Act, or other laws.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-11-150. Action taken when plant is identified as insanitary

(a) When upon inspection of a plant an inspector finds indication of any of the following conditions, the Director shall be notified by telephone call of the fact:

- (1) Nonpotable water being used in departments producing edible product. Nonpotable means unsafe by laboratory determinations.
- (2) Product being prepared is subjected to an environment that allows or will allow bacterial growth and development or result in the entry of foreign matter in the product and therefore is insanitary. This includes failure to control vermin and insects.
- (3) When carcasses or parts show evidence of contamination or insanitary condition or systemic disease condition or evidence of bearing diseases transmissible to man, or in any manner adulterated.
- (4) Meats exhibiting the characteristics of spoilage being used in processing meat food products.
- (5) The presence of excessive amounts of approved chemicals, or the presence of foreign material, prohibited chemicals, and preservatives.

(b) Further, the inspector shall inform the plant operator of the fact. If the Director is not satisfied that the condition will be immediately corrected, the Director may order the facility immediately stop sale and may withdraw inspection. The Stop-Sale Order shall remain effective until lifted by the Director, the Board, or appropriate court order. The Order shall include the setting of a show cause hearing before the Director at a time and date certain when the plant operator may appear, with counsel if desired, to show cause why inspection should be restored. Appeal of the Director's order following the show cause hearing is to the State Board of Agriculture en banc.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

SUBCHAPTER 13. MILK AND MILK PRODUCTS

35:37-13-1. Purpose

The rules of this chapter implement the Oklahoma Milk and Milk Products Act, 2 O.S. Section 7-401, et seq.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-2. Incorporations by reference

(a) Adopted references.

(1) PMO. "Grade A Pasteurized Milk Ordinance with Administrative Procedures - 2019 Recommendations," including Appendices A through T thereto, hereinafter referred to as the "PMO," as published in the Grade A Pasteurized Milk Ordinance, 2019 Revisions, by the Department of Health and Human Services, Public Health Service/Food and Drug Administration, Washington, D.C. is hereby incorporated by reference.

(2) Code of Federal Regulations. Where mention is made to any section or sections of the Code of Federal Regulations in the PMO, that section or sections shall be incorporated by reference. The State Board of Agriculture declares that, by incorporating the PMO by reference, it does not intend to create any inconsistency with the Oklahoma Milk and Milk Products Act, in the event there may be any inconsistency.

(3) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program on the National Conference on Interstate Milk Shipments (Procedures), 2019 Revision.

(4) Methods of Making Sanitation Ratings of Milk Shippers and the Certifications/Listings of Single-Service Containers and/or Closures for Milk and/or Milk Products Manufacturers (MMSR), 2019 Revision.

(5) Evaluation of Milk Laboratories (EML), 2019 Revision.

(b) Exceptions.

(1) Section 16, "Penalty" is not incorporated by reference.

(2) Section 17, "Repeal and Date of Effect" is not incorporated by reference.

(3) Section 5, "Certified Industry Inspection" is not incorporated by reference.

(4) Appendices E, "Examples of 3-out-of-5 Compliance Enforcement Procedures" is not incorporated by reference.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 24 Ok Reg 1779, eff 6-25-07 ; Amended at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 34 Ok Reg 837, eff 9-11-17 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-13-3. Terms for interfacing with the PMO and the DMO [REVOKED]

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked at 25 Ok Reg 1052, eff 7-1-08]

35:37-13-4. Suspension and revocation

(a) The Department shall immediately, upon receipt of the appropriate analysis, or upon a second consecutive inspection disclosing gross neglect of cleaning of milk contact surfaces, or upon refusal of permission to inspect a facility, notify and suspend the permit of a dairy farm or milk plant in accordance with the provisions of 2 O.S. Section 7-410. The Department may, after providing notice of intent, suspend or revoke a permit upon a finding of continuing and multiple violations of the Milk and Milk Products Act. The Department may summarily suspend a permit when public health, safety, or welfare imperatively requires such, in accordance with the Administrative Procedures Act. In all cases, opportunity shall be provided for a hearing upon the request of the permit holder.

(b) Notices provided for in 35:37-13-4(a) to the permit holder, shall be made in person, by posting on the premises or by mail, or to the designee of the permit holder according to the election made at the time of application for the permit. The Department may, for those facilities that have not had an opportunity to designate, presume that the Producer Association or company that purchases milk has been designated. Notices provided for in 35:37-13-4(a) shall contain a short and plain statement of the violation or violations involved, including the specific statute, rule or regulation violated. If a hearing is requested, further notice shall be provided, conforming to 75 O.S., Section 309, as to date, time and nature of the hearing, and all other matters contained in the Administrative Procedures Act.

(c) The Department may also send copies of notices provided for in 35:37-13-4(a) to the appropriate milk market, the marketing agent, field man, the sanitarian and to the market administrator, in accordance with the past operating practices.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-5. Application to manufacture grade dairies

The equipment and facility standards applicable to Grade A dairies shall also be applicable to ungraded or manufacture grade dairies.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-6. Chemical, bacteriological, and temperature standards for milk and milk products

For chemical, bacteriological, and temperature standards for milk and milk products, See Appendix A of this Chapter.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-13-7. Inspection and permit fees

(a) The Department shall conduct inspections of milk tankers associated with milk transportation company permits pursuant to 2 O.S. § 7-408(B) and shall charge a fee of \$75.00 per milk tanker inspected.

(b) The Department shall charge a \$100.00 minimum permit fee for dairy farms along with milk and milk products processing facilities. If a dairy farm or milk and milk products processing facility exceeds \$100.00 in production or processing fees, the permit fee shall be waived.

[Source: Added at 28 Ok Reg 120, eff 9-17-10 (emergency); Added at 28 Ok Reg 2197, eff 7-25-11 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-13-8. Incidental sales

(a) Incidental sales of raw milk shall be limited to monthly sales of two hundred (200) gallons of bovine raw milk and one hundred (100) gallons of raw milk from all other species of hooved animals.

(b) For the purposes of this section, "incidental sales" shall mean sales that are negligible in relation to the overall sales of the facility.

(c) Except for incidental sales of raw milk from goats, incidental sales of raw milk shall not be advertised to the public in any manner.

[Source: Added at 40 Ok Reg 1524, eff 9-11-23]

SUBCHAPTER 15. ORGANIC PRODUCTS

35:37-15-1. Definitions of the Oklahoma Department of Agriculture, Food, & Forestry Organic Program

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context indicates otherwise:

"Certifying agent registration" means the mandatory act of filing with the Department, on forms provided by or approved by the Department, the name and address of any accredited certifying agent that certifies organic entities within the state of Oklahoma.

"Livestock" means cattle, swine, sheep, goats, poultry,, domestic cervidae, and bison.

"NOP" means the National Organic Program.

"Organic entity" refers to any producer or handler, and the production or handling site and/or facility, that utilizes methods that adhere to those required by the NOP.

"Organic Certification Seal" means the design approved by the Department and which when imprinted or affixed on labels, packages, or products, or used in advertising in any manner, signifies that the product is certified as organic pursuant to the Oklahoma Organic Food Act, 2 O.S. § 5-301 et seq., or NOP.

"Producer" means any person or organization that grows, raises, or produces a food or non-food product and offers the product for sale as an organic product, or sells the product as an organic product.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 32 Ok Reg 1528, eff 9-11-15]

35:37-15-2. The Adoption of NOP Standards

The Department adopts or incorporates by reference the following parts of the official rules and regulations of the NOP, 7 CFR Part 205, except for OAC 35:37-15-1, or as the Department designates otherwise in specific cases:

- (1) Subpart A - Definitions, except for those designated otherwise by this subchapter;
- (2) Subpart B - Applicability;
- (3) Subpart C - Organic Production and Handling Requirements;
- (4) Subpart D - Labels, Labeling, and Market Information;
- (5) Subpart E - Certification;
- (6) Subpart F - General Requirements for Accreditation; and
- (7) Subpart G - Administrative.
 - (A) Sections 205.600 through 205.607.
 - (B) Sections 205.660 through 205.663.
 - (C) Sections 205.670 through 205.672.
 - (D) Sections 205.680 through 205.681.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 32 Ok Reg 1528, eff 9-11-15 ; Amended at 37 Ok Reg 978, eff 9-14-20 ; Amended at 38 Ok Reg 1675, eff 9-11-21 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-15-3. Procedures for Organic Certification and Registration

(a) The application for organic certification of producers and handlers, as defined by the NOP, shall be submitted to the Department on an approved application form available from the Department, or in a manner prescribed by the Department.

(b) Initial application for certification shall be accompanied by the application fee and completed information in compliance with the NOP, 7 CFR § 205.401. The initial application shall be received by the Department not less than thirty (30) days before harvest of crop or before final handling of the organic product.

(c) Once granted, certification continues in effect for one (1) year or until surrendered by the certified entity, or suspension or revocation by the Department. An annual renewal application for certification must be submitted to the Department with the application fee and information as required by the NOP, 7 CFR § 205.406, and an annual reinspection shall be conducted by the Department at each facility to determine whether the certification of the operation should continue.

(d) An application fee shall accompany each new or renewal application for organic certification. Fees for inspection services shall be assessed separately pursuant to subsection (g), below. Application fees are as follows:

- (1) Crop producers:
 - (A) Producers with 25 acres or less - \$250.00.
 - (B) Producers with 26 to 250 acres - \$325.00.
 - (C) Producers with 251 to 500 acres - \$450.00.
 - (D) Producers with more than 500 acres - \$625.00.

(2) Livestock producers:

(A) Producers with 100 head or less - \$250.00.

(B) Producers with 101 to 300 head - \$375.00.

(C) Producers with 301 to 500 head - \$500.00.

(D) Producers with more than 501 head - \$625.00.

(3) Handlers or processors:

(A) On-farm processing of any kind - \$250.00.

(B) Commercial Food Processors of any kind - \$625.00.

(C) Commercial Feed Processors of any kind - \$625.00.

(D) Commercial products/services other than food or feed - \$625.00.

(4) Fee for each certified organic product label submitted by any processor - \$5.00 per label.

(e) A refund of seventy-five percent (75%) of application fees will be made if certification is:

(1) Denied by the Department prior to the on-site inspection; or

(2) A withdrawal of the application and request for refund are made prior to the on-site inspection.

(f) Application fees shall be due and payable before the Department will accept an application packet or conduct organic inspections. Upon payment of the application fee, the Department shall process the application packet, issue transaction certificates, and conduct sampling at no additional charge.

(g) Producers, handlers, and processors shall be assessed a fee of \$50.00 per hour for inspection services. Inspection services include on-site inspections, initial and final reviews of the organic system plan, and the inspection report write-up. Travel expenses will be added for out-of-state certifications.

(h) "Exempt" or "excluded" organic producers or handlers, as defined by the NOP, 7 CFR § 205.101, must register with the Department prior to the offering for sale of any organic product. Exempt or excluded organic producers must be registered with the Department as an exempt or excluded organic entity and may apply to be certified "organic" by the Department.

(i) Exempt producers, processors, and handlers must submit a \$50.00 registration fee with their attestation form annually.

(j) The initial certification fee is not prorated throughout the year.

(k) Applications to renew certification are due one (1) year from the date of the previous application.

(1) Any application postmarked between one (1) and thirty (30) days after the due date shall pay a late fee of \$75.00.

(2) Any application postmarked between thirty-one (31) and sixty (60) days after the due date shall pay a late fee of \$100.00.

(3) Any application postmarked between sixty-one (61) and ninety (90) days after the due date shall pay a late fee of \$200.00.

(4) Any application postmarked more than ninety (90) days after the due date shall pay a late fee of \$500.00.

(l) Certified organic entities may petition to withdraw their certification with the Department at any time. In order to withdraw certification, the applicant must submit the request in writing, with company name, address, and signature. A voluntary withdrawal of the certification

application by the organic entity shall not result in a "Notice of Certification Denial."

(m) Any certified entity that withdraws their certification from the Department or allows their certification to elapse may reapply for recertification, but will be considered to be a renewal application and shall pay the renewal certification fee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Amended at 28 Ok Reg 2204, eff 7-25-11 ; Amended at 32 Ok Reg 1528, eff 9-11-15]

35:37-15-4. Records to be Maintained for Certification

(a) Certified organic entities shall maintain records applicable to the organic operation for not less than five (5) years and shall make the records available to the Department as required by the NOP, 7 CFR 205.103.

- (1) All certified organic producers shall keep records for each commodity produced; including, but not limited to:
 - (A) Physical address of each production site where crops were grown;
 - (B) Crop and site history for the previous three (3) years of production;
 - (C) Names of crops, with varieties, produced;
 - (D) Input materials applied to plants, soil, water, and products. These records shall include date applied, application rate, and name of material, including brand name where possible;
 - (E) Handling and processing description, date, and location. Location shall include the name and address of the handler or processor;
 - (F) Records of volume of all sales including: on-farm, wholesale, and retail; name and address of purchaser where possible; and transaction certificate when used;
 - (G) Audit tracking system for each product identified, with lot numbers or other identifiers that facilitate tracking of products from seed or seedling to sale or release of physical control. Storage identification and bin location, and identifiable number if applicable, must be included.
- (2) Certified organic livestock producers shall keep records; including, but not limited to:
 - (A) Receipts for stock and materials;
 - (B) Birth or purchase of livestock through sale or slaughter;
 - (C) All disease and pest management materials administered including dates administered, material identification, dosages, and sources;
 - (D) All purchased feeds including dates purchased, feed identification, quantities purchased, sources, and a copy of the organic certification;
 - (E) Weight of slaughter animals at slaughter and weight of post-slaughter animal products;

- (F) Sales records of all organic animal products sold including dates, quantities, and weights. Sales records shall include the purchaser's name and address where possible and transaction certificate number when used;
- (G) If livestock graze any fields or consume any production crops, certification records of those fields or crops.

(3) Certified organic handlers shall maintain records that track ingredients and certified organic products from receiving through distribution, shipping, or sale; including, but not limited to:

- (A) An organic handler system plan;
- (B) Maps of production facility structures and handling areas;
- (C) Production flow charts, with organic control points highlighted;
- (D) Assigned production lot numbers;
- (E) Formulation for each product;
- (F) Product audit tracking records, that may include; but are not limited to:
 - (i) Invoices;
 - (ii) Bills of lading, and producer certificates for incoming products;
 - (iii) Date and quantity of product processed or handled;
 - (iv) Repack data and production run reports;
 - (v) Invoices and bills of lading of products shipped out.

(b) Handlers shall have available copies of organic certificates for all organic ingredients and products. Organic certificates shall be current, correspond to the organic ingredients used in processing, and be from accredited certifying agents.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-5. Inspections and Sampling for Certification

(a) An initial on-site inspection shall be conducted for each production unit, facility, and site that produces or handles organic products, as required by the NOP, 7 CFR 205.403. The inspector shall conduct an exit interview with the organic entity's authorized representative at the end of the inspection to verify the accuracy of the inspection. A copy of the inspection report shall be provided to the applicant within a reasonable time following the inspection.

(b) The Department shall conduct additional inspections to determine compliance to the NOP and Department rules of an applicant or organic entity certified by the Department when requested by the United States Department of Agriculture (USDA)-NOP administrator or by the Department.

(c) Additional inspections may be conducted without notification at the discretion of the Department.

(d) The Department, or any inspection designee of the Department, may collect samples of soil, products, or agricultural inputs from randomly or

systematically selected organic entities certified by the Department as part of the routine annual organic inspection. The Department shall collect samples of soil, products, or agricultural inputs when there is reason to believe that land, an input, or product came into contact with a prohibited substance or that excluded methods were used.

(e) Applicants shall be provided with a receipt for any samples collected by the Department, or by the designated inspector. The collected samples shall be analyzed by any qualified laboratory at the expense of the Department.

(f) Results of the individual inspections, sampling, and test analyses shall be provided to the NOP administrator and the certified organic entity or applicant.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-6. Compliance Enforcement

(a) When it has been determined that an organic entity certified by the Department is knowingly selling, representing, or labeling as organic any products that have been exposed to or contain prohibited substances, or that have been produced using prohibited substances or excluded methods, the Department shall send the certified organic entity a written notification of suspension of rights to sell the product as organic.

(b) The product is prohibited from further sale or movement, in accordance with the NOP, 7 CFR 205.6462(d). The Department shall remove the suspension of rights to sell when the organic entity becomes compliant to the requirements of the NOP 7 CFR, Part 205.

(c) The Department may initiate a compliance action against an applicant for certification or an organic entity certified by the Department that is not in compliance with NOP 7 CFR, Part 205.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-7. Certificates Issued as Result of Certification with the ODAFF Organic Program

(a) The Department shall issue a "Certificate of Organic Operation" to all organic entities that are certified by the Department, with information as required by 7 CFR 205.404.

(b) The certificate shall continue in effect for one (1) year or until surrendered by the certified organic entity, or revocation or suspension by the Department or by the administrator for cause, as required by 7 CFR 205.405.

(c) Transaction Certificates issued by the Department may be used in sales transactions of certified organic products to identify that the products were produced or handled in accordance with the NOP, and Department rules.

(1) The Department shall issue the Transition Certificates upon written request from the organic entity, on forms approved by the Department, which shall contain all information requested on the application.

(2) Transaction Certificates may be issued with the producer's identification number and an expiration date beyond which its use is not valid. User shall enter shipment information that includes the shipment date, product name, and volume of product, and may include the lot number if applicable.

(3) Transaction Certificates provided by the Department shall only be used by organic entities certified by the Department and only for products covered by Department certification.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-8. ODAFF Organic Program Seal

(a) The Department shall establish a "Oklahoma Department of Agriculture, Food, & Forestry (ODAFF) Organic Program Seal," identifying the Department as the certifying agent. The seal shall be available for use by organic entities that are certified by the Department, provided that the seal is used in compliance with the NOP, 7 CFR 205.303.

(b) The seal must replicate the form and design as adopted by the Department.

(c) The seal may be duplicated in the original Department seal colors or may be converted to black and white type-cast.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-9. Inspection and Sampling for Registration

(a) The Department, or designated inspector, may conduct on-site inspections of each registered producer or handler.

(b) All on-site inspections shall be conducted at a time that the applicant, or an authorized representative of the applicant, can be present; and when land, facilities, or activities demonstrate the applicant's compliance with, or capability to comply with, registration requirements. This does not apply to inspections for the purposes of complaint investigations.

(c) A written Notice of Inspection shall be completed at the time of inspection, detailing any results of the inspection, or any observations made by the inspector, that would result in approval or denial of the application. A copy of the Notice of Inspection shall be given to the applicant, or authorized representative of the applicant, at the time of inspection.

(d) The Department, or designated inspector, may conduct reinspections as deemed necessary to investigate complaints. The Department may deny, suspend, or revoke the registration of an organic entity when the organic entity is found to not be in compliance with the law.

(e) Any denial of entry for inspection purposes will be considered grounds for denial of registration.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-10. Marketing When Registered with the ODAFF Organic Program

- (a) The Department shall issue a numbered logo stating, "Registered by the ODAFF Organic Program." The logo shall be annually dated to ensure that the registrant has currently completed registration requirements and shall be made available to the registrant on an annual basis.
- (b) The registrant may display the logo, or copies of the logo, on marketing information used at the location where conducting business; but the logo shall not be attached directly to a product label.
- (c) The "Registered by the ODAFF Organic Program" logo shall only be used for marketing purposes within the state of Oklahoma and shall only be used for raw and processed organically produced agricultural products when authorized by the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:37-15-11. Organic Certifying Agent Registration

- (a) Any certifying agent that certifies organic entities within the state shall be required to submit an application for registration with the Department. A listing of registered certifying agents shall be maintained by the Department and shall be made available to the public upon request.
- (b) Registration shall be in effect from January 1 of the year registered and shall continue to be in effect through December 31 of the year it was issued, unless cancelled by the registrant or by the Department pursuant to sections (f) and (g) of this rule.
- (c) An annual registration fee of fifty dollars (\$50) shall accompany each application. Registration fee is not prorated throughout the year nor refunded if denied for any reason.
- (d) Registration renewal applications shall be submitted within fifteen (15) working days from last valid date of registration. Any applicant who fails to comply with registration renewal requirements shall pay a fifty dollar (\$ 50) late fee in addition to the annual registration fee to become eligible for registration renewal.
- (e) The application for registration shall be submitted to the Department on an approved application form in the manner prescribed by the Department. The application shall include information about:
- (1) Business name and address of certifying agent;
 - (2) Name and address of certifying agent's authorized representative;
 - (3) Listing of organic entities' names and addresses located within the state of Oklahoma certified by the certifying agent;
 - (4) The category of organic entity, whether of production or handling.
 - (A) If production, total organic acreage or square footage of land located in the state, and gross sales generated by organic entity.
 - (B) If handling, total gross sales generated by facilities located in the state.
 - (C) Years organic entity has been certified by certifying agent.

(f) Any certifying agent found to be certifying organic entities located within the state may be assessed a fee up to five hundred dollars (\$ 500) per violation for failure to register with the Department.

(g) If the state refuses registration to a certifying agent for any reason, the applicant shall be notified by writing of the reasons. An informal hearing shall be granted upon notification of denial when requested by the applicant.

(1) The applicant has the right to appear before the Department after receiving a "Denial of Registration" or "Suspension or Revocation of Registration" letter to introduce evidence; either in person or by an agent or attorney at an informal hearing.

(2) If, after the hearing, or if the defendant or the defendant's agent or attorney fails or refuses to appear, the Department determines that the evidence warrants refusal of registration, the Department shall proceed as herein provided.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

SUBCHAPTER 17. PRODUCE SAFETY

35:37-17-1. Purpose

The rules of this subchapter incorporate federal standards for produce safety.

[Source: Added at 35 Ok Reg 776, eff 9-14-18]

35:37-17-2. Definitions

(a) All words or terms defined or used in the federal regulations incorporated by reference shall mean the state equivalent or counterpart to those word or terms.

(b) The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**Adulterated Food**" means food that fails to meet the legal standards and bears or contains any poisonous or deleterious substance which may render it injurious to health including any pesticide chemical residue that is unsafe according to EPA standards, food additive that is unsafe according to FDA standards, color additive that is unsafe according to FDA standards, or new animal drug that may cause injury or make the product unfit for food. Also includes food that has been prepared, packed, or held under insanitary conditions or contaminated with filth, such as insects. Also if the food container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(2) "**Covered produce farm**" means any farm engaged in the growing, harvesting, packing, or holding of produce for human consumption which is subject to the requirements of the FDA Food Safety Modernization Act.

(3) **"Produce"** means any fruit or vegetable (including mixes of intact fruits and vegetables) and includes mushrooms, sprouts (irrespective of seed source), and herbs. Produce does not include food grains meaning the small, hard fruits or seeds of cereal grains and oil seeds.

[Source: Added at 35 Ok Reg 776, eff 9-14-18 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:37-17-3. Incorporation by reference of federal produce safety regulations

The Department incorporates by reference Title 21 of the Code of Federal Regulations, Part 112 regarding standards for the growing, harvesting, packing, and holding of produce for human consumption.

[Source: Added at 35 Ok Reg 776, eff 9-14-18 ; Amended at 36 Ok Reg 1375, eff 9-14-19 ; Amended at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23]

35:37-17-4. Farm registration

(a) Any person, firm, or corporation operating a covered produce farm and selling more than the threshold of \$25,000 of produce annually averaged for the three previous years and adjusted for inflation using 2011 as the baseline year, shall be required to register their farm with the Department. The Department shall post the inflation adjusted annual threshold on its website.

(b) Covered produce farms registering with the Department shall provide a business name, mailing address, physical address, and telephone number. The covered produce shall notify the Department of any change in contact information within ninety (90) days of the change.

(c) Covered produce farms required to register shall register with the Department no later than July 1 each year.

[Source: Added at 35 Ok Reg 776, eff 9-14-18]

35:37-17-5. Enforcement of standards

Any person who violates a provision of these Rules shall be subject to a stop sale order and administrative penalties.

[Source: Added at 35 Ok Reg 776, eff 9-14-18]

SUBCHAPTER 19. HOMEMADE FOOD

35:37-19-1. Purpose

These rules are for regulating the production, sale, and resale of homemade food products pursuant to the provisions of Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 39 Ok Reg 801, eff 9-12-22]

35:37-19-2. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food service establishment or food processing plant, and does not offer the food for resale (see also definition in OAC 310:257-1-2);

"Delivered" means transferred to the customer, either immediately upon sale or at a time thereafter;

"Home food establishment" means a business on the premises of a home, apartment, or other dwelling in which a producer resides and in which homemade food products are created for sale or resale if the business has gross annual sales of prepared food of less than Seventy-five Thousand Dollars (\$75,000.00). A home food establishment shall be limited to one business per premises, but gross annual sales of the business shall include all sales of prepared food produced by the business at any location;

"Homemade food product" means human food, including a beverage, which is produced and, if packaged, packaged at a residence; provided, however, homemade food product shall not mean alcoholic beverages, unpasteurized milk, cannabis or marijuana products and shall not contain seafood, including, but not limited to, all fish, shellfish, and fishery products, meat, meat by-products, or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products, or poultry food products as defined for purposes of the federal Poultry Products Inspection Act;

"Non-time-or-temperature-controlled-for-safety" means food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;

"Produce" means to prepare a food product by cooking, baking, drying, mixing, cutting, canning, fermenting, preserving, dehydrating, growing, raising, or other process;

"Producer" means the person who produces a homemade food product in a home food establishment; and

"Time-or-temperature-controlled-for-safety" means a food that requires time or temperature control for safety to limit infectious or toxigenic microorganisms and is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; provided, however, time or temperature controlled for safety shall not include foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less. Milk and milk products shall be considered Time-or-temperature-controlled-for-safety foods.

[Source: Added at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:37-19-3. Sale and delivery requirements

(a) Non-time-or-temperature-controlled-for-safety homemade food products shall be sold:

(1) By the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone; or

(2) By a producer's designated agent or a third-party vendor, including, but not limited to, a retail or grocery store, farm, farm stand, farmers market, membership-based buying club, craft fair, or flea market, to the consumer; provided, the third-party vendor shall display a placard where homemade food products are displayed for sale with the following disclosure: "This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens.".

(b) Non-time-or-temperature-controlled-for-safety homemade food products shall be delivered:

(1) By the producer or producer's designated agent directly to the consumer or a third-party vendor; or

(2) By a third-party vendor or a third-party carrier, such as a parcel delivery service, to the consumer or a third-party vendor.

(c) Time-or-temperature-controlled-for-safety homemade food products shall be sold by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone.

(d) Time-or-temperature-controlled-for-safety homemade food products shall be delivered by the producer directly to the consumer.

(e) Before a producer begins to produce and sell time-or-temperature-controlled-for-safety homemade food products and thereafter, the producer shall satisfactorily complete and maintain food safety training from a list of providers found on the Oklahoma Department of Agriculture, Food, and Forestry website, including the ServSafe Food Handler Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. Food safety training shall be available online or in person and shall not exceed eight (8) hours in length.

(f) Homemade food products that are packaged and distributed in interstate commerce shall be sold in accordance with federal law.

(g) The production date of a homemade food product shall be displayed where the product is sold directly to the consumer. If the product is prepared for delivery by a third-party, the production date shall be located on the food package or on a card included with the food package.

(h) All products sold under Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 39 Ok Reg 801, eff 9-12-22 ; Amended at 40 Ok Reg 1524, eff 9-11-23 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:37-19-4. Labeling requirements

(a) The following information shall be provided to the consumer in the format required by subsection b of this section:

(1) Name and phone number of the producer;

(2) Physical address where the product was produced;

(3) Description of the homemade food product;

- (4) Ingredients of the homemade food product in descending order of proportion;
- (5) Statement indicating the presence of any of the most common allergens, including milk, eggs, peanuts, tree nuts, soybeans, wheat, fish, crustacean shellfish, and sesame; and
- (6) Legible print stating, "This product was produced in a private residence that is exempt from government licensing and inspection."

(b) The information required by subsection a of this section shall be provided in a legible format of at least 10-point font, in the following manner:

- (1) On a label affixed to the package if the homemade food product is packaged;
- (2) On a label affixed to a container if the homemade food product is offered for sale from a bulk container directly to the consumer;
- (3) On a placard displayed at the point of sale and on a card or other item that is made available to the consumer and is readily carryable if the homemade food product is not packaged; and
- (4) Displayed on the webpage from which the homemade food product is offered for sale if it is sold on the internet; provided, each item sold over the internet shall be properly labeled or shall have a label included in the shipping container.

(c) Homemade food products that are packaged and distributed in interstate commerce shall be labeled in accordance with federal law.

[Source: Added at 39 Ok Reg 801, eff 9-12-22]

35:37-19-5. Violations

(a) Upon receipt of a consumer complaint, the Oklahoma Department of Agriculture, Food, and Forestry may request proof of completion of food safety training, verify a producer's gross sales, and ensure a producer has complied with sale, delivery, and labeling requirements.

(b) Each violation shall be punishable by an administrative fine not exceeding Three Hundred Dollars (\$300.00).

[Source: Added at 39 Ok Reg 801, eff 9-12-22]

APPENDIX A. CHEMICAL, BACTERIOLOGICAL AND TEMPERATURE STANDARDS FOR INDIVIDUAL DISTRIBUTED RAW MILK AND MANUFACTURE GRADE MILK AND MILK PRODUCTS

Figure 1

Individual Distributed Raw Milk and Manufacture Grade Raw Milk	Temperature	Cooled to 7°C (45°F) or less within two hours after milking, provided that the blend temperature after the first and subsequent milking does not exceed 10°C (50°F)
	Bacterial Limits Individual Distributed Raw Milk	Individual distributed raw milk not to exceed 35,000 per ml.
	Bacterial Limits (Manufacture Grade Raw Milk) (Note: Manufacture grade raw milk is raw milk that fails to comply with Grade A raw milk standards)	Individual producer milk for manufacturing not to exceed 500,000 per ml prior to commingling with other milk. Not to exceed 1,000,000 per ml as commingled milk to manufacturing.
	Drugs	No positive results on drug residue detection methods as referenced in Section 6 Laboratory Techniques
	Somatic Cell Count (Individual Distributed Raw Milk and Manufacture Grade Raw Milk)	Individual producer milk: Not to exceed 750,000 per ml.*
Ungraded (Manufacture Grade) Milk Products	Bacterial Limits (except cultured products)	Frozen dessert - 100,000 per ml Soft-serve mix - 30,000 per ml
	Coliform Limits	Frozen dessert - not to exceed 20 per ml Soft-serve mix – not to exceed 10 per ml Cottage cheese – not to exceed 10 per ml
	Butterfat	Must match label

*Goat Milk – 1,500,000/ml

[Source: Added at 21 Ok Reg 1181, eff 5-27-04 ; Revoked and reenacted at 25 Ok Reg 1052, eff 7-1-08 ; Revoked and reenacted at 28 Ok Reg 2197, eff 7-25-11 ; Revoked and reenacted at 32 Ok Reg 1528, eff

9-11-15]

**APPENDIX B. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR MEAT AND MEAT
PRODUCTS**

Figure 1

Official marks and devices to identify inspected and passed products of cattle, bison, sheep, swine, or goats (Reference: 35:37-3-44).



**APPENDIX C. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR POULTRY AND
POULTRY PRODUCTS**

Figure 1

Illustration 1
(Reference: 35:37-5-18)

Wording and form of the official inspection legend

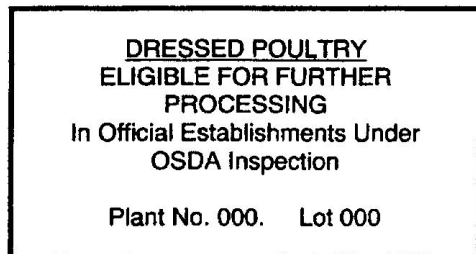
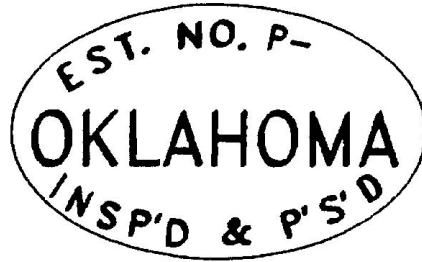


Figure 2

Illustration 2
(Reference: 35:37-5-19)

Official dressed poultry identification mark



[Source: Added at 22 Ok Reg 2310, eff 7-11-05]

**APPENDIX D. OFFICIAL MARKS OF INSPECTION AND
OTHER IDENTIFICATION FOR RABBITS AND RABBIT
PRODUCTS**

Figure 1

(Reference: 35:37-9-18)



APPENDIX E. OFFICIAL MARKS OF INSPECTION AND OTHER IDENTIFICATION FOR EXOTIC LIVESTOCK AND EXOTIC LIVESTOCK PRODUCTS

Figure 1

Official marks and devices to identify inspected and passed
products of exotic livestock (Reference: 35:37-11-86).



**APPENDIX F. OFFICIAL MARKS AND DEVICES IN
CONNECTION WITH POST-MORTEM INSPECTION
AND IDENTIFICATION OF ADULTERATED PRODUCTS
AND INSANITARY EQUIPMENT AND FACILITIES**

Figure 1

(Reference: 35:37-3-47, 35:37-5-21)

The "Oklahoma Passed for Cooking" mark:

**OKLAHOMA PASSED
FOR COOKING**

The "Oklahoma Condemned" mark:

**OKLAHOMA
CONDEMNED**

CHAPTER 40. MARKET DEVELOPMENT

[Authority: 2 O.S., §§ 2-4(2), 5-60.10 et seq., and 5-3.1 et seq.; 68 O.S., §§ 2368.5 and 2368.6]
[Source: Codified 7-13-00]

SUBCHAPTER 1. GENERAL PROVISIONS [RESERVED]

SUBCHAPTER 3. AGRICULTURE COMMODITY REFERENDUM

PART 1. GENERAL PROVISIONS

35:40-3-1. Purpose

The purpose of the Oklahoma Agriculture Commodity Referendum Act is to authorize and prescribe the necessary procedures by which the producers of agricultural commodities grown in this state may establish agricultural commodity producers boards to finance programs devised to alleviate any circumstance or condition that serves to impede the production, marketing, research or use of agricultural commodities.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

PART 3. DEFINITIONS

35:40-3-31. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agricultural Commodity" means a product of cultivating the soil, growing crops, or raising livestock, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, rice, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer.

"Certified Organization" means a non-profit agricultural commodity entity certified by the State Department of Agriculture to conduct a referendum.

"Commodity Board" means an agricultural commodity producers board.

"Commissioner" means the Commissioner of the Oklahoma Department of Agriculture or his designee.

"Department" means the Oklahoma Department of Agriculture.

"Director" means the Director of Market Development Services of the Oklahoma Department of Agriculture.

"Hearing Officer" means the Commissioner of the Oklahoma Department of Agriculture or his designee.

"Non-Profit Organization" means any not-for-profit agricultural commodity organization in this state that has the capabilities or purpose to conduct programs of research, disease and insect control, education, or promotion designed to encourage the production, marketing, and use of the commodity. This organization shall not be a subsidiary of any corporation, partnership, or association organized for profit.

"Organization" means an agricultural commodity entity that petitions the Oklahoma Department of Agriculture for a referendum of its commodity.

"Producer" means a person engaged in the business of producing or causing to be produced for commercial purposes an agricultural commodity. The term "producer" includes the owner of a farm on which the commodity is produced and the owner's tenant or sharecropper.

"Valid Voter" means a producer required under the Referendum to pay the assessment.

"Volume of Production" shall be defined by the certified organization and can refer to units of product sold such as pounds, bushels, gallons, flats, containers, packages, or other commonly recognized units of measure, square footage or acreage of production space or other appropriate measurement units, or number of production units such as trees, vines, head count of livestock or poultry, or other commonly recognized measurement units, or gross sales.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

PART 5. CERTIFICATION OF COMMODITY ORGANIZATIONS

35:40-3-51. Certification of commodity organizations

(a) Application process.

(1) A non-profit organization prior to the petitioning process shall notify the Commissioner and complete an application form, which is provided by the Department.

(2) The application form shall include the name of a contact person representing the organization, address, date, commodity represented, date to initiate the petitioning process, estimated number of producers, volume of production, assessment rate and number of commodity board members.

(3) Upon the receipt of the application the Department shall provide, by mail, a petition form within fifteen (15) working days, including the minimum number of signatures required.

(b) Petitioning process.

(1) Upon receipt of the petition from the Department the organization shall have ninety (90) days to collect and submit the petition(s) bearing the original signatures back to the Department.

(2) A valid petition shall prompt the scheduling of a public hearing. The petition shall include at least twenty percent (20%) of the valid commodity producers in the state or at least two

hundred (200) valid commodity producers, whichever is less.

(3) Within fifteen (15) days following the day on which a petition for certification is received, the Commissioner shall schedule a public hearing to consider the petition. The public hearing shall be scheduled no later than forty (40) days after the completed petition is received by the Department.

(4) If a petition is not accepted, for lack of valid signatures, the organization can not repetition the Department for one hundred twenty (120) days.

(c) Hearing process.

(1) A public hearing shall be conducted at a location designated by the hearing officer.

(2) A notice of the public hearing by the organization shall be published once in one or more statewide newspapers a minimum of one week prior to the public hearing.

(3) The hearing officer may deny the petition based upon findings of invalid signatures, invalid voters, or proof of additional producers requiring more petition signatures.

(4) Written statements shall be submitted to the hearing officer prior to the public hearing.

(5) Following the public hearing for the petition process the hearing officer shall submit a written recommendation to the Commissioner within thirty (30) days.

(6) The Commissioner shall certify to the organization or provide reasons of denial, in writing, within thirty (30) days to the organization.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

PART 7. ELECTION AND REFERENDUM PROCESS

35:40-3-71. Election plan

(a) A certified organization is required to submit an election plan for approval. The election plan must include:

- (1) a list of newspapers where notices shall be published and dates of publication;
- (2) a notice to county agents indicating referendum date or other canvassing dates;
- (3) a draft ballot;
- (4) a draft press release;
- (5) a draft board member petition;
- (6) information on whether the election will be conducted by mail or physical ballot; and
- (7) the date of the referendum. The date of the referendum must be within ninety (90) days following certification.

(b) If the election plan is denied, the Commissioner or his designee shall provide a written explanation of the denial within ten (10) working days of receipt of the plan. The certified organization may then re-submit the plan.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-72. Election process

(a) A valid voter shall indicate his eligibility to vote by providing a sales receipt of the referendum commodity dated within the last year.

(b) Elections may be conducted by mail. If elections are held by physical balloting, mailed ballots shall also be accepted.

(c) In case of mailed ballots, no ballot shall be valid if received after election date, regardless of postmark date. All ballots are to be mailed to the Department and are to be canvassed there.

(d) Ballot boxes shall be provided by the certified organization. The certified organization shall distribute the ballot boxes to all County Extension offices, unless an exception is provided by the Commissioner. (Counties without specific commodity production may be exempt)

(e) Physical balloting shall be conducted at O.S.U. County Extension offices statewide from 8:30 a.m. to 4:00 p.m. The county extension educator or his designee shall be present at all times unless otherwise prescribed by the Commissioner. Ballot boxes must be locked and unopened until the canvassing committee supervises the opening.

(f) Ballots shall bear signature and address of the producer to be valid.

(g) Instructions for election officials and voters shall be available in each election from the certified commodity organization and approved by the Commissioner. Ballots provided by the certified organization shall include voter instructions and the following statement: The referendum proposition shall be adopted upon a finding that:

- (1) Two-thirds (2/3) or more of those voting in the election voted in favor of the referendum proposition; or
- (2) More than one-half (1/2) of those voting in the election voted in favor of the referendum proposition, and those voting in favor of the proposition produced at least fifty percent (50%) of the volume of the production of the commodity during the relevant

production period.

(h) In the election process, ballots must be faxed to the Department within two (2) weeks prior to the election date and received no later than 4:00 p.m. on the election date.

(i) Election ballots and a sample ballot for the referendum and/or the election of the commodity board members shall be at the County Extension office at least two (2) weeks prior to the election. The sample ballot shall be on display to the public.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-73. Counting of ballots and contesting elections

(a) Ballots in all referendums and elections shall be counted by a committee consisting of a representative of the Oklahoma Agricultural Extension Service, a representative of the certified commodity organization or the commodity board, and a representative of the Department.

(b) The Commissioner shall approve or disapprove the tally of the ballots and shall give a copy of his decision to the canvassing committee and the certified organization.

(c) Any contest or protest of the election of the commodity board members, the original referendum and/or assessment must be submitted in writing to the Department within 30 days following the counting of the ballots. An investigation shall be conducted by the Department.

(d) The investigation and its findings shall be based upon, but not limited to, fraud, improper signatures, and misstated volumes of production. The certified organization shall be notified in writing of the results of the investigation.

(e) If no contests or investigations arise out of the election, the Department shall destroy all ballots by shredding or burning and notify the organization by mail.

(f) In the event a referendum is not approved in the election process, the certified organization can not reapply for the petition process for a period of one(1) year from the date of the referendum.

(g) In the event a vote to change the assessment rate is not approved, one (1) year must lapse before another election process is initiated.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-74. Final rulings and notification

(a) The Commissioner shall make the final ruling on all disputes involving the petition and election process.

(b) The Commissioner must be notified of biennial commodity board elections and referenda to increase assessments at least ninety (90) days prior to the voting date. All notices of such elections and referenda shall be held in the same manner described in the initial referendum.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-75. Certification of the commodity board

After the Commissioner certifies establishing the commodity board and issues certificates of election to those elected commodity board members, the commodity board shall have after its first board meeting, all commodity board powers described in the Oklahoma Agricultural Commodity Referendum Act. The certified commodity board shall conduct an initial board meeting within sixty (60) days of certification. Commodity board meetings must be conducted at least annually.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

PART 9. FUNDS AND BUDGETS

35:40-3-91. Assessment of funds

Assessments will be officially enacted the day the commodity board notifies appropriate collection points of the commodity by registered or certified mail. The notification shall state the rate of assessment to be collected on all production of that commodity, and remitted by check or money order to the commodity board once a month, or as prescribed by the commodity board.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-92. Expending funds and budget approval

- (a) The Director has ten (10) working days to review the certified organization's budget and submit, in writing, his approval or rejection of their budget.
- (b) In the event that a budget is disapproved by the Director, the certified organization must resubmit a plan within thirty (30) days.
- (c) A budget shall be disapproved if it does not follow the proposals submitted in the initial petition. A budget shall be disapproved if the projected expenditures exceed their projected revenues and cash assets.
- (d) Purchases over \$750.00 shall require records indicating three (3) telephone or written bids. If the lowest bid is not accepted justification shall be provided in writing.
- (e) No assessment money can be expended by the commodity board, other than refund payments, until sixty (60) days after the assessment has been in force.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-93. Reimbursements

Reimbursements for reasonable and necessary expenses incurred in the discharge of duties by commodity board members and staff are to be based on the Department's state rates.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-94. Auditing

- (a) Records for audit purposes must conform to the General Record Disposition Schedule of the Oklahoma Archives and Records.
- (b) An annual audit shall be required. The Department shall have the authority to conduct an audit on accounts of less than \$50,000. An annual private audit, by a Certified Public Accountant at the organization's expense, shall be required on accounts exceeding \$50,000 and submitted to the Commissioner with the organization's annual report.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

35:40-3-95. Discontinuance of assessment

- (a) If a referendum is held for discontinuing of an assessment and the Commissioner verifies the results in favor of discontinuance, the assessment collection shall become void immediately.
- (b) All collection points shall be notified by registered or certified mail by the commodity board within ten (10) days to discontinue collection on said commodity.
- (c) The commodity board shall submit to the Commissioner within ninety (90) days a written plan of disbandment.
- (d) All remaining money, after obligations have been paid, shall be expended for projects of research, disease and insect control, predator control, education, and promotion, designated to encourage the production, marketing and use of the commodity upon which the assessment was levied.
- (e) The commodity organization shall complete a final audit within six (6) months of disbandment.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

PART 11. HEARINGS

35:40-3-111. Hearing procedures for petitions or disputes

All hearings shall be conducted in an orderly manner by the State Board of Agriculture or its designee. The objective of all hearings will be fairness and the protection of the rights of all concerned parties. The rules of notice and evidence shall be those specified by the Oklahoma Administrative Procedures Act.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 2871, eff 7-13-00]

SUBCHAPTER 5. AGRICULTURE ENHANCEMENT AND DIVERSIFICATION PROGRAM

PART 1. DEFINITIONS

35:40-5-1. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agricultural product" means a product of cultivating the soil, growing crops, or raising livestock, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, or bees and honey, planting seed, rice, livestock or livestock product, or poultry or poultry product, produced in this state, either in its natural state or as processed by the producer.

"Agricultural producer" means a person engaged in the business of cultivating, growing, raising, or processing for commercial purposes an agricultural commodity.

"Agritourism" means a working farm or ranch that is open to the public for purposes of purchasing products, public learning opportunities, recreational activities and stimulate economic growth and viability in rural communities by promoting and fostering agritourism ventures in Oklahoma.

"Applicant" means a person who is requesting loans or grants from the Oklahoma Agriculture Enhancement and Diversification Program.

"Application" means a form provided by the Department, that is used to request funds in the form of a loan or grant.

"Board" means the State Board of Agriculture or its designee.

"Borrower" means an individual, group of individuals, or an individual acting on behalf of a group or a corporation, which have been lent funds, as a loan.

"Contract" means a signed agreement between the State Board of Agriculture and the borrower or grantee outlining the terms and conditions of the loan or grant, including repayment schedules and other guidelines.

"Cooperative" means a group of individuals working together, who have an informal or formal agreement.

"Family farm" means a single family unit or multiple family members of the same lineage engaged in the business of producing or causing to be produced for commercial purposes an agriculture commodity.

"Grant" means funds awarded to an entity by the State Board of Agriculture, with no reimbursement required.

"Grantee" means an individual, group of individuals, or an individual acting on behalf of a group or a corporation that has been awarded funds as a grant.

"Loan" means funds provided by the State Board of Agriculture. Terms and conditions of the loan shall be outlined in a contract between the State Board of Agriculture and the borrower.

"Nontraditional crops" or **"nontraditional livestock"** means any crops, livestock or agricultural products except wheat, corn, soybeans, milo, peanuts, cotton, hay, oats, beef cattle, dairy cattle, swine, poultry, and equine.

"Proposal" means a portion of the application that includes the executive summary, project narrative, list of funding sources and a breakdown of planned expenditures by those sources and the project budget.

"Veteran farmer" means an individual who served in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, including the reserve components thereof, and who was discharged or released under conditions other than dishonorable.

"Young farmer" means an individual under forty-five (45) years of age.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 1177, eff 9-11-16 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 3. APPLICANT ELIGIBILITY

35:40-5-31. Applicant eligibility

(a) An Applicant shall be individual person of at least twenty-one (21) years of age and a legal resident of the state of Oklahoma, Oklahoma corporation or legal entity, or Oklahoma governmental subdivision.

(b) Eligibility may be given to those applicants whose:

- (1) Projects demonstrate a shared commitment for funding or in kind services from the applicant and other private or public sources, if any;
- (2) Industrial and nonfood production processes utilize agricultural products;
- (3) Food, feed, and fiber products and their uses are innovative and add to the value of agricultural products;
- (4) Applications demonstrate a high feasibility of job creation and return-on-investments;
- (5) Proposals demonstrate a high feasibility of rapid commercialization;
- (6) Proposals center efforts on non-urban locales;
- (7) Principals are individuals, a group of individuals, an individual acting on behalf of a group, or corporations which meet the criteria set forth in Section 951 of Title 18 of the Oklahoma Statutes, to market a product or formulate or implement a marketing plan for agricultural products produced or processed in Oklahoma;
- (8) Proposals contain the potential to create additional income for the farm unit;
- (9) Proposals provide for new and innovative plans for marketing the product;
- (10) Proposals feature research that is innovative as well as commercially feasible: or
- (11) Proposals create or expand viable agritourism venues.

(c) Eligibility may be given for new agricultural event applicants that:

- (1) Highlight an agricultural commodity;
- (2) Include an educational component;
- (3) Enhance the economic impact of the agricultural commodity;
- (4) Impact a large geographic region of the state; and
- (5) Are endorsed by a governmental subdivision or local Chamber of Commerce.

(d) Eligibility may be given for an established agricultural event applicants that:

- (1) Enhance the economic impact of an agricultural commodity;
- (2) Include an educational component;
- (3) Include proposals to increase participation and attendance;
- (4) Are endorsed by a governmental subdivision or local Chamber of Commerce; and
- (5) Provide supporting documents demonstrating the economic impact of prior agricultural events.

(e) Consideration shall not be given to applications for:

- (1) Research or marketing plans which do not clearly meet the stated objectives of the Oklahoma Agriculture Enhancement and Diversification Program;
- (2) Proposals which are aimed solely at business expansion or creation without regard to agricultural products utilization;
- (3) Research or marketing plans that cannot reasonably be expected to result in a viable commercial application, or that are or have been duplicated by other research efforts; or
- (4) Proposals for growing or any other aspect of medical marijuana.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 19 Ok Reg 1252, eff 5-28-02 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 5. EVALUATION AND FUNDING CRITERIA

35:40-5-51. Evaluation and funding criteria

(a) The Department shall evaluate each proposal.

(b) Each application evaluation shall be based on the following criteria:

- (1) An evaluation of the likelihood of the proposal's success.
- (2) Demonstration of a high probability of job and wealth creation.
- (3) A review of credibility, merit, technical, and commercial feasibility; innovative and commercially plausible research; and relative competence and technical qualifications of project principals.
- (4) Demonstration that the proposal can be implemented quickly and has a high probability of rapid commercialization.
- (5) Demonstration of a shared commitment for funding from other private or public sources or the applicant in the form of cash, in-kind services, or both. Indirect costs may qualify for matching funds. Preference shall be given to the applications with shared cash funding however, disbursement of funds shall be contingent on the production of evidence that matching funds have been allocated to the proposal.
- (6) Centering of efforts on non-urban or rural locales except when the proposal requires specific research that cannot possibly be carried out in rural Oklahoma, consideration shall be given to the ultimate development and commercialization of the results of the

- proposal, with the same rural preference.
- (c) Each application evaluation for new or established agricultural events shall be based on the following criteria:
- (1) The completeness of the application;
 - (2) The likelihood of success;
 - (3) Level of economic impact of the agricultural event;
 - (4) A review of educational component;
 - (5) The impact to Oklahoma agriculture;
 - (6) The size of geographic region of the state impacted;
 - (7) The use of grant funds; and
 - (8) Endorsements by governmental subdivisions, local Chambers of Commerce, and other community organizations.
- (d) The Department shall not consider any portion of an application requesting funding for the purchase of real property, live animals, or motorized vehicles including, but not limited to, automobiles, sport utility vehicles, all-terrain vehicles, and utility terrain vehicles.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 7. PROCEDURE FOR LOAN OR GRANT REQUESTS

35:40-5-71. Applications for loan or grant requests

Applications for loans or grants are limited to the equivalent of twenty (20) typed, single-spaced or double-spaced eight and one-half inch by eleven inch pages including any attachments. Applications shall be submitted electronically to the Oklahoma Department of Agriculture, Food and Forestry.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 19 Ok Reg 1252, eff 5-28-02 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16]

PART 9. SUPPLEMENTAL PROGRAM INFORMATION

35:40-5-91. Supplemental program information

- (a) Proposals are not limited to a specific dollar amount. The Department reserves the right to recommend an increase or decrease in the amount of requested funding based on its findings and on its level of available funds.
- (b) Proposals may be submitted at any time. Deadline dates for submissions are January 1st, April 1st, July 1st, and October 1st or the next regular business day if the Department offices are closed on the day specified. Reviews for loan and grant requests shall be made on a quarterly basis.

(c) The Oklahoma Department of Agriculture, Food, and Forestry shall complete initial screening for completeness and eligibility of all proposals upon receipt. Should revisions or corrections be deemed necessary, the applicant may withdraw and resubmit so long as they submit the revision by the deadline dates. Should the Department recommend a funding level less than the amount requested in the proposal, the Department shall confer with the applicant to determine whether the amount recommended would alter the project's feasibility. No individual may participate in, or vote on, a decision on an application relating to an organization in which that individual has a direct personal financial interest.

(d) Following approval of the loan or grant request by the State Board of Agriculture, a formal loan or grant contract shall be executed between the Board and the borrower or grantee. This agreement shall specify the agreed upon objectives, tasks to be performed, time line and budget, fund release schedule, and any other conditions specific to the individual proposal. Under the terms of all loan or grant contracts, the borrower or grantee shall submit an interim report to the Department for approval that outlines the projects progress, time lines, and budget compliance prior to the Department issuing each of the subsequent payments. In most cases, the entire loan or grant amount shall not be released at the time of the Board's decision. The release of funds shall be tied to the loan or grant contract, and any insufficiencies with the contract may result in withholding of further funding. Grant awards exceeding \$2,500 shall be disbursed in two or more installments to the grantee. Borrowers and grantees shall submit a comprehensive final written report describing the work performed and the results obtained no later than sixty (60) days after completion of the contract. This comprehensive report shall be supplemented by the financial report of all expenses actually incurred and income generated by the project.

(e) To protect the investment of the Board and of the people of Oklahoma, those financial documents, books, receipts, orders, expenditures, electronic data, and accounting procedures and practices of the borrower or grantee necessary to evaluate the use of loan or grant funds are subject to examination by or for the Department at any time for three years following the termination of the project.

(f) Oklahoma Agriculture Enhancement and Diversification loan or grant funds may be used to buy supplies and cover day-to-day expenses of the project.

(g) To the extent allowed under Oklahoma law, the Department may limit the dissemination of information concerning a proposal, but in any event, does not assume any liability for inadvertent disclosure.

(h) Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this loan or grant program shall remain with the borrower or grantee. Subject to the same policies, all rights to project outcomes may revert to the Department if the borrower, grantee or assignee fails to market the product, process, or service in accordance with individually negotiated funding contracts. In such cases, the Department shall provide notice and the opportunity to others to assume control of research projects. In these cases, priority shall be given to any licensee under such property

or others who benefit Oklahoma commercially, with first priority being given to small firms in non-urban areas of the state.

(i) In certain cases, the Department may receive royalties on the sale or lease of any product, process, or service developed under the loan or grant. Royalty agreements shall be negotiated at the time of the loan or grant contract and shall be structured so that the Department can recover a portion of its investment of public funds. Repaid funds shall be used to make new investments in other Oklahoma Agriculture Enhancement and Diversification Program projects.

(j) In the event that a grantee or loan recipient fails to comply with the terms of the agreement, including but not limited to failure to pay back loans pursuant to the terms outlined in the Agreement or failure to submit reports in a timely manner, the grantee or loan recipient shall not participate in any events sponsored by any program of the Oklahoma Department of Agriculture, Food, and Forestry related to market development.

(k) Failure to complete the terms of the agreement shall result in an audit and collection activities by the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 through 7-14-00 (emergency)¹; Added at 17 Ok Reg 3569, eff 8-31-00 (emergency); Added at 18 Ok Reg 1022, eff 5-11-01 ; Amended at 19 Ok Reg 1252, eff 5-28-02 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-00 (after the 7-14-00 expiration of this emergency action), the text of Section 35:40-5-91 was no longer effective, and remained as such until added again by emergency action on 8-31-00. For the official text of the emergency rule that was effective from 11-2-99 through 7-14-00, see 17 Ok Reg 299.*

PART 11. TERMS OF LOANS AND GRANTS

35:40-5-111. Terms of loans and grants

(a) Loan funds shall be provided at zero interest with repayment terms determined by the Board. Repayment of loans in an amount of \$20,000.00 or less shall begin three (3) years from the date funds are initially issued to the borrower and shall be completed in not more than three (3) years. Repayment of loans in an amount over \$20,000.00 shall begin three (3) years from the date funds are initially issued to the borrower and shall be completed in not more than five (5) years. Loan repayments shall be in equal installments as specified in the loan contract.

(b) In the event the facility or project fails to succeed, the borrower may submit in writing, a petition to the Department to convert the balance from a loan to a grant. Petitions recommended for approval shall be

submitted to the State Board of Agriculture for final determination.
(c) Grant funds for Value-Added Agriculture, Farm Diversification, and Product Development and Research projects may be awarded in amounts up to but not exceeding \$10,000.

(1) Grants awarded in the amount of \$2,500 or less shall not be required to provide matching funds.

(2) Grants awarded for \$2,501 to \$5,000 shall require a fifty percent (50%) matching contribution of funds or in-kind.

(3) Grants awarded in the amount of \$5,001 or more shall require a dollar for dollar ratio of matching dollars.

(d) Grant funds for Agriculture events may be awarded in amounts up to but not exceeding \$50,000.

(1) Grants awarded in the amount of \$2,500 or less shall have supporting documents projecting an economic impact up to \$5,000.

(2) Grants awarded in the amount of \$2,501 to \$5,000 shall have supporting documents projecting an economic impact of \$5,001 to \$75,000.

(3) Grants awarded in the amount of \$5,001 to \$50,000 shall have supporting documents projecting an economic impact of more than \$75,000.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16 ; Amended at 38 Ok Reg 233, eff 11-9-20 (emergency); Amended at 38 Ok Reg 1677, eff 9-11-21 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 13. MARKETING AND UTILIZATION LOANS [REVOKED]

35:40-5-131. Marketing and utilization loans [REVOKED]

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Revoked at 39 Ok Reg 805, eff 9-12-22]

PART 15. VALUE-ADDED AGRICULTURE LOANS AND GRANTS

35:40-5-151. Value-added agriculture loans and grants

Value-added agriculture loans and grants shall be used by entities or individuals to develop or establish production, processing or marketing of agricultural products and to establish or expand agritourism ventures. The purpose of this category is to provide funding for promoting productivity, providing added value to agricultural products, stimulating and fostering agricultural diversification, and encouraging processing innovations. Proposals for a value-added agriculture loan or grant shall:

- (1) Demonstrate ability to produce a viable product and include completed research relating to product development, recipe scaling, packaging, and ingredient sourcing;
- (2) Show a feasible marketing plan that includes profitability and sales outlets; and
- (3) Include a description of how production will create jobs and enhance the community.

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 17. FARM DIVERSIFICATION GRANTS

35:40-5-171. Farm diversification grants

Farm diversification grants shall be used for projects dealing with the diversification of family farms or ranches to nontraditional crops, nontraditional livestock, on-farm processing of agricultural commodities, or development of an agritourism venue. Proposals for a farm diversification grant shall:

- (1) Show the potential to create additional income for the farm unit; and
- (2) Demonstrate a well-researched plan for production and marketing which includes exploration and research of possible markets for the product and probable income

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 18. PRODUCT DEVELOPMENT AND RESEARCH LOANS AND GRANTS

35:40-5-181. Product development and research loans and grants

Product development and research grants and loans shall be used to create or expand agricultural business through research including, but not limited to, feasibility studies, test marketing costs, and product development. Proposals for a product development and research loan or grant shall:

- (1) Show there is no similar research on the proposed product; and
- (2) Demonstrate how the proposed research will lead to a marketable product

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 19. DISBURSEMENTS

35:40-5-191. Disbursements

(a) Upon final approval of the proposal by the State Board of Agriculture, completion of a contract, and issuance of a purchase order, applicants shall receive full or partial disbursements pursuant to the terms of the contract between the grantee and the Department.

(b) The grantee or borrower shall submit an invoice and documentation supporting expenditures with each interim report for approval to the Department prior to the disbursement of subsequent payments.

[Source: Amended at 19 Ok Reg 1252, eff 5-28-02 ; Amended at 26 Ok Reg 1822, eff 7-1-09 ; Amended at 33 Ok Reg 198, eff 11-2-15 (emergency); Amended at 33 Ok Reg 1177, eff 9-11-16]

PART 21. BASIC AND APPLIED RESEARCH LOANS OR GRANTS

35:40-5-211. Basic and applied research loans or grants

35:40-5-211. Basic and applied research loans or grants

[SUPERSEDED BY 35:40-5-181]

[Source: Added at 17 Ok Reg 299, eff 11-2-99 (emergency); Added at 17 Ok Reg 1849, eff 6-12-00]

PART 23. AGRICULTURE EVENT GRANTS

35:40-5-221. Agriculture event grants

Agriculture event grants shall be used to create a new agricultural event that highlights an agricultural product or expands the economic benefit of an established agricultural event. Proposals for an agriculture event grant shall:

- (1) Illustrate the educational component of the event; and
- (2) Demonstrate the economic impact of the event.

[Source: Added at 33 Ok Reg 198, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16 ; Amended at 39 Ok Reg 805, eff 9-12-22]

PART 25. VETERAN OR YOUNG FARMER LOANS AND GRANTS

35:40-5-231. Veteran or young farmer loans and grants

Veteran or young farmer loans and grants shall be for a veteran or young farmer who is engaged in the creation or expansion of an agricultural business. Proposals for a veteran or young farmer loan or grant shall:

- (1) Demonstrate financial need of the veteran or young farmer;
- and

(2) Provide a strong business plan which includes a minimum of five (5) years projected productivity and income.

[Source: Added at 39 Ok Reg 805, eff 9-12-22]

SUBCHAPTER 7. OKLAHOMA COUNTY FAIR ENHANCEMENT PROGRAM

35:40-7-1. Purpose

The legislature created the Oklahoma County Fair Enhancement Program. The intent of the legislation is to promote and support county fairs statewide by providing funds on a matching basis. The purpose of these rules is to set out the process that governs the disbursement of these funds used for construction, facility improvements, and payment of premiums at county fairs. These rules establish minimum requirements for receiving funds and procedures by which county fair associations or boards may apply for the funds.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Fund" means the Oklahoma County Fair Enhancement Fund.

"Records" means books, documents, accounting procedures and practices, claims, and other data regardless of type whether in written form, computer data, or in any other form filed or produced as a result of receiving monies from the Fund.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-3. Funding

(a) Taxpayer donations to the Fund will be collected throughout the calendar year by the Oklahoma Tax Commission. Within thirty (30) calendar days after the end of the calendar year, the Department will determine if sufficient funds are available to warrant statewide applications for funding. The Fund must contain at least \$35,000 before the Department accepts applications. If the Fund is below \$35,000 then the monies in the Fund will be carried forward and applied to the next calendar year.

(b) The Department is not required to allocate all of the funds available for disbursement.

(c) The applications shall be reviewed by an advisory committee and ranked by the number of points accrued pursuant to rule 35:40-7-6, feasibility of the application request, and available funding.

(d) The advisory committee shall provide the Department with a report that details the ranking of each application and the committee's recommendations for distribution of monies from the Fund.

(e) The Department shall review the recommendation of the advisory committee and any of the applications to determine and approve the final distribution of monies from the Fund.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-4. Application

(a) Application forms prescribed and furnished by the Department must be completed in full and contain all requested information.

(b) Applications must be submitted no later than May 1.

(c) Timely and complete applications received by the Department for approval shall be reviewed and ranked on a competitive basis as set out in these rules.

(d) A minimum 2 to 1 cash match is required by the applicant.

(e) The applicant can apply for one (1) or all three (3) types of funding:

- (1) Premiums
- (2) Facility improvements
- (3) Construction

(f) Applications received by the Department shall be reviewed by an advisory committee for qualification, ranking or recommendation of approval.

(g) Applications that are received incomplete, late, or fail to meet the cash match requirement shall be immediately disqualified by the advisory committee.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-5. Eligibility requirements for County Fairs to receive funds for premiums, facility improvements, or construction

(a) To be eligible for monies from the Fund, a county fair must:

- (1) Hold the fair between July 1 and September 30.
- (2) Last a minimum of two (2) days.
- (3) Have a fair board elected on a countywide basis as called and presided over by the fair board election procedures or a county fair association organized pursuant to provisions contained in 2 O.S. §15-1 et. seq.
- (4) Bear the name of "County Fair"
- (5) Offer at least ten (10) approved classifications of exhibits listed in rule 35:40-7-9. One of the ten (10) classifications must be livestock.

(b) The following documents must be attached to or provided with the application:

- (1) A copy of the county fair's by-laws and board procedures.
- (2) Documentation of its treasurer's bond mandated pursuant to 2 O.S. §15-68 (G)(2).
- (3) Proof of non profit status, if applicable.
- (4) A written summary and signed verification of the process by which county fair officials check and verify the health papers of livestock entering the county fair grounds.

(c) County fairs applying for construction or facility improvement funds shall attach to the application a copy of the fairs property lease, deed, or other documentation that shows the county fair's right to use and improvement upon the real property.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-6. Application grade points

Applications shall be ranked through a grade point system based on the following criteria:

- (1) Duration of Fair
 - (A) Thirty (30) points for a two (2) day fair
 - (B) Forty (40) points for a three (3) day fair
 - (C) Fifty (50) points for a four (4) day fair
- (2) Ten (10) points if the fair publishes the fair information in either a fair catalog or publicly circulated media.
- (3) One hundred (100) points for each fair official or fair board member attending the annual meeting of the Oklahoma Association of Fairs and Festivals, not to exceed a total of Five hundred (500) points.
- (4) Ten (10) points for new exhibits, never used at the applicant fair before. Points awarded one time only with a limit of five (5) new exhibits per application.
- (5) One (1) point for every approved exhibit classification listed in rule 35:40-7-9 not to exceed a total of fifty (50) points.
- (6) An applicant can receive up to ten (10) points by including attendance numbers with a detailed summary on the process used to count, calculate, or arrive at the stated figure. The summary must show a reasonable and accurate means of calculating and reporting the final numbers.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-7. Premium restrictions

(a) No Fund monies awarded to a county fair for premium payments may be used for:

- (1) Baby shows
- (2) Beauty contests
- (3) Games of skill or gamble
- (4) Horse or dog shows in which a human is judged in preference to a product or animal
- (5) Fees, travel, meals and other expenses for judges

(b) Awarded premium monies may be used to purchase trophies, ribbons, and awards.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-8. Accounting records and audits

(a) County fairs receiving monies from the Fund shall establish and maintain proper internal controls to assure that all granted monies are

properly receipted, recorded, and disbursed with appropriate accounting records, reconciliations, and source documents in support of transactions.

(b) Applicants shall retain all records relating to the monies provided from the Fund for a period of five (5) years. If an audit, litigation, or other action involving the records are started before the end of the five (5) year period, the records are required to be maintained for five (5) years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

(c) Applicants shall allow the State Auditor or any auditor specified by the Department to conduct an examination or audit of all monies received and expended from the Fund. All records relating to the expenditure of the Fund's monies shall be made available when requested by any authorized representative of the Department.

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-9. Approved classification of exhibits

The following are a list of the approved classifications of exhibits:

- (1) Ag mechanics - Junior
- (2) Apiary - Senior
- (3) Apiary - Junior
- (4) Aquaculture - Senior
- (5) Aquaculture - Junior
- (6) Beef Cattle - Senior
- (7) Beef Cattle - Junior
- (8) Dairy Cattle - Senior
- (9) Dairy Cattle - Junior
- (10) Dairy Goats - Senior
- (11) Dairy Goats - Junior
- (12) Meat Goats - Senior
- (13) Meat Goats - Junior
- (14) Horses - Senior
- (15) Horses - Junior
- (16) Poultry - Senior
- (17) Poultry - Junior
- (18) Rabbits - Senior
- (19) Rabbits - Junior
- (20) Sheep - Senior
- (21) Sheep - Junior
- (22) Swine - Senior
- (23) Swine - Junior
- (24) Art - Senior
- (25) Art - Junior
- (26) Clothing - Senior
- (27) Clothing - Junior
- (28) Educational Booths - Senior
- (29) Educational Booths - Junior
- (30) Field Crops - Senior
- (31) Field Crops - Junior

- (32) Floral Arrangements - Senior
- (33) Floral Arrangements - Junior
- (34) Flowers - Senior
- (35) Flowers - Junior
- (36) Food Preparation - Senior
- (37) Food Preparation - Junior
- (38) Food Preservation - Senior
- (39) Food Preservation - Junior
- (40) Handicraft or Crafts - Senior
- (41) Handicraft or Crafts - Junior
- (42) Hobbies - Senior
- (43) Hobbies - Junior
- (44) Home Furnishings - Senior
- (45) Home Furnishings - Junior
- (46) Household Arts - Senior
- (47) Household Arts - Junior

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

35:40-7-10. Allowable construction and facility improvement expenses

Construction and facility improvements are allowed for the following types of expenses:

- (1) Constructing new buildings
- (2) Renovating existing buildings
- (3) Repairing existing buildings
- (4) Site clearing, grubbing, excavation, drainage and sewer
- (5) Repair of streets, electrical distribution, streets and flood lighting facilities, fencing, and paying existing indebtedness for such purposes
- (6) All improvements to grounds that remain on the fairgrounds under the control of the fair association
- (7) Labor used for the purposes listed
- (8) Painting facilities
- (9) Building materials
- (10) Parking lots
- (11) Arenas
- (12) Bleachers
- (13) Stalls
- (14) Water systems
- (15) Concession Stands
- (16) Ticket Booths
- (17) Pens
- (18) Bathrooms
- (19) Stages
- (20) Ground Maintenance and Upkeep

[Source: Added at 21 Ok Reg 1181, eff 5-27-04]

SUBCHAPTER 9. OKLAHOMA JUNIOR LIVESTOCK AUCTION SCHOLARSHIP FUND

35:40-9-1. Purpose

The purpose of these rules is to administer the monies from the Oklahoma Junior Livestock Auction Scholarship Revolving Fund to the managing organizations of the Oklahoma Youth Expo and the Tulsa State Fair Junior Livestock Auction for scholarships to students exhibiting at these shows. These rules establish procedures for application, disbursement, reporting, and eligibility requirements.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-2. Definitions

The following words and terms when used in this Subchapter shall have the following meaning unless the context clearly indicates otherwise.

"Fund" means the Oklahoma Junior Livestock Auction Scholarship Revolving Fund.

"Grant" means funds awarded from the State of Oklahoma Junior Livestock Auction Scholarship Revolving Fund.

"Records" mean books, documents, accounting procedures and practices, claims, and other data regardless of type whether in written form, computer data, or in any other form filed or produced as a result of receiving monies from the Fund.

"Students" means Oklahoma 4-H and FFA members whose livestock are selected for the premium auction at either the Oklahoma Youth Expo or the Tulsa State Fair Junior Livestock Auction.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-3. Application and Eligibility

(a) Only the managing organizations of the Oklahoma Youth Expo and the Tulsa State Fair Junior Livestock Auction are eligible to apply for monies from the Fund.

(b) The managing organizations shall submit a written Invoice Plan to the Department detailing how grant funds will be awarded to students.

(c) The Invoice Plan shall be submitted for review at least sixty (60) calendar days prior to the first day of the livestock auction.

(d) The managing organizations with approved Invoice Plans shall only use the funds as scholarships and shall not recover administrative charges or any other costs from the funds.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-4. Grant recipients

(a) Only students whose livestock are selected to participate in either the Oklahoma Youth Expo or the Tulsa State Fair Junior Livestock Auction are eligible to receive grant funds.

- (b) A student may receive more than one scholarship so long as all eligibility requirements are met.
- (c) If a plan is approved, the managing organizations shall be responsible for the disbursement of the grant funds to the eligible students.
- (d) Individual scholarships shall not be limited so long as the plan details a method for determining scholarship awards.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-5. Procedures to receive funds

Taxpayer donations to the Fund will be collected throughout each calendar year by the Oklahoma Tax Commission. At the end of each year the Department shall inform applicants of the total amount of monies accrued. The Department shall uniformly distribute the available funds to the managing organizations of the Oklahoma Youth Expo and the Tulsa State Fair Junior Livestock Auction upon approval of the Invoice Plans.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-6. Reporting

The managing organizations of the Oklahoma Youth Expo and the Tulsa State Fair Junior Livestock Auction shall submit a written report to the Department detailing the use and distribution of all monies received from the Fund no later than sixty (60) calendar days after the last day of the livestock auction.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

35:40-9-7. Audit

- (a) Applicants shall allow the State Auditor or any auditor specified by the Department to conduct an examination or audit of all monies expended from the Fund. All records relating to the expenditure of the Funds monies shall be made available when requested by any authorized representative of the Department.
- (b) Applicants shall retain all records relating to the grant funds for a period of three years. If an audit, litigation, or other action involving the records are started before the end of the three year period, the records are required to be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

[Source: Added at 21 Ok Reg 1184, eff 5-27-04]

SUBCHAPTER 11. OILSEED COMMISSION INITIAL ELECTION PROCEDURES [EXPIRED]

35:40-11-1. Purpose [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-1 was no longer effective. For the official text of the emergency rule that was effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

35:40-11-2. Instructions to voters [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-2 was no longer effective. For the official text of the emergency rule that was effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

35:40-11-3. Conduct of elections [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-3 was no longer effective. For the official text of the emergency rule that was effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

35:40-11-4. Absentee ballots [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-4 was no longer effective. For the official text of the emergency rule that was effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

35:40-11-5. Write-in candidates [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-5 was no longer effective. For the official text of the emergency rule that was in effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

35:40-11-6. Canvassing and reporting of returns [EXPIRED]

[Source: Added at 27 Ok Reg 489, eff 12-18-09 through 7-14-10 (emergency)¹]

Editor's Note: ¹*This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), Section 35:40-11-6 was no longer effective. For the official text of the emergency rule that was effective from 12-18-09 through 7-14-10, see 27 Ok Reg 489.*

SUBCHAPTER 13. HEALTHY CORNER STORE

35:40-13-1. Purpose

The Oklahoma Legislature approves healthy corner stores to be eligible of the Oklahoma Agricultural Linked Deposit Program upon certification by the Oklahoma Department of Agriculture, Food, and Forestry. The purpose of the program is to provide funding for healthy corner stores to diversify Oklahoma's agricultural industry so as to broaden Oklahoma's economic base.

[Source: Added at 28 Ok Reg 2206, eff 7-25-11]

35:40-13-2. Eligibility

(a) A healthy corner store is a grocery store certified by the Oklahoma Department of Agriculture, Food, and Forestry that markets locally grown fresh fruits and vegetables and nutritious foods and for which the sale of beer and tobacco products constitutes less than ten percent (10%) of its gross sales excluding gasoline and other non-grocery products and is located in a geographical area that is underserved by other grocery outlets meeting those requirements.

(b) In addition, a healthy corner store shall meet the following requirements to be certified by the Department:

(1) Be a minimum of five (5) miles from the nearest location providing access to healthy foods and shall be open for business a minimum of five (5) days per week.

(2) A minimum of seventy percent (70%) of the fruits and vegetables shall be grown in the United States, except during growing season when a minimum of ten percent (10%) of the fruits and vegetables shall be grown in Oklahoma.

(3) Actively promote healthy foods through signage and premium shelf space.

(4) Stock items that include but are not limited to whole grain breads, pasta and other grains, low fat or skim milk, yogurt and other dairy products, one hundred percent (100%) fruit juice, low-sugar cereals, lean meats, light dressings and condiments, water, a minimum of six (6) types of fresh produce, frozen fruits and vegetables, low-sodium or unsweetened canned fruits and vegetables, dried fruit, and nuts.

[Source: Added at 28 Ok Reg 2206, eff 7-25-11]

SUBCHAPTER 15. PLASTICULTURE PROGRAM

35:40-15-1. Purpose

The purpose of the plasticulture program is to provide funding assistance to limited resource farmers producing specialty crops, to diversify Oklahoma's agricultural industry, and broaden Oklahoma's economic base.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-2. Definitions

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agricultural product" means a product of cultivating the soil, growing crops, horticultural commodity, silvicultural commodity, or agricultural product, horticultural product, viticulture, or silvicultural product, planting seed, rice, produced in this State, either in its natural state or as processed by the producer, excluding livestock, bees and poultry.

"Agricultural producer" means a person engaged in the business of cultivating, growing, raising, or processing an agricultural commodity for commercial purposes.

"Applicant" means a person who is requesting a grant from the Oklahoma Plasticulture Program.

"Application" means a form provided by the Department that is used to request a grant.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry or its designee.

"Contract" means a signed agreement between the Department and the grantee outlining the terms and conditions of the grant.

"Grant" means funds awarded to an entity by the Department with no reimbursement required.

"Grantee" means an individual person that has received a grant from the Department.

"Limited Resource Farmer" means an agricultural producer that has received proceeds from the sale of agricultural products averaging less than \$100,000 annually for three years prior to the date of the application.

"Plasticulture" means the practice of laying plastic on a raised bed in an open field to promote the growth of an agricultural product but excludes greenhouses or hoopouses.

"Specialty Crops" means fruits and vegetables, tree nuts, dried fruits, horticulture and nursery crops (including floriculture).

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-3. Eligibility

An applicant shall be eligible for funding assistance in the form of a grant from the plasticulture program if the applicant meets the following eligibility requirements:

- (1) The applicant is a limited resource farmer, 21 years of age, and is a legal resident of Oklahoma.
- (2) The proposed plasticulture installation shall be on a farm plot not smaller than one quarter acre and not larger than one acre in size.
- (3) The applicant's farm plot shall be prepared for the proposed plasticulture installation having the ground tilled, disc to seed, and bed ready.
- (4) The applicant's farm plot shall have an adequate source of water for irrigation.
- (5) At least 50% of the crops harvested will be sold or otherwise used for commercial purposes.
- (6) The applicant shall agree to do all the planting and harvesting.
- (7) The applicant shall agree to remove and dispose of all plastic, irrigation tubing and any other materials associated with the project.
- (8) The applicant must be present during entire installation of plasticulture.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-4. Evaluation

The Department shall evaluate applications for funding assistance in the form of a grant from the plasticulture program and may consider some or all of the following factors:

- (1) Whether the applications clearly meet the criteria of the plasticulture program.
- (2) Whether the proposed marketing plan is commercially feasible.

(3) Whether the applicant has experience with growing crops and is technically competent.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-5. Submission of applications

Completed, original and notarized applications must be mailed or delivered to the Department.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-6. Supplemental program information

(a) The Department shall not award grants exceeding \$500 per year for a maximum period of three years. The Department may limit or reduce the monies available during the effective term of a contract.

(b) Plasticulture Program grant funds may be used to purchase approved expenses of the project such as soil testing, water testing, animal depredation, fencing, fertilizer, scales, and plants.

(c) Following approval of the application, a contract shall be executed between the Department and the grantee. The Department shall not disburse grant funding to the grantee until the contract is executed and a purchase order is issued.

(d) The grantee cannot expend funds for the project until after the participant receives notice the purchase order has been issued.

(e) The contract shall specify the agreed upon objectives and tasks to be performed. The release of funds shall be tied to the completion of contract objectives. Failure to complete contract objectives may result in the Department withholding further funding.

(f) Before December 31 of each year, grantee shall submit a production report describing produce sold in pounds and in dollar amounts.

(g) Grantee shall allow the State Auditor or any other auditor specified by the Department to conduct an examination of any and all pertinent records, including books, documents, papers, records, accounting procedures and practices, claims, and other data regardless of type whether in written form, computer data, or any other form filed or produced relating to the grantee's performance under the contract, any subcontractors engaged in the performance of the contract, or involving any transactions related to the contract.

(h) Grantees shall retain all necessary records, books and any other reasonably necessary documentation relating to the nature, time, and scope of the contract, regardless of form, for a period of three (3) years following the completion or termination of the contract. If an audit, litigation, or other action involving the records is commenced before the end of the three (3) year retention period, the records shall be maintained for three (3) years from the date that all issues arising out of the action are resolved.

(i) To the extent allowed under Oklahoma law, the Department may limit the dissemination of information concerning an application or contract, but in any event, does not assume any liability for inadvertent disclosure.

(j) Subject to the policies, if any, of participating public programs and entities, rights to use products, processes, or services developed under this grant program shall remain with the grantee. Subject to the same policies, all rights to project outcomes may revert to the Department if grantee fails to market the product, process, or service in accordance with individually negotiated funding contracts.

(k) In the event that a grantee recipient fails to comply with the terms of the agreement, including but not limited to failure to submit reports in a timely manner, the grantee shall not participate in any events sponsored by any program of the Department related to market development.

(l) Failure to complete the terms of the agreement shall result in an audit and collection activities by the Department.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

35:40-15-7. Reimbursements

(a) Upon approval of a grant by the Department, the executed contract between the Department and the grantee, and issuance of a purchase order; grantees shall be reimbursed funds as provided in the contract.

(b) The grantee shall submit receipts supporting expenditures to the Department in order to receive reimbursement.

[Source: Added at 29 Ok Reg 587, eff 7-1-12]

SUBCHAPTER 17. AGRITOURISM

35:40-17-1. Purpose

(a) The purpose of the Agritourism Program is to stimulate economic growth and viability in rural communities by promoting and fostering agritourism ventures within Oklahoma. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Agritourism program in a manner consistent with the provisions of 2 O.S. § 5-12.

(b) Persons enrolled in the Agritourism Program shall ensure that diversity and inclusion is encouraged at the venue and that bias, prejudice, racism, and hatred are not a part of the activities at the venue. The diversity of agritourism customers is honored and valued. Approved Oklahoma Agritourism venues shall respect the diversity of all customers and shall honor and value the dignity of all individuals.

[Source: Added at 31 Ok Reg 737, eff 9-12-14 ; Amended at 38 Ok Reg 1677, eff 9-11-21]

35:40-17-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Agritourism" means the organization and operation of agricultural activities carried out on a farm or ranch that allow members of the public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including, but not limited to, farming, ranching, horseback riding, horse-drawn carriage rides, livestock and

poultry shows, petting farms, rodeos, historic, cultural, harvest-your-own activities, or natural activities and attractions.

"Agritourism designated area" means a specific location or facility within a farm, ranch, brewery, or winery where an agritourism activity takes place and shall not include any area adjacent to or nearby the specific location or facility, even if the area is owned or operated by the agritourism professional.

"Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation and whose agritourism activity is registered with the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Reserved at 31 Ok Reg 737, eff 9-12-14 ; Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-3. Eligibility and registration

(a) Agritourism designated areas that are eligible for registration with the Department shall allow members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities that include farming, ranching, historic, cultural, harvest-your-own, or natural activities and attractions.

(b) An agritourism designated area may be eligible for registration regardless of whether the participant is required to pay to participate in the activity.

(c) An agritourism designated area shall be evaluated by the Department prior to registration.

(d) When evaluating an agritourism designated area and determining whether registration may be permitted, the Department may consider a variety of factors, including but not limited to:

(1) Whether the agritourism professional or agritourism designated area complies with federal, state, and local regulations for health, safety, sanitation, and zoning.

(2) Whether the agritourism professional or agritourism designated area carries liability insurance.

(3) Whether the agritourism professional or agritourism designated area has complied with the requirements of the Oklahoma Tax Commission.

(e) Each agritourism designated area shall be open to the public seasonally and specify and post regular business hours and adhere to the same.

(f) Each agritourism designated area shall be maintained and in good repair.

(g) The Department may refuse to register or revoke the registration of an agritourism designated area for failure to meet the requirements of the Agritourism Program.

(h) If the Department finds that a proposed agritourism designated area is not eligible for registration, the Department may provide the agritourism professional or agritourism designated area with a written explanation of its denial and what improvements, if any, would permit registration as an agritourism designated area.

[Source: Added at 31 Ok Reg 737, eff 9-12-14 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-4. Additional requirements for hunting facilities

In addition to the other eligibility requirements of this subchapter, hunting facilities shall include:

- (1) Lodging; and
- (2) A guide service or information on self-guided hunts that includes property details, owner expectations, safety guidelines, and eligible harvests.

[Source: Added at 31 Ok Reg 737, eff 9-12-14 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-5. Additional requirements for country stay facilities

In addition to the other eligibility requirements of this subchapter, country stay facilities shall permit the agritourism participant to engage in no less than five (5) of the following activities:

- (1) Fishing on site with a dock or other improvements made to enhance the experience;
- (2) Wildlife watching or photography opportunities;
- (3) Presence of farm or ranch animals on site for petting, viewing, photography, or educational opportunities;
- (4) Coordinated picnic or chuckwagon dinners;
- (5) Consumption of food grown or raised at the agritourism facility;
- (6) Use or display of farm equipment;
- (7) Harvesting food grown at the agritourism facility;
- (8) Hayrides;
- (9) Wagon rides;
- (10) Working with or observing work with natural fibers;
- (11) Observing or experiencing recreations of pioneer methods of living, crafts, or practices;
- (12) Participating in traditional farm or ranch activities;
- (13) Observing a dairy;
- (14) Skeet shooting;
- (15) Observing or participating in cattle drives; or
- (16) Participating in crop production by observation, consumption, education, or purchase.

[Source: Added at 31 Ok Reg 737, eff 9-12-14]

35:40-17-6. Additional requirements for winery and brewery facilities

In addition to the other eligibility requirements of this subchapter, wineries and breweries shall comply with Alcoholic Beverage Laws Enforcement Commission registration requirements, liquor license requirements, and have a tasting room or taproom for visitors to be registered as an agritourism designated area. Breweries shall produce products for consumption at the site of the agritourism designated area.

[Source: Added at 31 Ok Reg 737, eff 9-12-14 ; Amended at 38 Ok Reg 1677, eff 9-11-21 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-7. Additional requirements for petting farm facilities

In addition to the other eligibility requirements of this subchapter, petting farm facilities shall:

- (1) Include livestock, as defined by USDA, or animals traditionally used for agricultural purposes as more than fifty (50) percent of the animals provided for petting activities;
- (2) Provide or post educational information about each animal at the facility; and
- (3) Take the following steps to prevent disease transmission to visitors:
 - (A) Ensure proper care and management of animals,
 - (B) Provide access to hand-washing stations,
 - (C) Design transition areas between animal and non-animal areas,
 - (E) Prohibit food and drink in animal areas, and
 - (F) Provide educational material or signage to the public about disease prevention procedures.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-8. Additional requirements for pumpkin picking facilities

In addition to the other eligibility requirements of this subchapter, pumpkin picking facilities shall:

- (1) Provide or post educational information about pumpkins at the facility; and
- (2) Be located on an agritourism professional's privately owned or operated farm or property.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-9. Additional requirements for maze facilities

In addition to the other eligibility requirements of this subchapter, maze facilities shall:

- (1) Be constructed with traditional agricultural materials;
- (2) Provide or post educational information about the agricultural materials used to construct the facility; and
- (3) Be located on an agritourism professional's privately owned or operated farm or property.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-10. Additional requirements for Christmas tree facilities

In addition to the other eligibility requirements of this subchapter, Christmas tree facilities shall:

- (1) Grow Christmas trees on site for consumer harvest; and

(2) Be located on an agritourism professional's privately owned or operated farm or property.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-17-11. Additional requirements for bison facilities

In addition to the other eligibility requirements of this subchapter, bison facilities shall provide or post educational information about bison at the facility.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

SUBCHAPTER 19. OKLAHOMA VITICULTURE AND ENOLOGY CENTER DEVELOPMENT REVOLVING FUND

35:40-19-1. Purpose

The purpose of the Oklahoma Viticulture and Enology Center Development Revolving Fund is to:

- (1) Develop viticulture-related and enology-related educational programs;
- (2) Develop technologies, strategies, or practices that aid in the production of grapes and wine in Oklahoma; and
- (3) Increase the positive economic impact of the Oklahoma wine industry on this state.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-2. Definitions [RESERVED]

[Source: Reserved at 33 Ok Reg 201, eff 11-2-15 (emergency); Reserved at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-3. Eligibility

An applicant shall be eligible for funding assistance in the form of a grant from the Oklahoma Viticulture and Enology Center Development Revolving Fund if the applicant meets the following eligibility requirements:

- (1) An applicant shall be an institution of higher education in Oklahoma, a state agency or governmental subdivision of Oklahoma, or a trade group promoting grape or wine production industries within Oklahoma; and
- (2) Projects proposed by the applicant shall be limited to scientific research, education, product development, or marketing projects that support the purpose of the Oklahoma Viticulture and Enology Center Development Revolving Fund.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-4. Evaluation

The Department shall evaluate applications for funding in the form of a grant from the Oklahoma Viticulture and Enology Center Development Revolving Fund and may consider some or all of the following factors:

- (1) Whether the application clearly meets the criteria of the Oklahoma Viticulture and Enology Center Development Revolving Fund purpose, goals, and objectives;
- (2) Whether the proposed project is commercially feasible, can be duplicated by other grape and wine producers, or will aid in the production of grapes and wine in Oklahoma and
- (3) Whether the outcome will provide a positive impact on the Oklahoma wine industry.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-5. Submission of applications

(a) Applications shall be electronically submitted to the Department on a form designated by the Department.

(b) Applications shall identify the category of the proposed project and describe the goals and benefits of the proposed project, as follows:

- (1) For projects related to scientific research, the application shall describe proposed research project and in what manner the project will benefit grape and wine production in Oklahoma;
- (2) For projects related to education, the application shall describe the proposed educational coursework and in what manner the project will educate or provide technical assistance to individuals and businesses engaged in the grape or wine production industries within Oklahoma;
- (3) For projects related to product development, the application shall describe the proposed project and in what manner the project improves the quality or variety of grapes or wine produced in Oklahoma; and
- (4) For projects related to marketing, the application shall describe the proposed project and how the project will promote grapes and wines produced in Oklahoma.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-6. Supplemental program information

(a) Following approval of the application, a contract shall be executed between the Department and the grantee. The Department shall not disburse grant funding to the grantee until the contract is executed and a purchase order is issued.

(b) The grantee shall not expend funds for the project until after receiving notice the purchase order has been issued.

(c) The contract shall specify the agreed upon objectives and tasks to be performed. The release of funds shall be tied to the completion of contract objectives. Failure to complete contract objectives may result in the Department withholding further funding and recovery of previously disbursed funds.

(d) Before December 31 of each year, the grantee shall submit a final report to the Department in a form specified by the Department. If the applicant received a grant the previous year, the final report shall be submitted before funds are disbursed for the following year.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

35:40-19-7. Disbursements

- (a) The grantee shall submit receipts supporting expenditures.
- (b) Grant awards to any applicant shall not exceed \$50,000 per fiscal year.

[Source: Added at 33 Ok Reg 201, eff 11-2-15 (emergency); Added at 33 Ok Reg 1177, eff 9-11-16]

SUBCHAPTER 21. OKLAHOMA HEALTHY FOOD FINANCING PROGRAM

35:40-21-1. Purpose

The purpose of the Oklahoma Healthy Food Financing Program is to provide financing for food retailers to provide healthy food in underserved communities which primarily serve low or moderate income communities. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Healthy Food Financing Program in a manner consistent with the provisions of Section 5-201 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-21-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Board" means the State Board of Agriculture or its designee.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Financing" means loans, grants, and forgivable loans.

"Grocery store" means a for-profit or not-for-profit self-service retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries.

"Low-income community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, that has a poverty rate of at least twenty percent (20%) or in which the median family income does not exceed eighty percent (80%) of the greater of the statewide or metropolitan median family income.

"Moderate income community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, in which the median family income is between eighty-one percent (81%) and ninety-five percent (95%) of the statewide or metropolitan median family income.

"Small food retailer" means a small retail outlet less than two thousand five hundred (2,500) square feet, which sells a limited selection of foods and other products.

"Underserved community" means a census tract, as reported in the most recent decennial census published by the United States Bureau of the Census, determined to be an area with low supermarket access by either the United States Department of Agriculture, as identified in the Food Access Research Atlas, or through a methodology that has been adopted for use by another governmental healthy food initiative.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-21-3. Applicant eligibility

(a) Applicants eligible for financing shall include, but are not limited to, sole proprietorships, partnerships, limited liability companies, corporations, cooperatives, nonprofit organizations, nonprofit community development entities, universities, and government entities. All applicants shall be residents of or entities formed within the State of Oklahoma.

(b) Eligibility may be given to those applicants who:

- (1) Demonstrate the capacity to successfully implement the project;
- (2) Demonstrate the project is expected to be economically self-sustaining;
- (3) Demonstrate the ability to repay the debt; and
- (4) Agree, for a minimum of five (5) years, to comply with the following conditions:
 - (A) To accept the benefits of the United States Department of Agriculture's Supplemental Nutrition Assistance Program (SNAP) or other federal or state nutrition assistance programs;
 - (B) To apply for the United States Department of Agriculture's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) or other federal or state nutrition assistance programs, and to accept the benefits, if approved;
 - (C) To allocate at least thirty percent (30%) of food retail space for the sale of perishable foods, which shall include fresh dairy, produce, meats, poultry, and fish;
 - (D) To comply with all data collection and reporting requirements established by the Board; and
 - (E) To promote the hiring of local residents.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-21-4. Project eligibility

Projects eligible for financing shall be located in an underserved community and primarily serve low or moderate income communities. These projects shall include, but not be limited to:

- (1) Construction of new grocery stores;

- (2) Construction of small food retailers; and
- (3) Grocery store or small food retailer renovations, expansions, and infrastructure upgrades that improve the availability and quality of fresh produce and other healthy foods.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-21-5. Evaluation and financing criteria

When an applicant and the applicant's project are eligible for financing, the Department shall evaluate the application and determine the overall ability to participate and the amount of financing after considering the following criteria:

- (1) The level of need of access to healthy foods in the area to be served;
- (2) The degree to which the project requires an investment of public financing to progress, create, or impact the access to healthy food;
- (3) The degree to which the project will have a positive economic impact on the underserved community, including creating or retaining jobs for local residents;
- (4) The degree to which the project will participate in state and local health department initiatives to educate consumers on nutrition and promote healthier eating; and
- (5) Other criteria the Board determines to be consistent with the purposes of the Healthy Food Financing Act.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-21-6. Allowed use of project funds

Financing made available for projects shall only be expended for the following purposes:

- (1) Site acquisition and preparation;
- (2) Construction costs;
- (3) Equipment and furnishings;
- (4) Workforce training or security;
- (5) Pre-development costs, including market studies and appraisals;
- (6) Energy efficiency measures;
- (7) Working capital for first-time inventory and start-up costs; and
- (8) For small food retailers, the acquisition or leasing of refrigeration equipment, display shelving, or other one-time capital expenditure, at a cost of less than Five Thousand Dollars (\$5,000.00), for the promotion and display of perishable foods, which shall include a blend of dairy products, fresh produce, fresh meats and poultry, and fresh or frozen fish.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-21-7. Applications for project funds

Applications for project funds are limited to the equivalent of twenty (20) typed, single-spaced, eight and one-half inch by eleven inch pages, including any attachments. Applications shall be submitted electronically to the Oklahoma Department of Agriculture, Food and Forestry.

35:40-21-8. Supplemental program information

(a) Loan proposals are not limited to a specific dollar amount. Grants shall be limited to Ten Thousand Dollars (\$10,000.00). The Department may recommend an increase or decrease in the amount of requested funding based on its findings and on its level of available funds.

(b) Proposals may be submitted at any time. Deadline dates for submissions are January 1st, April 1st, July 1st, and October 1st or the next regular business day if the Department offices are closed on the deadline date. Reviews of loan and grant requests shall be made on a quarterly basis.

(c) The Oklahoma Department of Agriculture, Food, and Forestry shall complete initial screening for completeness and eligibility of all proposals upon receipt. If revisions or corrections are necessary, the applicant may withdraw and resubmit if submitted by the deadline date. If the Department recommends a funding level less than the amount requested in the proposal, the Department shall confer with the applicant to determine whether the amount recommended would alter the project's feasibility. No individual may participate in, or vote on, the determination of an application relating to an organization in which the individual has a direct personal financial interest.

(d) Following approval of a loan or grant request by the Department, a loan or grant contract shall be executed between the Department and the borrower or grantee. This agreement shall specify the time line and budget, fund release schedule, and any other conditions specific to the individual proposal. The entire loan or grant amount may not be released at the time of the execution of the contract. The borrower or grantee shall submit interim reports, as required, to the Department that outline the project's progress, time lines, and budget compliance prior to the Department issuing any subsequent payments pursuant to the agreement.

(e) Financial documents, books, receipts, orders, expenditures, electronic data, and accounting procedures and practices of the borrower or grantee necessary to evaluate the use of loan or grant funds are subject to examination by the Department at any time for three (3) years following the termination of the project.

(f) The Department may limit the dissemination of information concerning a project, but does not assume any liability for inadvertent disclosure.

(g) If a grantee or loan recipient fails to comply with the terms of an agreement, including, but not limited to, failure to pay back loans pursuant to the terms outlined in the agreement or failure to submit reports in a timely manner, the grantee or loan recipient shall not participate in any events sponsored by any program of the Oklahoma Department of Agriculture, Food, and Forestry.

(h) Failure to complete the terms of the agreement shall result in an audit and collection activities by the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

SUBCHAPTER 23. MADE IN OKLAHOMA

35:40-23-1. Purpose

The purpose of the Made in Oklahoma program is to promote foods and products and services produced in Oklahoma. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Made in Oklahoma program in a manner consistent with the provisions of Section 5-9 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 37 Ok Reg 980, eff 9-14-20]

35:40-23-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means a person who is requesting membership into the Made in Oklahoma program.

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Product" means a product processed or manufactured to add value.

"Service" means a useful task that contributes to the public welfare.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-3. Applicant eligibility

(a) Applicants eligible for membership into the Made in Oklahoma program shall grow, process, or manufacture a product or provide a service within the state of Oklahoma.

(b) Eligibility may be given to those applicants who are in compliance with other state and federal agencies.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-4. Product eligibility

(a) Products eligible for approval by the Department to use the Made in Oklahoma logo shall:

- (1) Be processed or manufactured in an Oklahoma facility;
 - (2) Meet or exceed all federal and State of Oklahoma standards and regulations;
 - (3) Include language and imagery appropriate for all consumers;
- and

- (4) Include an Oklahoma address on each label.
- (b) Products produced, sold, or resold pursuant to the provisions of Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes shall not be eligible for approval to use the Made in Oklahoma logo.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 39 Ok Reg 805, eff 9-12-22 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-4.1. Service eligibility

Services eligible for approval by the Department to use the Made in Oklahoma logo shall:

- (1) Be provided in Oklahoma;
- (2) Meet or exceed all federal and State of Oklahoma standards and regulations;
- (3) Be appropriate for all consumers; and
- (4) Include an Oklahoma address on all information provided to the consumer.

[Source: Added at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-5. Application

- (a) Applications for membership into the Made in Oklahoma program shall be submitted to the Department.
- (b) Each applicant shall submit a description of products, packaging, and proposed marketing materials or services. In addition, a label and sample of the product or description and video demonstrating the service shall be provided.
- (c) Each applicant shall submit a copy of any required licenses, health certifications or records of inspection by state or federal agencies from the previous year for the facilities and raw materials utilized in the applicant's products or services.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-6. Logo

The Made in Oklahoma program logo shall be used only by a member of the Made in Oklahoma program. It shall be used only for promotion of eligible products and services as determined by the Department.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-7. Renewal and revocation

- (a) Made in Oklahoma program memberships shall be renewable on an annual basis. Applications for membership renewal shall be due on a date determined by the Department.
- (b) Any person, firm, partnership, corporation, LLC, or other association who violates any provision of this section, gives false information in the application process, misrepresents certifications in the application process, or uses the Made in Oklahoma Program logo on an ineligible

product or service shall be subject to immediate suspension or revocation of membership in the program and use of the Made in Oklahoma logo. (c) Prior suspension or revocation of a Made in Oklahoma program membership may be cause for denial of a renewal application by the Department.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

35:40-23-8. Product endorsement

The Department does not endorse and makes no warranty regarding any product or service determined eligible to use the Made in Oklahoma program logo.

[Source: Added at 37 Ok Reg 980, eff 9-14-20 ; Amended at 40 Ok Reg 1528, eff 9-11-23]

SUBCHAPTER 25. OKLAHOMA WITNER STORM GRANT PROGRAM

35:40-25-1. Purpose

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7, 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:40-25-2. Definitions

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise

with delivery beginning February 7, 2021, and ending February 21, 2021.

"Unregulated utility" means any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" means any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:40-25-3. Applicant eligibility

Each applicant shall meet the following requirements:

- (1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;
- (2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial Census or most recent annual estimate of the population by the United States Census Bureau; and
- (3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:40-25-4. Evaluation criteria

- (a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:
 - (1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and
 - (2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.
- (b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

35:40-25-5. Application requirements

Each applicant for program funds shall:

- (1) Execute documents as required by the Department;
- (2) Submit the incorporated municipality's energy bills for the five (5) years preceding and ending on February 7, 2021;
- (3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both

extreme purchase costs and extraordinary costs; and
(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.

[Source: Added at 41 Ok Reg, Number 22, effective 8-11-24]

CHAPTER 44. AGRICULTURE POLLUTANT DISCHARGE ELIMINATION SYSTEM

[Authority: OKLA. CONST. art VI; 2 O.S., §§ 2-4(2), (7), (16), and (29), 2-18.2, 2A-1 et seq.; 27A O.S., §§ 1-3-101(D)]

[Source: Codified 5-11-06]

SUBCHAPTER 1. AGRICULTURE ENVIRONMENTAL PERMITTING AND AGPDES

PART 1. GENERAL PROVISIONS

35:44-1-1. Purpose and jurisdiction

(a) The rules in this Subchapter implement the Oklahoma Agriculture Pollutant Discharge Elimination System Act and the Oklahoma Agriculture Environmental Permitting Act, 2 O.S. §§ 2A-1 et seq. and 2A-21 et seq., and apply to applicants for and holders of Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) permits and other authorizations.

(b) Any facility that discharges as that term is defined in 2 O.S. § 2A-2 of the Oklahoma Agriculture Pollutant Discharge Elimination System Act that are within the Oklahoma Department of Agriculture, Food, and Forestry's areas of environmental jurisdiction pursuant to 27A O.S. § 1-3-101 (D) required by federal regulations to obtain a National Pollutant Discharge Elimination System (NPDES) permit or an authorization pursuant to a NPDES general permit shall be required to obtain an Agriculture Pollutant Discharge Elimination System (AgPDES) permit or an authorization pursuant to an AgPDES general permit.

(c) The Oklahoma Department of Agriculture, Food, and Forestry shall have the following areas of environmental responsibility except as provided in (d) of this subsection:

- (1) Point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets and animal waste,
- (2) Pesticide control,
- (3) Forestry and nurseries,
- (4) Fertilizer,
- (5) Facilities which store grain, feed, seed, fertilizer and agricultural chemicals,
- (6) Dairy waste and wastewater associated with milk production facilities,
- (7) Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of the Department,
- (8) Utilization and enforcement of Oklahoma Water Quality Standards and implementation documents,
- (9) Development and promulgation of a Water Quality Standards Implementation Plan for its jurisdictional areas of environmental

responsibility, and

(10) Storm water discharges for activities subject to the jurisdictional areas of environmental responsibility of the Department.

(d) The Department of Environmental Quality shall have environmental jurisdiction over:

(1) Including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at the facilities,

(A) Commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products,

(B) Slaughterhouses, but not including feedlots at these facilities, and

(C) Aquaculture and fish hatcheries, and

(2) Facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to such storm water discharges.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-2. Incorporation by reference of federal regulations

(a) The following provisions of Title 40 of the Code of Federal Regulations and the requirements contained therein pertaining to the National Pollutant Discharge Elimination System are, unless otherwise specified, adopted and incorporated by reference in their entirety:

(1) Part 3 (Electronic Reporting) in its entirety.

(2) The following from Part 122 (NPDES Permit Regulations):

(A) 122.2 (definitions), excluding those definitions that are less stringent than the state of Oklahoma definitions found in Title 2 of the Oklahoma Statutes, Sections 2A-2 and 2A-22.

(B) 122.3 (a)-(g) and (i) (exclusions).

(C) 122.4 (a), (b), (d), and (i) (prohibitions).

(D) 122.5 (b) and (c) (effect of a permit).

(E) 122.6 (continuation of expiring permits).

(F) 122.7 (b) and (c) (confidentiality of information).

(G) 122.21 (a)-(b), (e)-(i), (k), (m), (o), and (p) (application for permit).

(H) 122.22 (signatories to permit applications and reports).

(I) 122.23 (concentrated animal feeding operations).

(J) 122.26 (storm water discharges).

(K) 122.27 (a), and (b)(1) and (3) (silvicultural activities).

(L) 122.28 (general permits).

- (M) 122.29 (new sources and new dischargers).
- (N) 122.41 (conditions applicable to all permits).
- (O) 122.42 (a) and (d)-(e) (additional conditions applicable to specified categories of NPDES permits).
- (P) 122.43 (establishing permit conditions).
- (Q) 122.44 (establishing limitations, standards, and other permit conditions).
- (R) 122.45 (calculating NPDES permit conditions).
- (S) 122.46 (duration of permits).
- (T) 122.47 (schedules of compliance).
- (U) 122.48 (requirements for recording and reporting of monitoring results).
- (V) 122.50 (disposal of pollutants into wells, into publicly owned treatment works or by land application).
- (W) 122.61 (transfer of permits).
- (X) 122.62 (modification or revocation and reissuance of permits).
- (Y) 122.63 (minor modifications permits).
- (Z) 122.64 (termination of permits).

(3) The following from Part 124 (Procedures and Decisionmaking):

- (A) 124.2 (definitions).
- (B) 124.3(a) (application for a permit).
- (C) 124.5(a), and (c) - (d) (modification, revocation and reissuance, or termination of permits).
- (D) 124.6(a), (c) - (e) (draft permits).
- (E) 124.8 (fact sheet).
- (F) 124.10(a)(1)(ii), (iii), and (iv), (b) - (e) (public notice of permit actions and public comment period).
- (G) 124.11 (public comments and requests for public hearings).
- (H) 124.12(a) (public hearings).
- (I) 124.13 (obligation to raise issues and provide information during the public comment period).
- (J) 124.15 (issuance and effective date of permit).
- (K) 124.16 (stays of contested permit conditions).
- (L) 124.17(a) and (c) (response to comments).
- (M) 124.19 (appeal of RCRA, UIC, NPDES, and PSD permits).
- (N) 124.56 (fact sheets).
- (O) 124.59 (conditions requested by the Corps of Engineers and other government agencies).
- (P) 124.62 (decision on variances).

(4) Part 125 (Criteria and Standards), Subparts A and D.

(5) Part 412 (Effluent Limitations Guideline for Concentrated Animal Feeding Operations (CAFO) Point Source Category) in its entirety.

(6) Part 450 (Construction and Development Point Source Category) in its entirety.

(b) Narrative provisions of this subchapter control over any provision of regulations of the Environmental Protection Agency (EPA) adopted by reference and the rules are interpreted consistently with state

compliance, with the requirements of 40 CFR Part 123 (EPA Regulations on State NPDES Permit Program Requirements), and applicable provisions of the federal Clean Water Act and Oklahoma law.

(c) Environmental Protection Agency Form 1 (general information for all applicants), Form 2b (concentrated animal feeding operations application), Form 2c (other applications), and the storm water construction activity Notice of Intent shall be incorporated by reference.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10 ; Amended at 29 Ok Reg 352, eff 12-5-11 (emergency); Amended at 29 Ok Reg 919, eff 7-1-12 ; Amended at 30 Ok Reg 827, eff 7-1-13]

35:44-1-3. Date of federal regulations incorporated [REVOKED]

[Source: Added at 27 Ok Reg 2449, eff 7-25-10 ; Amended at 28 Ok Reg 2206, eff 7-25-11 ; Amended at 29 Ok Reg 919, eff 7-1-12 ; Amended at 30 Ok Reg 827, eff 7-1-13 ; Amended at 31 Ok Reg 738, eff 9-12-14 ; Amended at 32 Ok Reg 1534, eff 9-11-15 ; Amended at 33 Ok Reg 1182, eff 9-11-16 ; Amended at 34 Ok Reg 838, eff 9-11-17 ; Amended at 35 Ok Reg 778, eff 9-14-18 ; Amended at 36 Ok Reg 1377, eff 9-14-19 ; Amended at 37 Ok Reg 983, eff 9-14-20 ; Amended at 38 Ok Reg 1678, eff 9-11-21 ; Amended at 39 Ok Reg 809, eff 9-12-22 ; Revoked at 40 Ok Reg 1531, eff 9-11-23]

PART 2. THE PROCESS

35:44-1-20. Compliance

Applicants and permittees are subject to the laws and rules pertaining to ODAFF as they exist on the date of filing an application.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-21. Filing an application

(a) **Tier I.** The applicant shall file (2) copies of a Tier I application unless the application form or instructions specifies that only one (1) copy is needed.

(b) **Tier II and III.** The applicant shall file three (3) copies of Tier II and Tier III applications with ODAFF and place one (1) copy for public review in the county in which the site, facility or activity is located.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-22. Fees

(a) Fees shall be submitted with the application or notice of intent and, except as herein provided, shall not be refunded.

(b) No fee shall be required for a notice of termination or a notice of change, other than change of permittee or co-permittee.

(c) As of July 1, 2010, a request for a storm water construction waiver (rainfall erosivity) shall be:

(1) One hundred fifty dollars (\$150.00) for electronic submissions.

(2) Two hundred dollars (\$200.00) for paper submissions.

(d) As of July 1, 2010, application fees for authorizations covered under a general permit shall be as follows:

(1) Renewal or change of permittee or co-permittee shall be seventy-five dollars (\$75.00) submitted electronically by e-permitting.

(2) Renewal or change of permittee or co-permittee shall be one hundred dollars (\$100.00) submitted by paper.

(3) New applications for authorizations covered under a general permit shall be three hundred fifty dollars (\$350.00).

(4) Significant expansions of facilities covered under authorizations of existing general permits shall be three hundred fifty dollars (\$350.00).

(5) The annual fee for an authorization covered under a general permit during the term of that permit shall be eight hundred dollars (\$800.00).

(6) Storm water authorizations for construction sites of agriculture related activities shall be three hundred sixteen dollars (\$316.00).

(e) As of July 1, 2010, individual permit application fees shall be as follows:

(1) Renewals of individual permits of existing facilities shall be three hundred fifteen dollars (\$315.00).

(2) New applications for individual new proposed facilities shall be three hundred fifty dollars (\$350.00).

(3) Annual fees for individual permittees during the term of the individual permit shall be one thousand two hundred and fifty dollars (\$1,250.00).

(4) In no case shall an individual permittee be required to pay an annual fee in the same fiscal year an application or renewal fee was paid.

(f) To assist in meeting costs to the Department of the AgPDES program associated with permitting, the fees set out in this section may be adjusted on July 1st of each year to correspond to the percentage, if any, by which the Consumer Price Index (CPI) for the most recent calendar exceeds the CPI for the previous calendar year. The Department may round the adjusted fees up to the nearest dollar.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-23. Receipt of applications

When an application and appropriate fee are received, each program shall:

(1) File stamp the application with the date of receipt;

(2) Assign the application to a permit reviewer; and

(3) Enter this information in a database or log book.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-24. Administrative completeness review

The reviewer shall have sixty (60) calendar days from the file-stamped date of filing to determine if the application is administratively complete.

(1) **Not complete.** If the reviewer decides that the application is not complete, ODAFF shall immediately send a Notice of Deficiencies to the applicant by mail, describing with reasonable specificity the deficiencies and requesting supplemental information. The reviewer may continue to ask for specific information until the application is administratively complete. If the reviewer does not notify the applicant of deficiencies, the period for technical review shall begin at the close of the administrative completeness review period.

(2) **Complete.** When the application is administratively complete, the reviewer shall enter the date in the database or log book and immediately notify the applicant by mail. The period for technical review begins.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-25. Technical review

(a) Each program shall have the time period specified in these rules to review each application for technical compliance with the relevant rules and to reach a final determination. If the data in the application does not technically comply with the relevant rules or law, the reviewer may notify the applicant by certified mail, describing with reasonable specificity the deficiencies and requesting supplemental information.

(b) Any environmental permit that is not described in this Subchapter shall be reviewed with all due and reasonable speed.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-26. When review times stop

The time period for review stops during:

- (1) litigation;
- (2) public review and participation, including waiting periods, comment periods, public meetings, administrative hearings, ODAFF preparation of response to comments or review by state or federal agencies;
- (3) requests for supplemental information; and
- (4) the time in which an applicant amends the application of their own accord.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-27. Supplemental time

The Notice of Deficiencies and request for supplemental information may state that up to thirty (30) additional calendar days may be added to the application processing time. Requests for supplemental information may also state that additional days for technical review equal to the number of days the applicant used to respond may be added to the review time.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-28. Extensions

Extensions to the time lines shall only be made at the request of an applicant and at the discretion of the Department, except as provided in section 35:44-1-29 (2). Requests of applicants shall not be unnecessarily denied.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-29. Failure to meet deadline

Where failure to meet a deadline by the Department is imminent, then:

- (1) At least thirty (30) calendar days prior to the deadline ODAFF shall reassign staff or retain outside consultants to meet the deadline; or
- (2) The applicant may agree to an extension of time for a specific purpose and period of time with refund of the entire application fee, unless a refund is prohibited by law.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-30. Notices

(a) **Statutory requirements for notice.** The Agriculture Environmental Permitting Act requires an applicant to publish notice of filing a legal notice in one newspaper local to the proposed location or existing facility in accordance with 2 O.S. § 2A-25.

(b) **Notice to landowner.** Applicants shall certify by affidavit that they own the real property, have a current lease or easement which is given to accomplish the permitted purpose or have provided legal notice to the landowner.

(c) **Notice content.** The applicant shall provide ODAFF with a draft notice for approval prior to publication. All published legal notices shall contain the:

- (1) Name and address of the applicant;
- (2) Name, address and legal description of the site, facility and activity;
- (3) Purpose of notice;
- (4) Type of permit or permit action being sought;
- (5) Description of activities to be regulated;
- (6) Locations where the application may be reviewed;
- (7) Names, addresses and telephone numbers of contact persons for ODAFF and for the applicant;
- (8) Description of public participation opportunities and time period for comment and requests; and
- (9) Any other information required by ODAFF rules.

(d) **Proof of publication.** Within twenty (20) calendar days after the date of publication, an applicant shall provide ODAFF with a written affidavit of publication for each notice published. In case of a mistake in a published notice, ODAFF shall require a legal notice of correction or republication of the entire notice, whichever is appropriate.

Inconsequential errors in spelling, grammar or punctuation shall not be cause for correction or republication.

(e) **Additional notice.** Applicants for a NPDES permit are subject to additional notice provisions of federal requirements adopted by reference as ODAFF rules.

(f) Notices provided by ODAFF will include a fact sheet or statement of basis and the draft permit.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-31. Withdrawing applications

(a) **By applicant.** An applicant may withdraw an application at any time with written notice to ODAFF and forfeiture of fees.

(b) **By ODAFF.** Except for good cause shown, when an applicant fails to supplement an application within 180 calendar days after the mailing date of a Notice of Deficiencies, or by an agreed date, ODAFF shall void the application. ODAFF shall notify the applicant of an opportunity to show cause why this should not occur.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-32. Permit issuance or denial

(a) **Compliance required.** A new, modified or renewed permit or other authorization sought by the applicant shall not be issued until ODAFF has determined the application is in substantial compliance with applicable requirements of ODAFF laws and rules.

(b) **Conditions for issuance.** ODAFF may not issue a new, modified or renewed permit or other authorization sought by the applicant if:

(1) The applicant has not paid all monies owed to ODAFF or is not in substantial compliance with the ODAFF laws and rules and the terms of any existing ODAFF permits and orders. ODAFF may impose special conditions on the applicant to assure compliance and a separate schedule which ODAFF considers necessary to achieve required compliance; or

(2) Material facts were misrepresented or omitted from the application and the applicant knew or should have known of such misrepresentation or omission.

(c) **Burden of persuasion.** The applicant bears the burden of persuading ODAFF that the permit should issue. Title 75 O.S. § 307 is the appropriate mechanism to address any alleged failure by ODAFF to conform the issuance or denial of the permit to the requirements of a Final Order.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-33. Tier II and III modifications

For Tier II and III permit modification actions, only those issues relevant to the modifications shall be reopened for public review and comment.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-34. Permit decision-making authority

(a) **Designated positions.** The AgPDES Director may delegate duties in writing to qualified officials who meet the standards set in Title 2 of the Oklahoma Statutes, Sections 2A-4 and 2A-5 the power and duty to issue, renew, amend, modify and deny permits and take other authorization or registration action.

(b) **Revision.** The AgPDES Director may amend any delegated duties in writing.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-35. Pre-issuance permit review and correction

(a) **Applicant review.** ODAFF may ask an applicant to review its permit for calculation and clerical errors or mistakes of fact or law before the permit is issued.

(b) **Correction.** ODAFF may correct any permit before it is issued.

(1) **Notice of significant corrections.** For permits based on Tier II and III applications, an applicant shall publish legal notice in one newspaper local to the site of any correction or change proposed by ODAFF which significantly alters a facility's permitted size, capacity or limits.

(2) **Comments.** ODAFF shall open a public comment period and reconvene a public meeting and administrative hearing to receive public comments on the proposed significant corrections.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-36. Consolidation of permitting process

(a) **Discretionary.** Whenever an applicant applies for more than one permit for the same site, ODAFF may authorize, with the consent of the applicant, the review of the applications to be consolidated so that each required draft permit, draft denial, and proposed permit is prepared at the same time and public participation opportunities are combined.

(b) **Scope.** When consolidation is authorized by ODAFF:

(1) The procedural requirements for the highest specified tier shall apply to each affected application.

(2) ODAFF may also authorize the consolidation of public comment periods, process and public meetings, and administrative permit hearings.

(3) Final permits may be issued together.

(c) **Renewal.** ODAFF may coordinate the expiration dates of new permits issued to an applicant for the same facility or activity so that all permits are of the same duration.

(d) **Multiple modifications.** Subsections (a) and (b) of this section shall also apply to multiple Tier II and III applications for permit modifications.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

PART 3. TIERS AND TIME LINES

35:44-1-37. Water quality time lines, permit issuance, and permit application

(a) The Division shall technically review applications for Tier I, II, and III permits and issue or deny permits within 180 calendar days.

(b) Permits shall become effective within thirty (30) calendar days of notice of issuance.

(c) Prior to expiration of the permit, the permittee shall apply for a renewal or new authorization as follows:

- (1) Ninety (90) calendar days for Tier I permits,
- (2) One hundred eighty (180) calendar days for Tier II permits, or
- (3) By the date specified in a new permit or upon submission of a notice of termination.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-38. Water quality applications - Tier I

The following water quality authorizations require Tier I applications:

- (1) New, modified or renewed authorization under a general permit, except authorization pursuant to a concentrated animal feeding operations general permit.
- (2) Transfer of discharge permit considered minor pursuant to 40 CFR 122.63(d).
- (3) Minor modification of discharge permit or of an authorization pursuant to a general permit.
- (4) Administrative amendment of permits or other authorizations for the correction of administrative or typographical errors.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-39. Water quality applications - Tier II

The following water quality authorizations require Tier II applications.

- (1) New individual discharge permit for small and medium concentrated animal feeding operations.
- (2) Permit renewal or major modification for a facility with individual discharge permit, including concentrated animal feeding operation permits.
- (3) New, modified or renewed general permit promulgation.
- (4) New, major modification, or renewed authorization under a concentrated animal feeding operation general permit.
- (5) Any new individual discharge permit for a non-major facility.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-40. Water quality applications - Tier III

A new individual discharge permit requires a Tier III application for any facility not already covered by Tier I or II, including a new large concentrated animal feeding operation or a new major discharge facility.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-1-41. Permit duration

(a) Any permit issued pursuant to these rules shall not exceed a duration of five (5) years.

(b) The conditions of an expired permit shall continue in force until the effective date of a new permit or until a notice of termination is submitted, whichever comes first.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

SUBCHAPTER 3. PERMIT CONDITIONS AND REQUIREMENTS

35:44-3-1. Permit required

Any animal feeding operation required by federal regulations to obtain a National Pollutant Discharge Elimination System permit for concentrated animal feeding operations shall be required to obtain an Agriculture Pollutant Discharge Elimination System permit.

[Source: Added at 23 Ok Reg 505, eff 12-1-05 (emergency); Added at 23 Ok Reg 881, eff 5-11-06]

35:44-3-2. Incorporation by reference of federal regulations

(a) The following provisions of Title 40 of the Code of Federal Regulations and the requirements contained therein pertaining to concentrated animal feeding operations are, unless otherwise specified, adopted and incorporated by reference in their entirety, except for those regulations noted in subsection (b):

(1) The following from Part 122 (NPDES Permit Regulations):

(A) 122.21 (a)-(b), (e)-(f), (i), and (p) (application for permit).

(B) 122.23 (concentrated animal feeding operations).

(C) 122.28 (General permits).

(D) 122.42(e) (Conditions applicable to specified categories of permits).

(2) Part 412 (Concentrated Animal Feeding Operations (CAFO) Point Source Category).

(b) Any regulations incorporated by reference above that were invalidated by *Waterkeeper Alliance, Inc., et al. v. US Environmental Protection Agency*, 399 F.3d 486 (2nd Cir. 2005), shall not be incorporated by reference and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry.

(c) Narrative provisions of this subchapter control over any provision of regulations of the Environmental Protection Agency (EPA) adopted by

reference and the rules are interpreted consistently with state compliance, with the requirements of 40 C.F.R. Part 123 (EPA Regulations on State NPDES Permit Program Requirements), and applicable provisions of the federal Clean Water Act and Oklahoma law.

[Source: Added at 23 Ok Reg 505, eff 12-1-05 (emergency); Added at 23 Ok Reg 881, eff 5-11-06]

35:44-3-3. Date of federal regulations incorporated [REVOKED]

[Source: Added at 23 Ok Reg 505, eff 12-1-05 (emergency); Added at 23 Ok Reg 881, eff 5-11-06 ; Amended at 24 Ok Reg 1780, eff 6-25-07 ; Amended at 25 Ok Reg 1057, eff 7-1-08 ; Amended at 26 Ok Reg 1388, eff 7-1-09 ; Amended at 27 Ok Reg 911, eff 7-1-10 ; Amended at 28 Ok Reg 2206, eff 7-25-11 ; Amended at 29 Ok Reg 919, eff 7-1-12 ; Amended at 31 Ok Reg 738, eff 9-12-14 ; Amended at 32 Ok Reg 1534, eff 9-11-15 ; Amended at 33 Ok Reg 1182, eff 9-11-16 ; Amended at 34 Ok Reg 838, eff 9-11-17 ; Amended at 35 Ok Reg 778, eff 9-14-18 ; Amended at 36 Ok Reg 1377, eff 9-14-19 ; Amended at 37 Ok Reg 983, eff 9-14-20 ; Amended at 38 Ok Reg 1678, eff 9-11-21 ; Amended at 39 Ok Reg 809, eff 9-12-22 ; Revoked at 40 Ok Reg 1531, eff 9-11-23]

35:44-3-4. Terms and conditions of permits

(a) Terms and conditions of permits issued under this Chapter shall include requirements necessary to assure compliance with the Oklahoma Water Quality Standards, the Implementation of Oklahoma's Water Quality Standards, and the ODAFF Water Quality Standards Implementation Plan.

(b) Where practicable and as deemed appropriate by the AgPDES Director and as applicable in the circumstances, any discharge permit, or authorization to discharge issued by the Director under a General Permit, may contain appropriate terms, conditions, limitations and requirements related to protection of groundwater, for remediation of pollution, or for implementation of other programs under the jurisdiction of the ODAFF.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-3-5. Technology-based methodologies

Effluent limitation guidelines for industry categories and pollutants are promulgated by the EPA pursuant to the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and Water Quality Act of 1987. EPA guidelines are adopted and incorporated by reference in OAC 35:44-1-2. If there are no industry category or pollutant guidelines applicable to the applicant's industry, Best Professional Judgment of the permit writer applies.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-3-6. Water quality review

(a) The provisions of "Quality Criteria for Water, 1986", United States Environmental Protection Agency, EPA 440/5-86-001, as amended, are incorporated herein by reference and shall be consulted where Oklahoma's Water Quality Standards do not contain a specific criterion on a particular pollutant and a criterion is necessary to protect a designated beneficial use.

(b) In all cases, where appropriate, to ensure that beneficial uses of receiving waters are protected or when deemed necessary to establish waste load allocations of dischargers to a stream, the AgPDES Director shall require the applicant to perform and submit to ODAFF appropriate stream studies and water quality modeling. If resources allow, ODAFF may conduct stream studies and modeling.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-3-7. Water Quality Standards Variance

Approval for any variance allowed pursuant to the Oklahoma Water Quality Standards shall be obtained directly from the Oklahoma Water Resources Board and the permittee or applicant shall submit written evidence of the variance to the AgPDES Director in a timely manner.

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

35:44-3-8. Technical Standards

(a) The contents of the manure management plan for a concentrated animal feeding operation shall be based on the nutrient management plan standards prepared in the Agricultural Waste Management Field Handbook, published by the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS).

(b) Manure or animal waste shall be applied in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of nutrients in manure or animal waste in compliance with the best management practices of the most current USDA NRCS-Oklahoma Waste Utilization Standard Code 633 and Conservation Practice Standard for Nutrient Management Code 590, and the Midwest Plan Service Publication 18, Livestock Waste Facilities Handbook.

(c) This section is promulgated to meet the requirements of 40 CFR 412.4(c)(2).

[Source: Added at 27 Ok Reg 2449, eff 7-25-10]

CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

[Authority: 2 O.S., § 2-4(2) and (16); 27A O.S., § 1-102(B)]
[Source: Codified 5-13-02]

SUBCHAPTER 1. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

35:45-1-1. Section I - Statutory authority, definitions, standards, jurisdiction, beneficial uses and protocols

(a) Subsection B, 27A O.S. Supp 1998, Section 1-1-202 (enacted through Senate Bill 549), mandates that each state environmental agency shall promulgate, by July 1, 2001, a Water Quality Standards Implementation Plan (WQSIP) for its jurisdictional areas of environmental responsibility specifying how the agency utilizes and enforces the Oklahoma Water Quality Standards for surface water and groundwater. The Implementation Plan must be promulgated in compliance with the Administrative Procedures Act and pursuant to Section 1-1-202. After initial promulgation, each state environmental agency must review its plan at least every three years thereafter to determine whether revisions to the plan are necessary. All references to sections are to the original plan document, which is available from the Oklahoma Department of Agriculture.

(b) The Water Quality Standards Implementation Plan is to include eight elements for each jurisdictional area:

(1) Program Compliance with Antidegradation Requirements and Protection of Beneficial Uses - General description of the processes, procedures and methodologies utilized to ensure that programs within the agency's jurisdictional areas of environmental responsibility comply with anti-degradation standards and lead to maintenance of water quality where beneficial uses are supported, removal of threats to water quality where beneficial uses are in danger of not being supported, and restoration of water quality where beneficial uses are not being supported.

(2) Application of Use Support Assessment Protocols (USAP)- Procedures to be utilized in the application of use support assessment protocols (found at OAC 252:740, Subchapter 15) to make impairment determinations.

(3) Description of Programs Affecting Water Quality - Description of the surface water and/or groundwater quality-related components of pertinent programs within each jurisdictional area.

(4) Technical Information and Procedures - Technical information, databases, and procedures to be utilized by the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF) in the WQSIP.

(5) Integration of WQSIP into ODAFF activities - Describe how the Water Quality Standards Implementation Plan is and will be

integrated into the water quality management activities of the agency, including rules, program area policies and guidance, and standardized methods of conducting business.

(6) Compliance with Mandated Statewide Water Quality Requirements - Describe how ODAFF is or will be complying with mandated statewide requirements affecting water quality developed by other state environmental agencies, including, but not limited to, total maximum daily load (TMDL) development, nonpoint source (NPS) pollution prevention programs, Oklahoma Water Quality Standards (OWQS), OWQS implementation procedures, and the Continuing Planning Process (CPP) document.

(7) Public and Interagency Participation - Summary of written comments and testimony received relative to all public meetings held for the purpose of providing public participation relating to the WQSIP, and new rules related to the WQSIP.

(8) Evaluation of Effectiveness of Agency Activities - Describe methods and means to evaluate the effectiveness of activities conducted pursuant to the WQSIP to achieve Water Quality Standards (WQS).

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-2. Pertinent definitions, abbreviations, and acronyms

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**303**" means Section 303 of the CWA, which requires states to review and, as necessary, revise their water quality standards at least every three (3) years.

"**402**" means Section 402 of the CWA, which establishes the National Pollutant Discharge Elimination System (NPDES).

"**AgPDES**" means Agriculture Pollutant Discharge Elimination System, as authorized by Oklahoma Agriculture Pollutant Discharge Elimination System Act, 2 O.S. § 2A-1 et seq.

"**Animal Feeding Operation**" means a lot or facility where the following conditions are met:

(A) animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

(B) crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

"**Animal Waste**" means animal excrement, animal carcasses, feed wastes, process wastewaters, or any other waste associated with the confinement of animals from an animal or poultry feeding operation.

"**Appendix F**" means Appendix F of the OWQS, OAC 252:730, which has the statistical values of historic data for TDS, chloride, and sulfate for streams in most of the watersheds across the state.

"Background" means the ambient level of a pollutant relative to a potential source of pollution, and which is characterized by upstream (to the source being investigated) concentrations of a pollutant for surface waters or hydraulically upgradient concentrations for groundwater.

"BMP" means Best Management Practices, which are schedules of activities, prohibitions on practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state.

"CAFO" means Concentrated Animal Feeding Operation, as defined by the Oklahoma Concentrated Animal Feeding Operations Act, 2 O.S. § 20-41(B)(11).

"CPP" means the Continuing Planning Process document, submitted by the state to EPA, which describes present and planned water quality management programs and the strategy used by the State in conducting these programs. Information on how the state utilizes the WQS and WQS Implementation Criteria are contained in this document.

"CWA" means the federal Clean Water Act and amendments.

"CWAC" as defined in OAC 252:730, means Cool Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support warm water intolerant climax fish communities and includes an environment suitable for the full range of cool water benthos.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Discharge" means any release by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or other means of release of wastes or wastewater except as otherwise provided in Section 20-6 of Title 2 of the Oklahoma Statutes. The term discharge shall not include a distribution of waste water into an irrigation system for the purpose of land application of waste to property, provided the waste does not leave the land application area.

"EPA" means the federal Environmental Protection Agency.

"Fish and Wildlife Propagation" means the WQS beneficial use designation for promoting fish and wildlife propagation for the fishery classifications of HLAC, WWAC, CWAC, and Trout Fishery (Put and Take).

"Fish Consumption" means the WQS beneficial use designation for the protection of human health for the consumption of fish.

"HLAC" as defined in OAC 252:730, means Habitat-Limited Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water chemistry or habitat are not adequate to support a warm water aquatic community (WWAC).

"HQW" means High Quality Water, defined as those waters of the state which possess existing water quality which exceeds that necessary to support the propagation of fishes, shellfishes, wildlife, and recreation in and on the water. HQWs must receive special protection against degradation.

"Land Application" means the application of substances including animal waste and other substances to the land, at approved rates within the capacity of the land or crops.

"LMFO" means a Licensed Managed Feeding Operation, as defined by the Oklahoma Swine Feeding Operations Act at 2 O.S. § 20-3(B)(18).

"MDL" means the Method Detection Limit and is defined as the minimum concentration of an analyte that can be measured and reported with 99% confidence that the analyte concentration is greater than zero. MDL is dependent upon the analyte of concern.

"NOI" means Notice of Intent.

"Nonpoint Source" means a source of pollution without a well defined point of origin or a single identifiable source such as an outfall pipe, often involving overland flow of pollutants with storm water or subsurface flow of pollutants with groundwater over a wide area.

"NPDES" means the National Pollutant Discharge Elimination System, as authorized by Section 402 of the CWA.

"Nutrient-Limited Watershed" means a watershed of a water body that is designated as nutrient limited in the most recent Oklahoma Water Quality Standards.

"Nutrient-Vulnerable Groundwater" means groundwater that is designated nutrient-vulnerable in the most recent Oklahoma Water Quality Standards.

"OAC" means Oklahoma Administrative Code.

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

"ORW" means Outstanding Resource Water, defined as a water of the state that constitutes an outstanding resource or is of exceptional recreational or ecological significance. ORWs must receive special protection against degradation.

"O.S." means Oklahoma Statutes.

"OWRB" means the Oklahoma Water Resources Board.

"PBCR" means Primary Body Contact Recreation, a WQS beneficial use designation.

"Plan" means the Water Quality Standards Implementation Plan, or portion thereof, promulgated by ODAFF in this chapter for the programs that affect water quality within ODAFF's jurisdictional areas of environmental responsibility.

"Point Source" means any discernible, confined and discrete conveyance from which pollutants are or may be discharged such as a discharge pipe (see also definition in OAC 252:730).

"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.

"PPP" means Pollution Prevention Plan and is a written plan to control the discharge of pollutants that has been prepared in accordance with industry acceptable engineering and management practices.

"PQL" means Practical Quantitation Limit and is defined as 5 times the MDL. The PQL represents a practical and routinely achievable detection limit with high confidence.

"PPWS" means Public and Private Water Supply, a WQS beneficial use designation for the protection of human health for the consumption of water and consumption of fish and water.

"Remediation" means the removal of pollutants from soil or water by absorption, excavation, pumping, natural attenuation, biological, chemical, or other means or combination of methods.

"Scenic River" means a river or stream so designated pursuant to the Wild and Scenic Rivers Act. A scenic river is automatically considered an ORW.

"Silviculture" means the art and science of controlling the establishment, composition, and growth of forests.

"SWS" means Sensitive Public and Private Water Supply.

"TMDL" means Total Maximum Daily Load, a written, pollutant-specific and water body-specific plan establishing pollutant loads for point and nonpoint sources, incorporating safety reserves, to ensure that a specific water body will attain and maintain the water quality necessary to support existing and designated beneficial uses. The term also includes consideration of increases in pollutant loads.

"UAA" means Use Attainability Analysis, an investigation of whether a WWAC or CWAC subcategorization (for the Fish and Wildlife Propagation beneficial use) is reasonably attainable.

"USAP" means Use Support Assessment Protocols, defining how sampling and other data shall be used to determine whether or not a water body is meeting its beneficial uses, as defined at OAC 252-740, Subchapter 15.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"USGS" means the United States Geological Survey.

"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. Provided, waste treatment systems, including treatment ponds and lagoons designed to meet federal and state requirements other than cooling ponds as defined in the federal Clean Water Act or promulgated rules, are not waters of the state.

"WQS (or OWQS)" means the Oklahoma Water Quality Standards, established pursuant to Section 303 of the CWA, and which serve as goals for water quality management planning and benchmark criteria for the AgPDES permitting process. Water Quality Standards consist of beneficial use classifications for navigable waters, water quality criteria to support those uses, and an antidegradation policy statement. Oklahoma's Water Quality Standards are found at OAC 252:730.

"WQSIP" means Water Quality Standards Implementation Plan.

"WWAC" as defined in OAC 252:730, means Warm Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate

to support climax fish communities and includes an environment suitable for the full range of warm water benthos.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08 ; Amended at 31 Ok Reg 739, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-3. General statement of policy; responsibility for WQSIP document

(a) As a general statement of agency policy, programs and activities within ODAFF will be managed to protect the beneficial uses of the state's waters and to maintain water quality standards. In addition, when problems are identified, the agency will assist landowners, the industry, and other agencies with technical recommendations on remediation efforts using appropriate practices.

(b) The Assistant Director with water quality program supervisory responsibilities and the Water Quality Staff Forester prepared the WQSIP for the Forestry Services Division. The Agricultural Environmental Management Services Division section was initially prepared by the Professional Engineer. The Consumer Protection Services Division section was developed by the Water Quality Program Administrator. the three division directors are responsible for maintaining the final plan, updating the plan as necessary.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-4. Pertinent water quality standards

(a) Pursuant to Section 303 of the CWA, Oklahoma's surface water quality standards are promulgated by the ODEQ at OAC 252:730, Subchapter 5. Surface water quality standards are comprised of three elements:

(1) Beneficial uses, designated to apply to specific water bodies or defined water body segments generally address the goals of the CWA. Certain default beneficial uses are assumed for waters not listed in Appendix A until a UAA indicates otherwise. The subset of beneficial uses which address water quality are:

(A) Public and Private Water Supply ;

(B) Fish and Wildlife Propagation (F&W) , according to one of four fishery subcategories:

(i) Habitat-Limited Aquatic Community (HLAC).

(ii) Warm Water Aquatic Community (WWAC).

(iii) Cool Water Aquatic Community (CWAC).

(iv) Trout Fishery (Put and Take) - Criteria used in the protection of F&W shall include DO, T0, pH, Oil and Grease, Bio Criteria, toxic substances, turbidity, and sediments.

(C) Agriculture (Ag) ;

(D) Primary Body Contact Recreation (PBCR) ;

(E) Secondary Body Contact Recreation ; and

(F) Aesthetics .

(G) Fish Consumption .

(2) Numerical and narrative criteria apply statewide. Numerical criteria are pollutant-specific and apply to a water body according to its beneficial uses . Narrative criteria are generally referred to as "free from" prohibitions.

(3) Numerical salinity water quality standards are only for agricultural beneficial uses (irrigation and watering livestock). Stream segment averages of historic data for chlorides, sulfates, and TDS are available in Appendix F for most stream segments statewide. The WQS also allows for use of upstream/background data and data from surrounding streams instead of these averages if this data provides a more appropriate basis for setting standards for a specific stream . However, for the protection of Agriculture use, neither long nor short term average concentrations of minerals shall be required to be less than 700 mg/l for TDS, nor less than 250 mg/l for either chlorides or sulfates .

(4) General Narrative Criteria for Minerals states that "Increased mineralization from other elements such as, but not limited to, calcium, magnesium, sodium, and their associated anions shall not impair any beneficial use," which ODEQ interprets as meaning that neither salinity nor other minerals shall be allowed to impair the PPWS, F&W, PBCR, and other beneficial uses listed for streams in the WQS.

(5) Excess sediment impacts may be addressed through the numeric turbidity standards established for F&W. Heavy metal numerical WQS have been set by ODEQ for many beneficial uses.

(6) A water quality antidegradation policy applies statewide, is consistent with the goals of the CWA. Levels of protection are as follows:

(A) Attainment or maintenance of existing or designated beneficial uses.

(B) Maintenance quality of improved waters.

(C) Maintenance of beneficial uses and water quality in higher quality waters and sensitive public and private water supplies of the state, as well as in waters of ecological or recreational significance.

(D) Prohibition of any water quality degradation from new point source discharges or increased loading from existing discharges into waters designated as outstanding resource waters and scenic rivers.

(7) Special provision - Delineation of Nutrient Limited Watershed (NLW) areas specifies spatial limitations of these areas that require additional protection.

(b) Although not required by any provision of the CWA, the OWRB has promulgated groundwater quality standards for the state at OAC 785:45, Subchapter 7. Groundwater quality standards and protection are comprised of seven elements:

(1) Beneficial uses, designated to apply to the groundwater situated below the surface of the dedicated land identified in a

groundwater use permit or right issued by the OWRB. Such beneficial uses are defined at OAC 785:45-7-3(b) and may include, but are not limited to:

(A) Public and Private Water Supply (including municipal use and domestic use).

(B) Agriculture for irrigation or livestock watering.

(C) Industrial and municipal process and cooling water.

(2) Classifications are as follows:

(A) Class I (Special Source Groundwater): Groundwaters where exceptional water quality exists, where there is an irreplaceable source of water, where it is necessary to maintain an outstanding groundwater resource or where the groundwater is ecologically important. This class of groundwater is considered to be very vulnerable to contamination and includes:

(i) All groundwater located beneath the watersheds of surface waters designated as Scenic Rivers .

(ii) Groundwater located underneath lands located within the boundaries of areas with waters of ecological or recreational significance .

(iii) Groundwater located underneath lands within the boundaries of a state-approved wellhead or source water protection area for public water supply.

(B) Class II (General Use Groundwater): Groundwaters capable of being used as a drinking water supply with conventional or no treatment methods, with the potential for multiple beneficial uses, and with mean TDS levels < 3000 mg/l.

(C) Class III (Limited Use Groundwater): Poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, with mean TDS levels of ≥ 3000 mg/l and < 5000 mg/l.

(D) Class IV (Highly Mineralized Treatable Groundwater): Very poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, having mean TDS levels ≥ 5000 mg/l but <10000 mg/l.

(3) Beneficial use designations: Class I and II, not identified in Appendix H of OAC 252:730, shall be public and private water supply, agriculture, and Industrial and municipal process and cooling water. Class III and IV, not identified in Appendix H of OAC 252:730, shall be agriculture, and Industrial and municipal process and cooling water. Appendix H specifies beneficial uses for groundwater contained in the appendix.

(4) Vulnerability level: Certain hydrogeologic basins are classified according to its vulnerability to contamination and identified as Very Low, Low, Moderate, High and Very High per Table 1 of Appendix D of OAC 252:730.

(5) Nutrient-vulnerable groundwater: Certain groundwaters are subject to further designation as nutrient-vulnerable groundwater

per Table 2 of Appendix D.

(6) Criteria for protection of groundwater quality:

(A) Groundwaters of the state shall be maintained to prevent alteration of their chemical properties by harmful substances not naturally found in groundwater.

(B) Protective measures shall be at all times maintained which are adequate to preserve and protect existing and designated groundwater basin classifications and which are sufficient to minimize the impact of pollutants on groundwater quality.

(C) The concentration of any synthetic substances or any substances not naturally occurring in that location shall not exceed the PQL in an unpolluted groundwater sample using laboratory technology.

(D) Prescriptive measures shall be developed by each state environmental agency and included in their WQSIP, and they shall be implemented to prevent groundwater pollution caused by any person or entity within their jurisdictional area of environmental responsibility.

(E) Each state environmental agency shall consider the hydrogeologic basin's vulnerability level and designated nutrient vulnerable groundwaters for surface activities with the potential to contaminate groundwater.

(7) Criteria for corrective action:

(A) Groundwater that has been polluted as a result of human activities shall be restored to a quality that will support uses designated in OAC 252:730-7-3(b) for that groundwater or meet the requirements of a site specific remediation plan approved by the appropriate state environmental agency.

(B) Measures to remedy, control or abate groundwater pollution caused by any person shall be the responsibility of each state environmental agency within its jurisdictional areas of environmental responsibility as prescribed in the agency's WQSIP.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-5. Specific jurisdictional areas of environmental responsibility

(a) Title 27A of the Oklahoma Statutes outlines environmental responsibilities of the various environmental agencies. According to 27A O.S. § 1-3-101(D), ODAFF has environmental responsibility for the following jurisdictional areas:

(1) point source discharges and nonpoint source runoff from agricultural crop production, agricultural services, livestock production, silviculture, feed yards, livestock markets, and animal waste;

(2) pesticide control;

- (3) forestry and nurseries;
- (4) fertilizer;
- (5) facilities which store grain, feed, seed, fertilizer and agricultural chemicals;
- (6) dairy waste and wastewater associated with milk production facilities;
- (7) groundwater protection for activities subject to the jurisdictional areas of environmental responsibility;
- (8) utilization and enforcement of Oklahoma Water Quality Standards and implementation documents;
- (9) development and promulgation of a Water Quality Standards Implementation Plan pursuant to Section 1-1-202 of Title 27A in the Oklahoma Statutes for its jurisdictional areas of environmental responsibility ; and
- (10) storm water discharges for activities subject to the jurisdictional areas of environmental responsibility.

(b) The following areas are specifically reserved to the jurisdiction of ODEQ at 27A O.S. § 1-3-101(D)(2):

- (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill and other agricultural products;
- (2) slaughterhouses, but not including feedlots at such facilities;
- (3) aquaculture and fish hatcheries, including but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and sludge, and other pollution originating at these facilities; and
- (4) facilities which store grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal NPDES regulations to obtain a permit for storm water discharges shall only be subject to the jurisdiction of ODEQ with respect to such storm water discharges.

(c) The following is a list of programs as addressed in the WQSIP within the jurisdictional areas of environmental responsibility of ODAFF, as defined in 27 A O.S. Section 1-3-101(D).

- (1) Point source discharges and nonpoint source runoff from livestock production, feed yards, livestock markets and animal waste; dairy waste and wastewater associated with milk production facilities.
 - (A) Animal waste programs.
 - (B) WQSIP required.
- (2) Pesticide Control; point source discharges and nonpoint source runoff from agricultural crop production and agricultural services.
 - (A) Pesticide program.
 - (B) WQSIP required.
- (3) Forestry and nurseries; point source discharges and nonpoint source runoff from silviculture.
 - (A) Forestry Best Management Practices Program.
 - (B) WQSIP required.

(4) Fertilizer; point source discharges and nonpoint source runoff from agricultural crop production and agricultural services.

(A) Fertilizer program.

(B) WQSIP required.

(5) Groundwater protection for activities subject to the jurisdictional areas of environmental responsibility of ODAFF.

(A) Groundwater protection activities.

(B) Separate WQSIP not required because requirements for groundwater quality protection and corrective measures, if necessary, are included in each of the individual programs.

(6) Utilization and enforcement of Oklahoma Water Quality Standards and Implementation Plan pursuant to Section 1-1-202 of Title 27A OS for jurisdictional areas of environmental responsibility.

(A) Water quality standards implementation.

(B) WQSIP not required.

(7) Development and promulgation of a WQSIP pursuant to Section 1-1-202 of Title 27A OS for its jurisdictional areas of environmental responsibility.

(A) Water quality standards implementation.

(B) WQSIP not required.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05]

35:45-1-6. Section II - Introduction to WQSIP elements by jurisdictional area

The Oklahoma Department of Agriculture through statutory authority and the adoption and enforcement of rules maintains water quality in areas of jurisdiction where beneficial uses are supported. This is accomplished by removing the threat to water quality where beneficial uses would be in danger of not being supported. In cases where beneficial uses are not being met, remedial action will be implemented to restore the beneficial use of the water. The required WQSIP elements are presented by jurisdictional area. The Oklahoma Department of Agriculture WQSIP will evolve to adapt to future changes in the Oklahoma Water Quality Standards and implementation criteria of the standards.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02]

35:45-1-7. Animal waste programs

(a) Compliance with antidegradation requirements and protection of beneficial uses.

(1) This area of jurisdiction includes the licensing or registering of CAFOs, LMFOs and poultry operations. These programs include land application of animal or poultry waste. Discharges of animal and poultry waste into waters of the State are statutorily prohibited. As a result, no discharge shall result from the operation of the facility. CAFOs and LMFOs may only discharge in

the event of a 25 year/24 hour rainfall event and are required to construct the waste retention structures to contain the 25 year/24 hour rainfall event; except for new LMFO (swine), poultry and veal calves CAFOs, which are required to have waste management and storage facilities to contain all waste and runoff for 100 year/24 hour rainfall event. In addition, OAC 35:17-3-14(b)(3)(C) allows a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the state.

(2) Beneficial uses that could potentially be impaired by improper land application, leakage from animal waste lagoons, or breach of a lagoon could impact both ground water and surface water. Beneficial uses that could be affected include, but are not limited to: (1) Fish and Wildlife Propagation may be impaired by lack of DO due to nutrient loading. (2) Public and Private Water Supplies may be impaired by fecal coliform, algae growth, and nutrient loading. (3) Recreation may be impaired by pathogens. (4) Aesthetics may be impacted by nutrient loading. All of these impairments could be caused by unauthorized discharges to waters of the state.

(3) Violations of the "no discharge" standard for CAFOs, LMFOs, and poultry feeding operations result in enforcement actions. These actions integrate corrective and remedial activities that can include clean-up activities and restoration activities. Remediation requirements are determined on a case-by-case basis. The Department shall assess and review all approved remediation requirements to provide technical standards for future remediations.

(4) Education programs are also required for all poultry waste applicators, operators of poultry feeding operations, and employees of LMFOs. Employees responsible for permit compliance must be annually trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal.

(5) OAC 252:730-13-5 provides that no new or increased point source discharges are allowed in water bodies and watersheds designated by the WQS as an ORW or Scenic River. Waters that have been classified as HQW and SWS according to OAC 252:730-5-25 (c) (3) and (4) are prohibited from having any new point source discharge(s) of any pollutant or increased load or concentration of specified pollutants from existing point sources discharge(s), except as provided in the regulations. CAFOs are by definition point sources. In addition, all nonpoint sources shall implement best management practices in watersheds designated as ORW. However, if nonpoint sources are identified as significantly contributing to the degradation of a water body designated as an ORW, conservation plans shall be developed in subwatersheds. Finally, LMFOs established after August 1, 1998 applying for a new CAFO license or expansion after March 9,

1998 shall not be located within three (3) miles of any designated scenic river area or within one (1) mile of a water body designated as ORW.

(6) LMFO's that are located in nutrient-limited watersheds and or nutrient-vulnerable groundwaters shall meet current waste retention structure liner criteria according to Title 2, O.S. § 20-12(H)(3), and meet land application nutrient loading rate requirements per OAC 35:17-3-14(b)(4).

(7) Poultry feeding operations that are located in nutrient limited watersheds or nutrient vulnerable groundwaters as designated by OWRB shall meet soil and litter testing and litter application rate requirements per 2 O.S. § 10-9.7(E).

(b) Application of USAP - In the event ODAFF engages in surface water monitoring, USAP as adopted by OWRB will be consulted to determine if beneficial uses have been impaired. All animal waste programs require no discharges from facilities, therefore USAP is not applicable. Any discharge will be a violation of the license and subject to enforcement action and possible fines.

(c) Description of programs affecting water quality.

(1) The Agricultural Environmental Management Services (AEMS) Division of ODAFF is responsible for the review of applications for animal feeding operations that meet size and type requirements. The division also investigates complaints received by the Department regarding animal waste issues that could affect water quality.

(2) In December 2012, the EPA authorized ODAFF to perform NPDES permitting pursuant to the CWA. ODAFF reviews NOIs for authorizations pursuant to a general permit and reviews applications for individual permits. AgPDES activities include CAFOs, pesticides, silviculture, and storm water at agricultural facilities.

(3) The animal waste program, pesticide program, fertilizer program, and forestry management program can affect groundwater and surface water beneficial uses if facilities are not designed and operated properly. The application process is targeted at removing the possible threat of pollution to the waters of the State by not allowing any discharge to surface water, except in limited circumstances, by promoting recycle and beneficial reuse of wastewater, by not permitting any hydrologic connection between waste storage facility and groundwater, by preparing or reviewing animal waste management plans, nutrient management plans, or equivalent documents, emphasizing best management practices and conservation measures, and by routine inspections of regulated CAFOs, LMFOs, and poultry feeding operations.

(d) Technical information and procedures for implementation.

(1) All programs are involved in regulating the animal and poultry feeding operations to assure that facilities meet the minimum requirements. The programs evaluate facility location, watershed, soils, groundwater data, stream data, flood information, water samples, manure and litter samples, and other pertinent

information. The application process evaluates the potential effects of the proposed operation on the waters of the State to insure both groundwater and surface water are not polluted. Potential impacts on beneficial uses designated in water quality standards will be further evaluated during the license application process to assist elimination of the threat to nutrient vulnerable groundwaters and nutrient impaired waters. Data collected from monitoring wells or soil test reports submitted by regulated operations will be evaluated to assess the potential impact on waters of the state. If noncompliance with operating requirements is found, technical assistance or appropriate enforcement measures will be used to bring regulated facilities into compliance with state laws and rules.

(2) The CAFO and poultry programs utilize a number of databases, software programs and models for implementation. These include: stream gage data from the U.S. Geological Survey; SQL databases for water quality data information; ArcInfo and ArcView GIS, MapWindows+MMP Tool software data analysis and mapping; precipitation and evaporation data from the National Weather Service and Oklahoma Climatological Survey; maps and hydrologic information from the U.S Geological Survey, Oklahoma Geological Survey, and Oklahoma Water Resources Board; USDA NRCS Soil Surveys and Technical Standards; OSU Oklahoma Cooperative Extension Service Fact Sheets; and other tools, software, and other guidance related to manure management planning developed by EPA, universities, and professional organizations, the MMP (Manure Management Plan) developed by Purdue University. Models may be obtained or developed to analyze information and data to assist in meeting WQS as necessary.

(e) Integration of WQSIP into water quality management activities - ODAFF rules for these programs require compliance with WQS pursuant to 2 O.S. § 20-10 (B) (4) (c) and 20-48(B)(4)(c) ensure that watersheds and groundwater are adequately protected pursuant to 20-10 (B)(4)(h) and 20-48(B)(4)(f). Future changes in Water Quality Standards may require additional rules and policies. Amendments will be made as necessitated by those changes.

(f) Compliance with mandated statewide water quality requirements - ODAFF will comply with other statewide water quality requirements by participating in the update of WQS, and in updates of the state's Continuing Planning Process document, Integrated Report, water quality management plan and other planning efforts. ODAFF will continue to participate in the Nonpoint Source Working Group and will cooperate with the Oklahoma Conservation Commission and others involved in NPS pollution prevention programs. ODAFF will participate in the TMDL process as resources permit, and will make use of the Beneficial Use Monitoring Program data compiled in cooperation with other state environmental agencies to modify its water quality program as necessary.

(g) Public and interagency participation.

(1) ODAFF interacts with other environmental agencies through the Water Quality Standards Implementation Advisory Committee.

The agencies review and comment on each agency's plan and consult with each other as needed.

(2) Public participation requirements of the Oklahoma Administrative Procedures Act are followed in promulgating rules that integrate water quality standards into these program areas.

(h) Evaluation of effectiveness of agency activities.

(1) The effectiveness of these programs in the protection of designated beneficial uses for designated stream segments will be evaluated utilizing the following processes: review and integration of CAFO monitoring well sampling, soil analysis, stream gage data from the U.S. Geological Survey, U.S. Army Corps of Engineers, Oklahoma Conservation Commission, and Oklahoma Water Resources Board, and all other available data.

(2) The swine LMFO monitoring well sampling and laboratory analysis project began in 2000. All LMFOs with more than 1,000 swine animal units were required by Senate Bill 1175 of 1998 [Title 2 O.S. § 20-12(F)] to install and maintain a leak detection system or sufficient monitoring wells both upgradient and downgradient around the perimeter of each waste retention structure. ODAFF is required by Title 2 O.S. § 20-12(F) to sample and laboratory analyze the samples from the LMFO monitoring wells at least annually. The LMFO monitoring well samples are required in Title 35, Chapter 17, Subchapter 3 of the CAFO Permanent Rules [35:17-3-11.(6)(H)] to be sampled and laboratory analyzed for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus and fecal coliform bacteria. The information and data collected under this program is published in a report annually by ODAFF.

(3)

In the event groundwater problems are identified, ODAFF will take steps to identify the sources of the problems. If CAFOs or LMFOs are identified as the source, appropriate remediation activities will be implemented.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08 ; Amended at 31 Ok Reg 739, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-8. Pesticide program

(a) ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators, homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.

(b) Compliance with antidegradation requirements and protection of beneficial uses.

(1) All pesticide programs and regulatory activities require no degradation of surface or groundwater by pesticide use. Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators,

homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.

(2) Beneficial uses that could be impaired by improper handling and application of pesticides include Fish and Wildlife Propagation, Private and Public Water Supply, Recreation, and Agriculture. The potential for pesticides to enter ground water and surface water exist and is supported by the fact that several water bodies are classified as impaired by pesticides on the current 303(d) list. Pesticide residue in fish could render them unfit for human consumption. Antidegradation is automatically implemented because the presence of pesticide in any water is a violation of the standards no matter how the water body is classified.

(3) Recent spills and newly located polluted sites are remediated by the responsible party, or by the use of EPA superfund monies to the extent necessary to meet ODAFF goals. Pesticide remediation brings any impaired surface or groundwater back to the quality prior to the pesticide spill, including restoration of all beneficial uses pursuant to the WQS. Procedures for groundwater protection are covered in the ODAFF Generic Pesticide Management Plan in Groundwater.

(4) The certification of persons to become pesticide applicators involves training and testing of the individual in the safe use and handling of pesticides. Training includes information on how to read a pesticide label, pesticide storage, pesticide container disposal and proper procedures to follow in the event of a pesticide spill. The protection of surface water and groundwater is an integral part of the certification process.

(c) Application of USAP - The procedures for pesticide monitoring are outlined in the Quality Assurance Project Plan, the pesticide operating procedures and the Generic Pesticide Management Plan in Groundwater. USAP will be utilized in assessing beneficial uses of all monitored surface waters. USAP does not apply to groundwater at this time.

(d) Description of programs affecting water quality.

(1) The Consumer Protection Services Division of ODAFF is responsible for the licensing and certifying of pesticide applicators. ODAFF registers all pesticides distributed in the state and has authority to restrict the use of pesticides to prevent unreasonable risk to the quality of Oklahoma's water.

(2) Under the Generic Pesticide Management Plan, ODAFF will develop and implement point and non-point source prevention measures, participate in relaying use information, carry out monitoring, develop and implement response to detection, keep records of action taken and provide progress reports to EPA.

(3) ODAFF will also develop and maintain a statewide agriculture chemical database and a pesticide concerns list in regard to water quality standards.

(4) ODAFF licenses all commercial applicators of pesticides and requires the certification of private applicators before they can use restricted pesticides. When spills or other environmental problems, resulting from current or historic practices, are found,

ODAFF's goal is to prevent impairment of the surface water and groundwaters of the state. This includes preventing significant risk to humans, livestock, or ecological receptors from inhalation of fumes, direct contact, or ingestion.

(5) The Consumer Protection Services Division assists AEMS Division with disseminating information related to AgPDES permit requirements for pesticides applicators and with reviewing permit applications or notices of intent submitted by permit applicators.

(6) Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. All ODAFF activities related to pesticides are geared toward maintaining WQS. Specific programs include the following:

- (A) Certification of individuals and the licensing of companies to apply pesticides;
- (B) Investigation of pesticide spills and misuse;
- (C) Inspection of pesticide producer establishments;
- (D) Inspection of pesticide applicator facilities for proper pesticide storage;
- (E) Audit records of restricted use pesticide dealers;
- (F) Conduct private applicator record keeping inspections;
- (G) Monitor pesticide application at new construction sites;
- (H) Requiring backflow prevention devices on chemigation wells, as well as requiring every applicator of pesticides to employ an appropriate method to prevent the backflow of spray materials during filling, mixing, or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure backflow shall not occur;
- (I) Monitoring the irrigation tailwater return flow on several large container nurseries on the Illinois River in Cherokee County; and
- (J) Groundwater monitoring.

(e) Technical information and procedures for implementation - The pesticide program utilizes a number of databases, software programs and models for implementation. These include: Microsoft Access database and Microsoft Excel spreadsheet software for water quality data information; ArcInfo and ArcView GIS software data analysis and mapping; and pesticide leaching models from EPA to map and analyze data. EPA standards are used to calibrate laboratory equipment when analyzing for specific pesticides. Many cases will require samples to be taken. The Pesticide Inspectors Manual covers the procedures for taking, sealing and shipping pesticide samples to the lab. Sampling results become a part of the complaint file. Notice of violations, stop work orders, informal or formal hearings, cleanup orders, fines and referral to US EPA for federal prosecution are some of the enforcement actions available to the ODAFF in the event a water quality or other violation is found. The Oklahoma Combined Pesticide Law and Rules set the standards used in the storage, use and disposal of pesticides, pesticide

containers, and pesticide waste.

(f) Integration of WQSIP into water quality management activities - Future changes in WQS may require additional rules and policies.

Amendments will be made as necessitated by those changes.

(g) Compliance with mandated statewide water quality requirements - Compliance with statewide water quality requirements is the primary goal of the pesticide certification program, pesticide facility inspections, pesticide spill and misuse investigations and pesticide monitoring programs.

(h) Public and interagency participation.

(1) ODAFF has been charged with the regulatory responsibilities of agricultural activities that could impact the WQS of the waters of Oklahoma. The "Agricultural Resources Protection and Management Operation" document outlines standard operating procedures to fulfill this charge for the present and provides guidance for future needs. This document contains no new or modified authorities not subject to legislative approval. Should subsequent events call for law, rule or regulation changes or additions, these shall be subject to approvals in accordance with the APA or the legislative process.

(2) Public participation requirements of the APA were followed in promulgating rules that integrate water quality standards into this program area. Section III of this document contains a summary of comments received and responses relating to the promulgation of ODAFF's WQSIP.

(i) Evaluation of effectiveness of agency activities - The effectiveness of the pesticide programs will be evaluated through the routine monitoring of surface water and groundwater. Special monitoring may be initiated if potential sources of contamination are identified. USAP will assist in dictating surface water monitoring.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08 ; Amended at 31 Ok Reg 739, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:45-1-9. Forestry best management practice program

(a) ODAFF's Forestry Services' water quality program monitors the effects of forest practices on water quality, administers silvicultural best management practices and provides training and education of landowners, loggers and forest managers. Forestry's nonpoint source management program consists of a variety of activities designed to raise awareness of the need to use BMPs to prevent water quality problems in Oklahoma. Activities include maintenance of the State's forestry BMP guidelines, including evaluation of BMP effectiveness, and revision and development of BMPs; workshops for loggers, foresters and landowners on the use of BMPs; development of educational materials; a certification program for loggers who have completed training, in cooperation with the Oklahoma Forestry Association; exhibits, news releases, group presentations; BMP compliance monitoring; demonstrations of the proper use of forestry BMPs and low-cost erosion control techniques; complaint investigations; and support of water quality monitoring studies.

(b) Compliance with antidegradation requirements and protection of beneficial uses.

(1) Forestry's water quality programs are generally preventive in nature. Raising awareness, promoting BMPs and monitoring their use will help minimize water quality impacts from silviculture. As the forest industry continues to emphasize BMP compliance, through the Sustainable Forestry Initiative and other means, potential threats to water quality from forestry will further diminish. BMPs are continuously reviewed and evaluated to determine their adequacy for protection of beneficial uses.

(2) The primary potential impacts of forestry activities on water quality involve sedimentation and turbidity from practices such as road construction and maintenance, timber harvesting, site preparation and other activities; and pollution from the use of chemicals or fertilizers and equipment maintenance. Beneficial uses that could be affected include:

(A) fish and wildlife propagation, from turbidity or changes in water temperature;

(B) primary and secondary body contact recreation, due to turbidity and suspended solids;

(C) aesthetics, due to turbidity and suspended solids; and

(D) impacts on public water supplies from pollutants associated with pesticide application and fertilization activities.

(3) Forestry Services will use the State's list of water bodies that specifies whether beneficial uses are supported, threatened or not supported to guide follow up actions. In watersheds where beneficial uses are not supported, Forestry will intensify its program efforts in cooperation with industry and landowners to address ongoing problems related to forestry, and will also increase efforts to inform landowners about the benefits of using trees and forest vegetation to protect water quality, regardless of land use, and to manage for maintenance of healthy forested watersheds.

(c) Application of USAP - Forestry Services discontinued its intensive in-stream water quality monitoring program in the early 1990s. In the future, when ODAFF Forestry Services commences water quality sampling and monitoring, the agency will use USAP.

(d) Description of programs affecting water quality - The Forestry Services Division is responsible for administration of the state's silvicultural best management practice program. Forestry Services maintains, develops and revises the State's forestry BMP guidelines in cooperation with the industry, universities, private landowners and other agencies. Forestry Services provides copies of BMP materials to affected clients, and helps raise awareness about their importance, and provides technical assistance to landowners and users of the BMPs.

(e) Technical information and procedures for implementation.

(1) The elements of Forestry's water quality management program are directed toward raising awareness and modifying behavior in order to prevent water quality problems associated with forestry activities. Educational efforts, such as BMP training,

landowner workshops, logger tailgate sessions, use of the media, development of publications and videos, exhibits and group presentations, are intended to raise the awareness of landowners, loggers, foresters, forest industry professionals, state personnel and others about best management practices to minimize the impact of forestry on water quality. Proper road practices and low-cost erosion control methods have been installed on demonstration sites and are used for training. Loggers completing BMP training may be certified by the Oklahoma Forestry Association as a Master Logger or Pro Logger. This information will be provided to private landowners seeking the services of a competent logger, thereby favoring the best contractors.

(2) If a complaint investigation shows that silvicultural activities may be impacting water quality, Forestry Services will first provide information and assistance to the landowners and other parties involved to implement corrective measures. In the event that these measures are not undertaken, Forestry Services will request follow-up assistance from the industry, the Oklahoma Water Resources Board and Department of Environmental Quality as necessary to resolve the problem. If the landowners or other parties cannot be identified as causing pollution, Forestry will request assistance from the Oklahoma Water Resources Board and use an appropriate USAP to determine whether beneficial uses are impaired.

(3) Forestry Services will follow the BMP Compliance Monitoring Protocol developed by the 13 southern states. State BMP guidelines are based upon research and practical experience, and use an iterative approach to evaluate their effectiveness, develop new BMPs and make refinements to existing BMPs. Forestry will use the Beneficial Use Monitoring Program information developed by other agencies in assessing impacts on beneficial uses caused by forestry activities. Where silvicultural impacts are shown, USAPs will be used to determine impacts on beneficial uses.

(f) Integration of WQSIP into water quality management activities - Forestry Services will establish policies and procedures to integrate this Plan into agency programs and services. All field offices will be provided a copy of the Plan and guidance for its use in carrying out various program activities. Forestry BMP guidelines will be continually evaluated, modified and developed as necessary to improve their effectiveness and increase implementation.

(g) Compliance with mandated statewide water quality requirements - Forestry Services will comply with other statewide water quality requirements by participating in the update of Oklahoma's Water Quality Standards, and in updates of the state's continuing planning process document, water quality management plan and other planning efforts. Forestry Services will continue to participate in the Nonpoint Source Working Group and will cooperate with the Conservation Commission and others involved in NPS pollution prevention programs. Forestry Services will participate in the TMDL process.

(h) Public and interagency participation.

(1) Forestry Services will interact with other environmental agencies through the Water Quality Standards Implementation Advisory Committee.

(2) Public participation requirements of the Oklahoma Administrative Procedures Act are followed in promulgating rules that integrate water quality standards into this program area.

(i) Evaluation of effectiveness of agency activities.

(1) Forestry Services initiated its BMP compliance monitoring program in 2000 to document BMP implementation. Forestry Services randomly selects sites that have been harvested or prepared for planting during the past two years for an evaluation to determine the extent to which BMPs were used. This program will be repeated about every two years to track trends and compare results with other states. BMP compliance monitoring over a several year period will establish trends in the use of BMPs by industry and private landowners, and will help refine program emphases.

(2) Forestry Services will make use of Beneficial Use Monitoring Program data compiled in cooperation with other state environmental agencies to modify its water quality program as necessary.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 25 Ok Reg 1820, eff 7-1-08]

35:45-1-10. Fertilizer program

(a) This program covers the storage of dry, liquid, and anhydrous ammonia fertilizer, and the investigation of fertilizer spills and misapplication of fertilizers.

(b) Compliance with antidegradation requirements and protection of beneficial uses.

(1) Beneficial uses that could be impaired by improper handling and application of fertilizers include Fish and Wildlife Propagation, Private and Public Water Supply, Recreation, Aesthetics, and Agriculture. The potential for fertilizers to enter ground water and surface water exist and is supported by the fact that several water bodies are classified as impaired by fertilizers on the current 303(d) list.

(2) ODAFF licenses all commercial fertilizer facilities and registers all fertilizer products. This permit requires the approval of the fertilizer storage facility prior to being licensed. When spills or other environmental problems are found resulting from current or historic practices, the goal of ODAFF is to prevent impairment of the surface water and groundwaters of the state. This includes preventing significant risk to humans, livestock, or ecological receptors from inhalation of fumes, direct contact, or ingestion.

(3) Recent spills and newly located polluted sites are remediated by the responsible party.

(c) Application of USAP - The Oklahoma Fertilizer Law describes requirements for fertilizer storage and the approval procedure for liquid

fertilizer storage containment. USAP will be utilized to aid in determining beneficial use impairment caused by spills.

(d) Description of programs affecting water quality.

(1) None of the programs and regulatory activities of the fertilizer section allow for the degradation of surface or groundwater by fertilizer use. Many of the activities of the Fertilizer Section are geared toward maintaining water quality standards.

(2) Specific fertilizer programs include:

- (A) The licensing of companies to sell or apply fertilizer;
- (B) Registration of all fertilizer products;
- (C) Approval of dry and liquid fertilizer storage facilities;
- (D) Require the use of approved backflow prevention devices or methods on chemigation wells;
- (E) Require labeling to recommended use rates of the products;
- (F) Investigation of fertilizer spills and misuse;
- (G) Inspection of fertilizer storage facilities to reduce the risk of surface water and ground water contamination;
- (H) Monitoring the irrigation tailwater return flow on several large container nurseries on the Illinois River in Cherokee County;
- (I) Water monitoring around fertilizer spills, and
- (J) Specific warning statements on labels of certain fertilizers.

(3) Agricultural return flows have the potential to impair beneficial uses through the addition of excessive nutrient loads to receiving streams. Controlling nutrient loading to receiving streams due to irrigation is an activity within the agricultural crop production jurisdictional area of environmental responsibility. When Oklahoma has developed numerical nutrient criteria the WQSIP will be revised to consider this area. Due to the new criteria for Phosphorus of 0.037 mg/l for protection of the Aesthetic use of scenic rivers, control measures will be implemented on return flows from nurseries located in the Upper Illinois River with a goal of meeting the compliance deadline of June 30, 2012 for in-stream phosphorus.

(e) Technical information and procedures for implementation - The protection of surface water and groundwater is an integral part of the fertilizer licensing process. All complaints are given a case number, an inspector to investigate and a program manager to review the investigation. Many cases will require a sample to be taken. The Fertilizer section of the Inspectors Manual will covers the procedures for taking, sealing and shipping samples to the lab. All sample results are kept with each case. Notice of violations, stop work orders, informal or formal hearings, cleanup orders, and fines are some of the enforcement actions ODAFF can use.

(f) Integration of WQSIP into water quality management activities.

(1) Storage sites for liquid fertilizers are submitted to the Fertilizer Section of Consumer Protection Services Division for approval. All sites must have a plan that meets the requirements as specified in the Oklahoma Fertilizer Law.

(2) The Oklahoma Fertilizer Law states that "no person owning or operating a fertilizer storage facility or a commercial fertilizer facility shall discharge or release or cause to be placed any fertilizer material in a location where it is likely to cause contamination of any surface or groundwater of this state."

(3) WQS will be used to determine if a fertilizer facility is causing the degradation of the quality of surface or groundwater.

(4) Future changes in WQS may require additional rules and policies. Amendments will be made as necessitated by those changes.

(g) Compliance with mandated statewide water quality requirements - Compliance with statewide water quality requirements is the primary goal of the fertilizer licensing program, fertilizer facility inspections, fertilizer spill and misuse investigations and fertilizer monitoring programs.

(h) Public and interagency participation - ODAFF has been charged with the regulatory responsibilities of agricultural activities that could impact the water quality standards of the waters of Oklahoma. The "Agricultural Resources Protection and Management Operation" document outlines standard operating procedures to fulfill this charge for the present and provides guidance for future needs. This document contains no new or modified authorities not subject to legislative approval. Should subsequent events call for law, rule or regulation changes or additions, these shall be subject to approvals in accordance with the APA or the legislative process. Public participation requirements of the APA are followed in promulgating rules that integrate water quality standards into this program area.

(i) Evaluation of effectiveness of agency activities - The effectiveness the fertilizer programs will be evaluated through the routine monitoring of surface water and groundwater. Special monitoring may be initiated if potential sources of contamination are identified. Special monitoring may be initiated if potential sources of contamination are identified. USAP will assist in dictating surface water monitoring.

[Source: Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 22 Ok Reg 2332, eff 7-11-05 ; Amended at 25 Ok Reg 1820, eff 7-1-08]

35:45-1-11. Section III - Interagency participation

(a) General.

(1) Initial promulgation of Plan - The initial promulgation of the Plan has received public and interagency review and comment. A response to all comments received as a result of the public participation process has been appended to the July 2005 Water Quality Standards Implementation Plan. The summary of these comments and responses is available from ODAFF.

(2) Revisions to Plan - As with initial promulgation, triennial reviews of and revisions to the Plan, as well as any intermediate revisions thereto, shall undergo public and interagency review, and the response to all comments received shall be appended to the Plan.

(3) All references to other sections of these rules are to the original plan document, which is available from ODAFF.

(b) ODAFF participated in all activities in the updates and revisions of WQS, WQSIP, USAP, Integrated Report, Continuing Planning Process document, and the state wide water quality management plan by providing input and comments related to these plans and documents and abiding by the requirements of the plans and documents.

[**Source:** Added at 18 Ok Reg 3409, eff 6-28-01 (emergency); Added at 19 Ok Reg 951, eff 5-13-02 ; Amended at 25 Ok Reg 1820, eff 7-1-08]

CHAPTER 48. WILDLIFE SERVICES

[Authority: 2 O.S. §§ 2-4; HB 2158 (2010), § 3]
[Source: Codified 8-12-10]

SUBCHAPTER 1. GENERAL PROVISIONS

35:48-1-1. Purpose

(a) This Chapter relates to the Wildlife Services Division of the Oklahoma Department of Agriculture, Food, and Forestry.

(b) The Wildlife Services Division protects the public health, safety, economy, and environment in Oklahoma by managing wildlife that would otherwise damage human or livestock health and safety, public and private property, agriculture, forestry, and other natural resources.

(c) The Wildlife Services Division provides assistance to Oklahoma citizens by managing potentially harmful wildlife in both urban and rural locations statewide, including but not limited to, predatory animals, rodents, birds, and invasive species.

(d) The Wildlife Services Division may cooperate with other federal, state, or local agencies and programs to obtain funding necessary to provide wildlife management services in Oklahoma. If funding from other federal, state, or local agencies and programs becomes unavailable, the Wildlife Services Division may continue to provide wildlife management services in Oklahoma to the extent that funding from the Oklahoma Department of Agriculture or other sources are available.

[Source: Added at 31 Ok Reg 739, eff 9-12-14]

SUBCHAPTER 3. AERIAL MANAGEMENT OF DEPREDATING ANIMALS

35:48-3-1. Definitions [REVOKED]

[Source: Added at 27 Ok Reg 1359, eff 2-26-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2627, eff 8-12-10 ; Revoked at 31 Ok Reg 143, eff 11-1-13 (emergency); Revoked at 31 Ok Reg 744, eff 9-12-14]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), the text of Section 35:48-3-1 was no longer effective, and remained as such until added by permanent action on 8-12-10.*

35:48-3-2. Permit required [REVOKED]

[Source: Added at 27 Ok Reg 1359, eff 2-26-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2627, eff 8-12-10 ; Revoked at 31 Ok Reg 143, eff 11-1-13 (emergency); Revoked at 31 Ok Reg 744, eff 9-

12-14]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), the text of Section 35:48-3-2 was no longer effective, and remained as such until added by permanent action on 8-12-10.*

35:48-3-3. Application requirements [REVOKED]

[Source: Added at 27 Ok Reg 1359, eff 2-26-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2627, eff 8-12-10 ; Revoked at 31 Ok Reg 143, eff 11-1-13 (emergency); Revoked at 31 Ok Reg 744, eff 9-12-14]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), the text of Section 35:48-3-3 was no longer effective, and remained as such until added by permanent action on 8-12-10.*

35:48-3-4. Reporting requirements [REVOKED]

[Source: Added at 27 Ok Reg 1359, eff 2-26-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2627, eff 8-12-10 ; Revoked at 31 Ok Reg 143, eff 11-1-13 (emergency); Revoked at 31 Ok Reg 744, eff 9-12-14]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), the text of Section 35:48-3-4 was no longer effective, and remained as such until added by permanent action on 8-12-10.*

35:48-3-5. Indigenous species [REVOKED]

[Source: Added at 27 Ok Reg 1359, eff 2-26-10 through 7-14-10 (emergency)¹; Added at 27 Ok Reg 2627, eff 8-12-10 ; Revoked at 31 Ok Reg 143, eff 11-1-13 (emergency); Revoked at 31 Ok Reg 744, eff 9-12-14]

Editor's Note: ¹*This emergency action expired before being superseded by a permanent action. Upon expiration of an emergency action enacting a new section, the section is no longer effective. Therefore, on 7-15-10 (after the 7-14-10 expiration of this emergency action), the text of Section 35:48-3-5 was no longer effective, and remained as such until added by permanent action on 8-12-10.*

35:48-3-6. Purpose

These rules establish regulation and permitting requirements for aerial hunting for the management of depredating animals in Oklahoma pursuant to 29 O.S. § 4-107.2. The Oklahoma Department of Agriculture, Food, and Forestry shall administer the provisions of 29 O.S. § 4-107.2 in accordance with the Oklahoma Agricultural Code, 2 O.S. §§ 1-1 et seq., the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq., and the procedural rules promulgated by the State Board of Agriculture found in Title 35 of the Oklahoma Administrative Code.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-7. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Aircraft" means non-experimental manned fixed wing and non-fixed wing aircraft registered with the Federal Aviation Administration (FAA), suitable for safe aerial management operations, with dual controls removed.

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

"Depredating animal" means feral hogs, coyotes, and crossbreeds between coyotes and dogs.

"Management by use of aircraft" or "aerial management" means to manage depredating animals by counting, photographing, relocating, capturing, or hunting by the use of aircraft.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-8. Permit required

(a) No person shall engage in aerial management with the aid of an aircraft unless an aerial management permit has been obtained the Department.

(b) The aerial management permit shall be carried in the aircraft when performing management by the use of aircraft.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-9. Application requirements

(a) Applications for an aerial management permit shall be submitted to the Department using the form prescribed by the Department.

(b) A person seeking an aerial management permit shall submit an application containing the following information:

(1) The name of the person seeking an aerial management permit;

(2) The address, telephone number, and other relevant contact information for the person seeking an aerial management permit;

(3) If the person seeking the aerial permit is a corporation or other legal entity, the telephone number and relevant contact information for the corporation or entity's representative and the address of the entity's registered service agent;

(4) A statement declaring whether the person seeking an aerial management permit is operating or intends to operate a commercial or pay-for-service experience

(5) The address, telephone number, other relevant contact information, and appropriate documentation of any commercial pilot's license required by the Federal Aviation Administration for the pilot of the aircraft used for management by the use of aircraft if the person seeking an aerial management permit is operating or intends to operate a commercial or pay-for-service experience;

(6) A description of the area from which animals will be taken and the address, telephone number, and other relevant contact information for the landowner or lessee for the area from which animals will be taken;

(7) Proof of the landowner's or lessee's permission to conduct aerial management on the area from which the animals will be taken;

(8) A description of the animals to be taken;

(9) A description of the aircraft that will be used for management by the use of aircraft;

(c) A permit holder shall be required to advise the Department of any changes in information submitted with the application not less than twenty-four (24) hours prior to engaging in management by the use of aircraft.

(d) If the applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant may submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(e) The applicant may withdraw its application from consideration at any time.

(f) An applicant whose application is denied due to insufficient information provided by the applicant or the withdrawal of the application may submit a new application. Any fees and charges paid by the applicant in connection with the denied or withdrawn application shall not be applied to the processing of a new application.

(g) Aerial management permits may be renewed by filing an application for renewal with the Department at least thirty (30) days prior to the expiration date.

(h) Applications and renewals for aerial management permits shall be accompanied by the payment of any required fee.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18]

35:48-3-10. Permit issuance

(a) The Department may issue an aerial management permit if it finds that it will aid in the management of depreddating animals.

- (b) The Department may deny an aerial management permit if it finds that it will have a deleterious effect on indigenous species.
- (c) The Department may authorize the permit holder to advertise and collect payment from other individuals when the activity will aid in the management of depredated animals.
- (d) The Department may issue an aerial management permit to any person to engage in the management by use of aircraft without limitation by statewide season regulations or bag limits.
- (e) The Department may place reasonable restrictions on the permit holder necessary for safety and for the effect on indigenous species.
- (f) The aerial management permit shall include, but is not limited to, the following information:
- (1) The name and address of the pilot authorized to operate the aircraft under the permit;
 - (2) A description of the animals to be taken;
 - (3) A description of the area from which the animals are authorized to be taken;
 - (4) The issue and expiration date of the aerial management permit; and
 - (5) Any limitations placed on the permit holder by the Department.
- (g) An aerial management permit to manage depredated animals issued pursuant to this section shall be valid for a period of one (1) year from the date of issuance.
- (h) An aerial management permit shall not be bartered or transferred to any other person.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18]

35:48-3-11. Fees and charges

The Department shall charge the following nonrefundable aerial management permit fees:

- (1) Fee for an initial application: \$200.00 and
- (2) Fee for a renewal application: \$200.00.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-12. Twenty-four hour notice

- (a) A permit holder shall notify the Department of the date, time, and area on which the management by use of aircraft will occur not less than twenty-four (24) hours prior to the activity. Area can be reported in a format to include legal description, global positioning system (GPS) coordinates, or GPS boundary files (shape files).
- (b) Twenty-four (24) hour notification shall be made by electronic means.
- (c) Twenty-four (24) hour notification shall include a confirmation by the permit holder that all the information contained in the aerial management permit application is current and correct or shall provide new information and documentation if necessary.
- (d) Twenty-four hour notification shall include the name and address of the pilot authorized to operate the aircraft under the permit.

(e) A single twenty-four (24) hour notification may describe up to seven (7) days upon which aerial management may occur.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 34 Ok Reg 545, eff 3-3-17 (emergency); Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18]

35:48-3-13. Quarterly reports

A permit holder shall file a quarterly report with the Department within thirty (30) days of each calendar quarter or on the termination of the permit, whichever occurs first, that includes the following information:

- (1) The name, address, and permit number of the permit holder;
- (2) The name and address of the pilot participating in the flights;
- (3) The number and description of the depredated animals managed under the permit;
- (4) The types of depredated animals authorized to be managed under the permit;
- (5) Dates and times of authorized flights; and
- (6) Any other information required by the Department.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18]

35:48-3-14. Prohibited activities

(a) A permit holder or pilot shall not:

- (1) Hunt, shoot, shoot at, kill, or attempt to kill any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;
- (2) Intentionally disturb, haze, or buzz any wildlife, domesticated animal, or livestock from an aircraft other than the animals authorized by the aerial management permit;
- (3) Take or attempt to take any depredated animal for any purpose other than is necessary for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops;
- (4) Manage depredated animals from an unsuitable aircraft;
- (5) Manage depredated animals from an unmanned aerial vehicle;
- (6) Manage depredated animals with a firearm using pellet ammunition or soft point or hollow ammunition;
- (7) Manage depredated animals using incendiary ammunition or any similar hunting method that poses a substantial wildfire risk;
- (8) Manage depredated animals during hazardous weather, low visibility or nighttime hours;
- (9) Manage depredated animals during designated deer hunting seasons as designated by Department of Agriculture, Food, and Forestry and Department of Wildlife Conservation; or
- (10) Herd animals from one property to another without the permission of all landowners or lessees affected.

(b) A permit holder may engage in trial flights allowing pilots and passengers to practice the aerial management activity, however, trial

flights shall be subject to all the restrictions and notification requirements as an actual aerial management flight.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 34 Ok Reg 545, eff 3-3-17 (emergency); Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18 ; Amended at 36 Ok Reg 1378, eff 9-14-19]

35:48-3-15. Complaints

(a) On receipt of a valid written complaint alleging a violation of the statutes or rules relating to the management of depreddating animals by use of aircraft, an authorized agent of the Department, a local law enforcement authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the statutes or rules relating to the management of depreddating animals by use of aircraft.

(c) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-16. Inspections

The Department may inspect any daily flight logs and other relevant books and records of the permit holder or pilot engaged in management by use of aircraft.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-17. Grounds for denial, suspension, or revocation of a license

The Department may deny, suspend, cancel, revoke, or refuse reissuance of a license of any applicant or permit who:

- (1) Violates statutes or rules relating to the management of depreddating animals by use of aircraft;
- (2) Engages in fraud or deceit in obtaining or renewing a permit;
- (3) Engages in management by use of aircraft in this state without a valid permit;
- (4) Aids or abets another person in engaging in management by use of aircraft without a valid permit.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-18. Sanctions for misconduct

If the Department determines that a permit holder has violated the statutes relating to the management of depreddating animals by use of aircraft, Department rules, or other applicable legal authorities, the Department may:

- (1) Refer the matter to the appropriate law enforcement authority for criminal prosecution; and/or

- (2) Deny, suspend, cancel, revoke, or refuse reissuance of a permit after an administrative hearing conducted in a manner consistent with OAC 35:1-9-1 et seq.;
- (3) Assess an administrative penalty of not more than Ten Thousand Dollars (\$10,000) per day of noncompliance; and
- (4) Bring an action for injunctive relief in District Court.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14]

35:48-3-19. Pilot and aircraft requirements

Pilots and aircraft shall comply with all appropriate federal laws and regulations when engaging in the management of depredating animals by use of aircraft.

[Source: Added at 31 Ok Reg 143, eff 11-1-13 (emergency); Added at 31 Ok Reg 744, eff 9-12-14 ; Amended at 35 Ok Reg 203, eff 11-16-17 (emergency); Amended at 35 Ok Reg 779, eff 9-14-18]

CHAPTER 50. AQUACULTURE

Editor's Note: *Effective 11-1-02, the authority for licensing of aquaculture facilities was transferred from the Department of Wildlife Conservation to the Oklahoma Department of Agriculture, Food, and Forestry. For additional information, see Laws 2002, c. 295.*

[**Authority:** 2 O. S., §§ 2-4, 6-311 et seq.]

[**Source:** Codified 6-12-03]

SUBCHAPTER 1. PRIVATE COMMERCIAL PRODUCTION

PART 1. GENERAL PROVISIONS

35:50-1-1. Purpose

These rules shall regulate the private commercial production of fish, frogs, or other aquatic species within the state of Oklahoma. The rules provide requirements for licensing aquaculture facilities to operate within the state of Oklahoma. These rules specifically prohibit the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

[**Source:** Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-2. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless context clearly indicates otherwise.

"Aquaculture operation" means a private commercial producer an aquatic species for intrastate or interstate commerce.

"Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrates, amphibians, or reptiles. Aquatic species do not include species that are sold for retail aquarium use.

"BMP" means Best Management Practices.

"Fingerling" means a sexually immature fish for a majority of fish species.

"Operator" means the individual who has responsibility for the day to day operations of the facility. The operator may also be the owner.

"Owner" means the individual who has financial responsibility for the aquaculture operation and whose name appears as owner on all legal documents.

[**Source:** Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03 ; Amended at 33 Ok Reg 1183, eff 9-11-16]

PART 3. LICENSING, REPORTING, AND RECORDS

35:50-1-30. Initial licensing requirements

Every aquaculture operation shall obtain a license and aquaculture hauling unit decals from the Department.

- (1) A duplicate license may be issued at the cost of ten dollars (\$10.00) each.
- (2) Licenses are non-transferable.
- (3) A license may be revoked pursuant to Title 2, Section 6-316 F1-4.
- (4) No license shall be issued prior to an initial inspection by the Department.
- (5) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:
 - (A) No less than two (2) hauler decals.
 - (i) Each decal shall be replaced every eight (8) years and shall be available from the Department.
 - (ii) Each decal shall cost eight dollars (\$8.00).
 - (B) No less than two (2) date decals indicating the appropriate year.
 - (i) The date decals shall each be applied to a separate hauler decal.
 - (ii) Each date decal shall cost five dollars (\$5.00) and shall be available from the Department.
- (6) Prior to issuance of a license, an applicant shall provide the following to the Department:
 - (A) A license fee of ten dollars (\$10.00).
 - (B) Proof of identification including the applicant's age or date of birth and current residency information.
 - (C) A list of all persons with control or decision-making authority at the aquaculture operation, including but not limited to owners, operators, and managers.
 - (D) If applicable, copies of any permits directly related to the aquaculture operation issued by the Oklahoma Department of Environmental Quality (including a copy of any BMP submitted to the Oklahoma Department of Environmental Quality), the Oklahoma Water Resources Board, the Army Corps of Engineers, the Oklahoma State Department of Health, and the Oklahoma Department of Wildlife Conservation.
 - (E) A map or aerial photograph showing the aquaculture operation including the facilities and property lines, and specifies the legal description of the property or Global Positioning System (GPS) coordinates.
 - (F) A catastrophic aquatic species die-off disposal plan that requires immediate notification to the Department and is approved by the Department for emergency purposes.

35:50-1-31. Renewal licensing requirements

Each aquaculture operation shall renew the license and aquaculture vehicle decals by January 15th of each year.

- (1) The renewal application shall include the following:
 - (A) A renewal fee of ten dollars (\$10.00). Any renewal fee received after the annual renewal deadline of January 15th shall be assessed a late fee of ten dollars (\$10.00).
 - (B) A copy of any modifications, changes, updates, or renewals to the items listed in (6)(B) through (F) of Rule 35:50-1-30.
 - (C) An annual report.
- (2) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:
 - (A) No less than two (2) hauler decals.
 - (i) Each decal shall be replaced every eight (8) years and shall be available from the Department.
 - (ii) Each decal shall cost eight dollars (\$8.00).
 - (B) No less than two (2) date decals indicating the appropriate year.
 - (i) The date decals shall each be applied to a separate hauler decal.
 - (ii) Each date decal shall cost five dollars (\$5.00) and shall be available from the Department.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03 ; Amended at 34 Ok Reg 839, eff 9-11-17 ; Amended at 40 Ok Reg 1532, eff 9-11-23]

35:50-1-32. Inspections

The Department shall conduct at least one inspection every two (2) years of each licensed aquaculture operation.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-33. Annual report

Each licensed aquaculture operation shall file an annual report by January 15th of each year.

- (1) The aquaculture operation license shall not be issued or renewed without submission of the annual report.
- (2) The annual report shall provide the following information for the 12 month period starting January 1st through December 31st of the same calendar year:
 - (A) A list of each type of aquatic species propagated and bought for resale.
 - (B) The total number or pounds of each aquatic species sold, further identified as fingerlings or adults.
 - (C) The total number of pond acres in production.
 - (D) The method of aquatic species propagation; i.e. ponds, cages, raceway, or other methods.

(E) A list of each water supply source including but not limited to runoff, well water, stream water, or other sources.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-34. Facility expansion requirements

(a) The licensee shall notify the Department on a form provided by the Department of any expansion of an aquaculture operation.

(b) Every licensed aquaculture facility expanding after November 1, 2002, shall provide the following:

(1) A copy of the construction permit issued by the Army Corps of Engineers, if applicable.

(2) A copy of any modifications, changes, updates, or renewals of any permit issued by the Oklahoma Department of Environmental Quality, the operation's BMP, or the catastrophic aquatic species die-off disposal plan.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-35. Record keeping

The following records shall be retained on site for three (3) years:

(1) Copies of each annual report.

(2) Copies of all construction permits issued by the Army Corps of Engineers, if applicable.

(3) All Aquaculture Operation Licenses issued by the Department.

(4) Copies of all permits and BMP's required by the Oklahoma Department of Environmental Quality, if applicable.

(5) Copies of inspection reports.

(6) Any laboratory analysis sheets pertaining to the health of the aquatic species.

(7) Any and all documents relating to diseased aquatic species and disposal of carcasses.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-36. Emergency notifications

Licensed aquaculture operations shall immediately notify the Department of any abnormal disease outbreak, any catastrophic aquatic species die-off, or any unusual aquatic species mortalities.

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

35:50-1-37. Technical services [REVOKED]

[Source: Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03 ; Revoked at 33 Ok Reg 1183, eff 9-11-16]

35:50-1-38. Complaints

The Department shall investigate all complaints made against an aquaculture operation to determine compliance with the statutes and rules of the state of Oklahoma. Any violations of state law may result in fines, revocation of the Aquaculture Operations License, or criminal prosecution.

[**Source:** Added at 20 Ok Reg 153, eff 11-1-02 (emergency); Added at 20 Ok Reg 1540, eff 6-12-03]

CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

Editor's Note: *Effective 7-1-12, the Board of Commercial Pet Breeders was abolished and the Commercial Pet Breeders Act of 2012 was enacted at 4 O.S., §§ 30.1 et seq., to be "administered by the State Board of Agriculture" [4 O.S., § 30.1 and Laws 2012, c. 302]. The Board of Agriculture promulgated emergency rules in this Chapter effective 6-21-12, which were superseded by permanent rules effective 7-1-13. For the text of rules that were effective before the Board of Commercial Pet Breeders was abolished, see OAC 532 in the 2011 Edition of the OAC.*

[**Authority:** 2 O.S., §§ 2-4; 4 O.S., § 30 et seq.; OKLA.CONST. Art VI § 31]

[**Source:** Codified 7-1-13]

SUBCHAPTER 1. LICENSING

35:55-1-1. Purpose

These rules regulate commercial pet breeders and animal shelters pursuant to Section 30.1 et seq. of Title 4 of the Oklahoma Statutes known as the Commercial Pet Breeders and Animal Shelter Licensing Act. The administration of the Commercial Pet Breeders and Animal Shelter Licensing Act shall be performed by the Oklahoma Department of Agriculture, Food, and Forestry and the State Board of Agriculture. Administration of the Act shall conform to the Administrative Procedures Act, Title 2 of the Oklahoma Statutes, and procedural rules found in Title 35 of the Oklahoma Administrative Code as promulgated by the State Board of Agriculture.

[**Source:** Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Adult animal" means an intact female animal twelve (12) months of age or older;

"Animal" means a dog or a cat;

"Animal shelter" means any facility that maintains ten or more dogs and cats operated by or under contract for the state, a county, a municipal corporation, or any other political subdivision of the state for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs or cats; and any facility that maintains ten or more dogs and cats operated, owned, or maintained by any person or organization for such purpose, but not including any facility that does not house or harbor dogs or cats on the premises and only operates through a system of fostering in private homes;

"Animal shelter license" means a license issued to any applicant that qualifies and is licensed as an animal shelter operator;

"Animal shelter operator" means any individual, entity, association, trust, or corporation that operates a facility that maintains ten or more dogs and cats for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs or cats, but not including any facility that does not house or harbor dogs or cats on the premises and only operates through a system of fostering in private homes;

"Board" means the State Board of Agriculture;

"Cat" means a mammal that is wholly or partly of the species *Felis domesticus*;

"Commercial breeder" and **"commercial pet breeder"** mean any individual, entity, association, trust, or corporation who possesses eleven or more intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Commercial pet breeder license" means a license issued to any person that qualifies and is licensed as a commercial pet breeder;

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

"Dog" means a mammal that is wholly or partly of the species *Canis familiaris*;

"Facility" means the premises used by one or more animal shelter operators or commercial breeders. The term includes all buildings, property, and confinement areas in a single location used to conduct the animal shelter commercial breeding business;

"Family member" means the parent, spouse, child, or sibling of an individual;

"Humane society" means a nonprofit organization exempt from federal income taxation as an organization described in Section 501(c)(3), Internal Revenue Code of 1986, as amended, that has as a principal purpose the prevention of animal cruelty or the sheltering of, caring for, and providing of homes for lost, stray, and abandoned animals;

"Inspector" means an authorized agent of the Board or any other qualified person authorized by the Department to conduct inspections;

"Intact female animal" means a female animal, nine (9) months of age or older, and not spayed;

"Kitten" means a cat less than twelve (12) months old;

"Local animal control authority" means a municipal or county animal control office with authority over the premises in which an animal is kept or, in an area that does not have an animal control office, the county sheriff;

"Marketing" means the solicitation for sale of animals;

"Necessary veterinary care" means at least one personal visual inspection annually by a veterinarian licensed in Oklahoma, guidance from a licensed veterinarian on preventative care, an exercise plan is approved by a licensed veterinarian, normal and prudent attention to skin, coat, and nails, prompt treatment of any illness or injury, and where needed, humane euthanasia by a licensed veterinarian using lawful techniques deemed acceptable by the American Veterinary Medical Association. If, during the course of a routine personal visual inspection, the licensed veterinarian detects signs of disease or injury in an animal,

then a physical examination of the animal shall be conducted by the licensed veterinarian.

"Noncommercial breeder" means any individual, entity, association, trust, or corporation who possesses ten or fewer intact female animals for the use of breeding or dealing in animals for direct or indirect sale or for exchange in return for consideration;

"Owner" means a person who owns ten percent (10%) or more of the ownership interest in a commercial pet breeder facility, directly or indirectly, in an entity.

"Person" means any individual, association, trust, corporation, limited liability company, partnership, or other entity;

"Pet" means a dog or cat, including a puppy or kitten;

"Possess" means to have custody of or control over, but shall not include custody or control over an animal by a person who is not a resident of Oklahoma and is in Oklahoma for the sole purpose of attending a competitive show or event held in Oklahoma;

"Puppy" means a dog less than twelve (12) months old;

"Recipient" means a purchaser, adopter, or any other person who receives a pet.

"Veterinarian" means a person currently licensed to practice veterinary medicine in Oklahoma.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-3. License required

(a) A person shall not act, offer to act, or hold himself or herself out as a commercial pet breeder or operate an animal shelter in this state unless the person holds a license obtained pursuant to the Commercial Pet Breeders and Animal Shelter Licensing Act for each facility that the person owns or operates in this state.

(b) It shall be unlawful for any person to act as a commercial pet breeder licensee, or to hold himself or herself out as such, unless the person shall have been licensed to do so under the Commercial Pet Breeders and Animal Shelter Licensing Act.

(c) The commercial pet breeder license shall begin on July 1 and expire on June 30 of each calendar year; each commercial pet breeder shall renew the license prior to June 30 of each calendar year.

(d) The animal shelter license shall begin on January 1 and expire on December 31 of each calendar year; each animal shelter operator shall renew the license prior to December 31 of each calendar year.

(e) Any person who intends to become a commercial pet breeder or intends to operate an animal shelter shall obtain a license prior to operation.

(f) Any person who does not meet the definition of a commercial pet breeder or animal shelter but chooses to voluntarily obtain a license shall comply with all rules as though they do meet the definition of a commercial pet breeder or animal shelter.

(g) Each commercial pet breeder and animal shelter shall have a fixed place of business with a specific physical location and shall conform to local zoning ordinances authorizing the occupancy of a commercial pet

breeder or animal shelter at that location.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 32 Ok Reg 1534, eff 9-11-15]

35:55-1-4. License application

(a) The Oklahoma Department of Agriculture, Food, and Forestry shall issue a license to each commercial pet breeder or animal shelter operator who:

- (1) Meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act;
- (2) Applies to the Department on the form prescribed by the Department; and
- (3) Pays the required license and prelicense inspection fees.

(b) A commercial pet breeder or animal shelter operator shall obtain a separate license for each facility where breeding or shelter animals are kept. A separate license shall be issued for each facility of the commercial pet breeder or animal shelter operator, whether or not the facility has the requisite number of animals at each facility.

(c) If a single facility is shared by more than one person, each person shall be required to become individually licensed if the requisite number of animals are housed at the facility, unless all animals are combined on a single license.

(d) An applicant applying for a license shall submit a completed license application signed under oath containing the following information:

- (1) Name, mailing address, telephone number, and email address, if any, of the applicant;
- (2) Name, if different, physical address and telephone number of the facility, including driving directions from the nearest municipality;
- (3) Name, address, telephone number, and email address, if any, of the operator of the facility, if different from the owner;
- (4) If the applicant is an entity, association, trust, or corporation, the name and address of each member with an ownership of ten percent (10%) or more in the facility;
- (5) If the applicant is an entity, the name, address, telephone number, and email address, if any, of the Oklahoma registered agent;
- (6) The sales tax identification number of the commercial pet breeder, unless the commercial pet breeder only sells animals wholesale or the tax exempt identification number of the animal shelter;
- (7) A list of the date, subject matter, and court or government entity for any individual required to be disclosed by this section for each of the following:
 - (A) Has ever been convicted of, or entered a plea of guilty or no contest, to any felony, or any crime involving animal cruelty, abuse, or neglect;
 - (B) Has ever received any adverse ruling from any court of competent jurisdiction or any administrative tribunal

involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence in a matter related to commercial pet breeding, or cruelty to animals;

(C) Has ever had an application for a license, registration, certificate, or endorsement related to pet breeding or animal care denied or rejected by any state or federal licensing authority in Oklahoma or another state;

(D) Whether any commercial pet breeder licensing board, kennel regulation board, animal shelter licensing authority, or similar agency or organization has ever revoked or suspended a license, registration, certificate, or endorsement;

(E) Has ever surrendered a license, registration, certificate, or endorsement to the Board or any state or federal commercial pet breeder or kennel licensing authority or animal shelter licensing authority, whether located in Oklahoma or elsewhere;

(8) Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;

(9) A notarized statement swearing that the information submitted on the application is true and correct;

(10) State the total number of animals owned by the commercial pet breeder on the date of application and identify how many of the animals are intact female animals, males, and juveniles or state the capacity of the animal shelter;

(11) The date of commencement of operations at that location; and

(12) Any other relevant information required by the Board.

(e) If an applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant shall submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.

(f) An application may be withdrawn from consideration by the applicant at any time.

(g) Any commercial pet breeder or animal shelter operator whose application is denied due to failure to submit information in a timely manner or who withdrew the application may submit a new application and appropriate fees.

(h) Any license commercial pet breeder that intends to expand their operation's capacity to a higher level of license category shall submit notice to the Department within ten (10) days of the expansion.

(1) The notification shall be submitted on the application form prescribed by the Department.

(2) Payment shall be included with the application to pay the increase in license category due to the expansion and a prelicense inspection fee.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-1-5. Grounds for denial, suspension, or revocation of a license

The Oklahoma Department of Agriculture, Food, and Forestry may deny a license, or renewal thereof, or revoke a license of any applicant, commercial pet breeder, or animal shelter operator who fails to meet the standards of animal care or fails to follow the application process adopted by the Department, or if the person:

- (1) Is convicted of a crime involving animal cruelty;
- (2) Is convicted of violating the Commercial Pet Breeders and Animal Shelter Licensing Act more than three times;
- (3) Is convicted of a type of felony specified by subparagraphs a through pp of paragraph 2 of Section 571 of Title 57 of the Oklahoma Statutes;
- (4) Is convicted of a felony punishable under the Oklahoma Racketeer-Influenced and Corrupt Organizations Act; or
- (5) Has held or applied for a United States Department of Agriculture license pursuant to the Animal Welfare Act and whose license was suspended or revoked, or whose application was refused due to the improper care of animals.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-6. Inspections

(a) The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.

(b) The Department shall arrange for an inspection at a facility prior to issuance of an initial license for that facility.

- (1) The Department shall not issue a license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act.
- (2) Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.
- (3) Failure of the owner or operator to be present for the arranged inspection without twenty-four (24) notice shall result in a second prelicense inspection fee to be prior to arranging another inspection.

(c) The Department, at least annually, shall arrange for the inspection of each licensed facility. The inspection shall be conducted during normal business hours and the commercial pet breeder, animal shelter operator, or a representative shall be present during the inspection.

(d) The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder, animal shelter operator, or the representative.

(1) The inspection report shall include an itemized list of violations, if any, and may include recommendations for correction.

(2) A copy of the inspection report shall be sent to the commercial pet breeder or animal shelter operator who shall have thirty (30) calendar days to correct any deficiencies.

(3) Following the thirty (30) calendar days to correct deficiencies, the inspector may conduct an unannounced follow-up inspection during normal business hours, or may request documentation of corrections to the Department within fourteen (14) calendar days of the request.

(4) During the prelicense or expansion prelicense inspection, if observed enclosures do not meet the requested capacity, the license or expansion shall not be approved. Prior to scheduling a follow-up inspection, and additional prelicense fee shall be due.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-1-7. Changes of information

A commercial pet breeder or animal shelter operator shall notify the Oklahoma Department of Agriculture, Food, and Forestry in writing not later than ten (10) days after the date any change occurs in the address, name, management, substantial control, or ownership of the business or operation.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-8. Fees

The Board shall charge the following nonrefundable license or renewal fees:

- (1) One (1) to ten (10) intact female animals: \$125.00
- (2) Eleven (11) to twenty (20) intact female animals: \$200.00
- (3) Twenty one (21) to fifty (50) intact female animals: \$350.00
- (4) Fifty one (51) to one hundred (100) intact female animals: \$500.00
- (5) One hundred and one (101) or more intact female animals: \$650.00
- (6) Animal shelter: \$200.00
- (7) If the commercial pet breeder or animal shelter operator submits a renewal application and fee after the expiration date, the commercial pet breeder or animal shelter operator shall pay double the renewal fee as a late charge and the filing of a late application shall be deemed a violation.
- (8) Prelicense inspection fee for new or expanding: \$100.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-1-9. Annual report [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-1-10. Renewals

(a) A commercial pet breeder or animal shelter operator who is not in violation of the Commercial Pet Breeders and Animal Shelter Licensing Act or any rule adopted under the Commercial Pet Breeders and Animal Shelter Licensing Act may renew the license by:

- (1) Submitting a renewal application to the Oklahoma Department of Agriculture, Food, and Forestry on the form prescribed by the Department containing any changes to the information provided in the initial application.
- (2) Complying with any other renewal requirements adopted by the Department; and
- (3) Paying the required fee.

(b) Any person who fails to apply for a renewal in a manner prescribed by the Department, and whose license has expired, may not engage in activities that require a license until the license has been renewed.

(c) Not later than sixty (60) days before the expiration of the license, the Department shall send written notice of the impending license expiration to the commercial pet breeder or animal shelter operator at the last known address according to the records of the Department.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-11. Complaints

(a) On receipt of a valid written complaint alleging a violation of the Commercial Pet Breeders and Animal Shelter Licensing Act, an authorized agent of the State Board of Agriculture, a local animal control authority, or an inspector designated by the Department may investigate the alleged violation.

(b) Any person may submit a written and signed complaint to the Department alleging a violation of the Commercial Pet Breeders and Animal Shelter Licensing Act or rules promulgated thereunder.

(c) Upon receipt of a written complaint, the Department notifies the person filing the complaint in writing of its receipt and status within five (5) working days.

(d) The party whom the complaint is filed against, if known, is notified within five (5) working days.

(e) The resolution of a complaint is the completion of the appropriate administrative, jurisdictional, and legal remedies appropriate to the circumstances.

(f) The complainant and commercial pet breeder or animal shelter operator shall be notified in writing within seven (7) working days after the resolution of the complaint.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-12. Display of license

A commercial pet breeder or animal shelter operator shall:

- (1) Prominently display a copy of the license at the facility;
- (2) Include the license number in each advertisement for the sale or transfer of an animal by the commercial pet breeder or animal shelter operator; and
- (3) Include the license number in each contract for the sale or transfer of an animal.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-1-13. Exemption for training animals

(a) Intact female animals held solely for the purpose of training which are not bred shall be exempt from the licensing requirements of these rules.

(b) Any person who holds intact female animals solely for the purpose of training shall provide documentation to the Department showing the training of the animal. Documentation may include, but not be limited to the following:

- (1) Sales records showing the animals were trained and sold as trained;
- (2) Training records and certifications provided with the animals or provided to purchasers of the trained animals; and
- (3) Any other documentation that substantiates that the animals were held solely for training purposes and were not bred.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

SUBCHAPTER 3. STANDARDS OF CARE

35:55-3-1. Incorporation by reference

(a) The following provisions of Title 9 of the Code of Federal Regulations and the requirements contained therein pertaining to Animal Welfare, Part 3 (Standards) are, unless otherwise specified, adopted and incorporated by reference in their entirety:

- (1) 3.1 (housing facilities, general)
- (2) 3.2 (indoor housing facilities)
- (3) 3.3 (sheltered housing facilities)
- (4) 3.4 (outdoor housing facilities)
- (5) 3.5 (mobile or traveling housing facilities)
- (6) 3.6 (primary enclosures), except for 3.6 (c)(1)(ii) and (c)(2)
- (7) 3.7 (compatible grouping)
- (8) 3.8 (exercise for dogs)
- (9) 3.9 (feeding)
- (10) 3.11 (cleaning, sanitization, housekeeping, and pest control)
- (11) 3.12 (employees)
- (12) 3.13 (consignments to carriers and intermediate handlers)
- (13) 3.14 (primary enclosures used to transport live dogs and cats)
- (14) 3.15 (primary conveyances [motor vehicle, rail, air, and marine])
- (15) 3.16 (food and water requirements)
- (16) 3.17 (care in transit)
- (17) 3.18 (terminal facilities)
- (18) 3.19 (handling)

(b) When reference is made to a federal entity, it shall mean the state counterpart.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 32 Ok Reg 1534, eff 9-11-15 ; Amended at 33 Ok Reg 1184, eff 9-11-16 ; Amended at 34 Ok Reg 840, eff 9-11-17 ; Amended at 35 Ok Reg 782, eff 9-14-18 ; Amended at 36 Ok Reg 1378, eff 9-14-19 ; Amended at 37 Ok Reg 984, eff 9-14-20 ; Amended at 38 Ok Reg 1679, eff 9-11-21 ; Amended at 39 Ok Reg 810, eff 9-12-22 ; Amended at 40 Ok Reg 1533, eff 9-11-23]

35:55-3-2. Watering

(a) If potable water is not continually available to the animals, it shall be offered to the animals as often as necessary to ensure their health and wellbeing, but not less than three (3) times daily for at least one (1) hour each time, unless restricted by the attending veterinarian.

(b) For animals housed in non-temperature controlled environments, potable water shall be continuously available when temperatures reach ninety-five (95) degrees Fahrenheit, unless restricted by the attending veterinarian.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-3-3. Compatibility

(a) A commercial pet breeder or animal shelter operator shall place only compatible animals in the same primary enclosure and at a minimum shall not place the following animals together in the same primary enclosure:

- (1) Breeding female animals in heat in the same enclosure at the same time with sexually mature male animal, except for breeding purposes;
- (2) Breeding females and their litters in the same enclosure at the same time with other adult dogs;
- (3) Puppies or kittens under four (4) months of age with other adult animals other than their dam or foster dam, unless maintained in breeding colonies; or
- (4) Animals exhibiting vicious or an aggressive disposition with any other animal.

(b) A commercial pet breeder or animal shelter operator shall not place more than six (6) adult animals simultaneously in any enclosure.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-4. Primary enclosures

(a) Any commercial pet breeder or animal shelter operator that applies for a license no later than September 1, 2013, shall not be required to meet any cage size requirement more stringent than United States Department of Agriculture standards. Regardless of license application date, any commercial pet breeder or animal shelter operator replacing or adding cages after September 1, 2013, shall meet the cage size requirements as of the date of replacement or addition.

(b) After September 1, 2013, any new facility or any replacement or additions of cages for a previously licensed facility shall meet the following primary enclosure size requirements for dogs.

- (1) Commercial pet breeders and animal shelter operators may house up to six (6) dogs removed from their whelping box in the same primary enclosure, but the primary enclosure shall provide at least the following amount of square feet of floor space:
 - (A) For an enclosure containing one dog, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 2. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $2 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)]/144$.
 - (B) For an enclosure containing two dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 3. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $3 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)]/144$.

(C) For an enclosure containing three dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 4. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $4 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$.

(D) For an enclosure containing four dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 5. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $5 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$.

(E) For an enclosure containing five dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 6. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $6 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$.

(F) For an enclosure containing six dogs, the mathematical square of the sum of the length of the dog in inches (measured from the tip of its nose to the base of its tail) plus 6 inches; divided the product by 144, times 7. Mathematically, the space the commercial pet breeder shall provide for the first dog equals $7 \times [(length\ of\ dog\ in\ inches + 6) \times (length\ of\ dog\ in\ inches + 6)/144]$.

(2) Commercial pet breeders or animal shelter operators shall provide each female dog with nursing puppies the amount of floor space calculated pursuant to (b)(1) of this section plus sufficient floor space to allow for a whelping box and the litter, based on the intact female's breed and behavioral characteristics, and in accordance with generally accepted husbandry practices as determined by the attending veterinarian but at a minimum large enough to allow the mother to stretch out on her side, permitting all the puppies to nurse.

(A) If the additional amount of floor space for each nursing puppy is less than five percent (5%) of the minimum requirement for the female dog, the commercial pet breeder or animal shelter operator shall obtain approval by the attending veterinarian.

(B) As soon as the puppies are able to leave the whelping box, the calculations for additional dogs as specified in (b) (1) of this section shall apply.

(C) Any whelping box or enclosure shall provide for enough room to allow the female dog to separate from the pups in the box or enclosure.

(D) Minimum floor space required by this section shall be calculated excluding floor space taken up of by food pans, water pans, and litter boxes.

(E) Nothing in this section shall require separation of litter mates.

(c) If the floor of a primary enclosure is composed of wire, the commercial pet breeder or animal shelter operator shall provide temporary or permanent covers or inserts creating a solid surface within the primary enclosure equal to twenty five percent (25%) of the minimum size of the enclosure, as calculated under (b)(1) of this section.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-5. Waste management

(a) A commercial pet breeder or animal shelter operator shall remove all animals from enclosures during cleaning and sanitization and shall hold them in an enclosure satisfying the minimum space requirements in this subchapter or in an exercise area.

(b) A commercial pet breeder or animal shelter operator shall comply with all waste disposal practices required by the Oklahoma Department of Agriculture, Food, and Forestry and other applicable municipal ordinances, state statutes, and federal codes for disposal of pet waste.

(c) A commercial pet breeder or animal shelter operator shall conduct regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids, wastes, and dead pets, in a manner that minimizes contamination and disease risks.

(d) A commercial pet breeder or animal shelter operator shall equip housing facilities and primary enclosures with disposal facilities and drainage systems that rapidly eliminate pet waste and allow animals to remain clean and dry at all times.

(1) A commercial pet breeder or animal shelter operator shall properly construct, install, and maintain all drains.

(2) If a commercial pet breeder or animal shelter operator uses a closed drainage system, the drains shall be equipped with traps and prevent the backflow of gases and the backup of sewage onto the floor or any surface that animals might touch.

(3) If a commercial pet breeder or animal shelter operator uses sump or settlement ponds, or other similar systems for drainage and animal waste disposal, the system shall be located far enough away from the pet area of the housing facility holding pets to prevent odors, diseases, pests, and vermin infestation.

(e) Trash containers in housing facilities and in food storage and food preparation areas shall be leak proof and have tightly fitted lids on them at all times.

(f) A commercial pet breeder or animal shelter operator shall ensure carcass disposal meets all state and local requirements.

(g) A commercial pet breeder or animal shelter operator shall not keep or allow to be kept animal carcasses or animal waste in food storage or preparation areas, food freezers, food refrigerators, or areas that animals may touch or reach.

(h) Cleaning and treatment of all waste including water shall be done in such a manner that there shall be no adverse effect on any animal in the area.

(i) A commercial pet breeder or animal shelter operator may stack primary enclosures containing animals over other primary enclosures containing animals so long as there is a barrier or drainage system between the upper and lower enclosures that prevents all waste and debris from falling into the lower enclosures.

(j) A commercial pet breeder or animal shelter operator shall maintain ammonia levels at all locations in housing facilities at a level that does not interfere with human or animal health or wellbeing.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-6. Veterinary care

(a) A commercial pet breeder or animal shelter operator shall provide animals with necessary veterinary care to ensure animals' wellbeing.

(b) A commercial pet breeder or animal shelter operator shall provide a sick or injured animal appropriate veterinary care within twenty four (24) hours, unless on weekends, in which case a commercial pet breeder or animal shelter operator shall provide a sick or injured animal veterinary care on the next business day.

(c) A commercial pet breeder or animal shelter operator shall follow the directives of the veterinary doctor for care of the animal, including that a commercial pet breeder or animal shelter operator shall provide to the animals any medications prescribed by the veterinarian and additional food, water, exercise, or any other direction of the veterinarian.

(d) Rabies vaccine may only be administered by or under the supervision of an Oklahoma licensed veterinarian and shall be administered in compliance with rules of the Oklahoma Department of Health.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-6.1. Canine brucellosis

(a) A commercial pet breeder shall have a biosecurity plan in place for the detection and eradication of canine brucellosis. The biosecurity plan shall be developed in consultation with the commercial pet breeder's attending veterinarian and shall include, but not be limited to, the following:

(1) New breeding stock shall be initially quarantined prior to release into the general facility population.

(2) New breeding stock shall test negative on two consecutive brucellosis tests conducted four to six weeks apart prior to exiting the initial quarantine.

(b) If canine brucellosis is confirmed in any dog on the premises of a commercial pet breeder, the premises shall be quarantined by the State Veterinarian. The parameters of the quarantine shall be determined by the State Veterinarian in consultation with the commercial pet breeder's attending veterinarian, and may include, but not be limited to, the following:

(1) Any dog that is confirmed positive for canine brucellosis shall be humanely euthanized.

- (2) All dogs six weeks of age or older shall test negative on two consecutive brucellosis tests conducted four to six weeks apart.
- (3) Records of each sampling event, including identification of each euthanized dog, identification of each animal tested, laboratory sample results from an approved laboratory, and any other pertinent information, shall be provided to the Department upon request.
- (4) Each dog six weeks of age or older that is tested for canine brucellosis shall be identified with an electronic form of identification.
- (5) The State Veterinarian may, upon consultation with the commercial pet breeder's attending veterinarian, may modify the quarantine to allow for testing of fewer animals and quarantine of only a portion of the premises.

[Source: Added at 33 Ok Reg 1184, eff 9-11-16 ; Amended at 36 Ok Reg 1378, eff 9-14-19]

35:55-3-7. Grooming

- (a) Commercial pet breeders or animal shelter operators shall provide grooming to all dogs, including brushing, tangle removal, nail trims, and hair trimming, and bathing frequently enough to maintain good skin health and odor control, and no signs of long standing dirt and grime.
- (b) The dog's coat shall not be matted to the point that it impedes normal bodily functions, including but not limited to breeding, seeing, eating, drinking, standing, sitting, laying, and waste excretion.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-8. Quarantine

In order to minimize the dissemination of disease, commercial pet breeders or animal shelter operators shall separate from other animals those animals that are under quarantine or receiving treatment for a suspected communicable disease.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-9. Animal identification

- (a) A commercial pet breeder shall identify each animal two (2) months of age or older and each pet prior to sale or transfer of ownership, if before two (2) months of age, with a form of permanent identification, including but not limited to an implanted permanent pet identification number microchip, tattoo, or other similar mechanism, mark, or devise approved by the Department.
- (b) A commercial pet breeder may tattoo in accordance with a registering organization or Federal USDA licensing guidelines.
- (c) A commercial pet breeder shall insure that the permanent identification that is placed on the animal matches their sales and breeding records.

(d) A commercial pet breeder that chooses to tattoo, but is not tattooing according to any national guidelines or regulations from a registration agency or other licensing agency shall tattoo in accordance with the following method: OK"License Number"-"Pet Tracking Number".

Example: OK123-12.

(e) A commercial pet breeder may request an exception from permanent identification from the Department. The Department shall review the request and determine on a case by case basis if the commercial pet breeder may use another form of identification on the animals.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-10. Euthanasia procedures

Animals owned or housed by a commercial pet breeder or animal shelter operator may only be euthanized by a veterinarian licensed in Oklahoma or an Oklahoma Registered Veterinary Technician under the order of an Oklahoma licensed Veterinarian following the Oklahoma Veterinary Practice Act pursuant to accepted euthanasia protocol.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-3-11. Breeding

(a) A commercial pet breeder shall not breed a female animal unless she is healthy and has reached her second estrus cycle.

(b) An animal shelter operator shall not breed pets under any circumstances.

(c) An animal shelter operator shall comply with the provisions of the Dog and Cat Sterilization Act at Title 4 of the Oklahoma Statutes, section 4-499 et seq. and the provisions are hereby incorporated by reference.

[Source: Added at 31 Ok Reg 749, eff 9-12-14]

SUBCHAPTER 5. TRANSPORTATION [REVOKED]

35:55-5-1. General transportation requirements [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 31 Ok Reg 749, eff 9-12-14]

35:55-5-2. General travel requirements [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 31 Ok Reg 749, eff 9-12-14]

35:55-5-3. Consignments to carriers [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 31 Ok Reg 749, eff 9-12-14]

35:55-5-4. Primary enclosures used to transport live pets [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 31 Ok Reg 749, eff 9-12-14]

35:55-5-5. Food and water during transportation [REVOKED]

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Revoked at 31 Ok Reg 749, eff 9-12-14]

SUBCHAPTER 7. RECORDKEEPING AND SALES

35:55-7-1. Records

(a) A commercial pet breeder or animal shelter operator shall maintain a separate health record for each animal in the facility documenting the healthcare of the animal that shall include:

- (1) The breed, sex, color, and identifying marks of the animal; and
- (2) A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder or animal shelter operator.

(b) The commercial pet breeder or animal shelter operator shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) Commercial pet breeders or animal shelter operators shall create, maintain, and keep records of operations consisting of a list describing all pets that have been born, housed or kept in the facility at any time, and stating the disposition of all pets listed. In describing the disposition of any pet, the commercial pet breeder and animal shelter operator shall record the following:

- (1) If the animal was sold or otherwise transferred, the manner and location of the sale, transfer, or other disposition, and the recipient's name and address, if the commercial pet breeder or animal shelter operator shipped or otherwise transported the animal to the recipient;
- (2) That the pet is still on the premises, or
- (3) If the pet died while at the facility, the date of death and cause of the death.

(d) Commercial pet breeders and animal shelter operators shall keep the following records of all sales or disposition of pets owned or has housed at the licensed facility:

- (1) A description of each sold or disposed pet; and
- (2) With respect to each pet list the date of transaction, the location of the transaction, whether the commercial pet breeder or animal shelter operator transported or shipped the pet for delivery, including the location of the recipient, the age of the pet,

and the name and address of the recipient.

(e) Commercial pet breeders and animal shelter operators shall keep at their facility records of all pets purchased or otherwise acquired at any time during the preceding two (2) years, which record shall include the date of the transaction, the name and address of the seller, and a description of each pet received, including the age of each pet at the time it was acquired by the commercial pet breeder or animal shelter operator.

(f) Commercial pet breeders and animal shelter operators, if applicable, shall keep at their facility breeding records, which, for each adult female animal shall list the dates she was bred, the dates on which her puppies or kittens were born, and the number of puppies or kittens in each litter.

(g) For each pet, commercial pet breeders and animal shelter operators shall keep copies of documents evidencing the information that shall be contained in the pet breeder's records, including veterinary reports, sales receipts, and shipping invoices.

(h) A commercial pet breeder and animal shelter operator shall maintain all records for a minimum of two (2) years.

(i) Sanitization records shall include the date of sanitization and the method used.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14 ; Amended at 41 Ok Reg, Number 22, effective 8-11-24]

35:55-7-2. Pet health history provided to recipient; sale of unhealthy pets

(a) At the time of the sale or other transfer, commercial pet breeders and animal shelter operators shall provide to recipients of pets a written disclosure of all treatments involving immunizations, medications, anthelmintics (dewormers) and all other treatments for parasites, administered to the purchased pet thirty (30) days prior to the sale. The disclosure shall describe the pet and describe the product used, the dosage, and the medication or product administered to the animal.

(b) Commercial pet breeders and animal shelter operators shall not knowingly sell a diseased or sick pet without fully disclosing the pet's condition to the recipient.

(c) At the time they offer a pet for sale, commercial pet breeders shall disclose to the purchaser whether the offered animal has any known diseases, defects, or health conditions.

(1) If, within ten (10) days after receipt of a pet by the purchaser, a veterinarian states, in writing, that the pet has an undisclosed health problem or disease which existed in the animal at the time of delivery, or if within one year after receipt of the animal by the purchaser, a veterinarian states, in writing, that the pet has died or is ill due to an undisclosed hereditary or congenital defect, or is not of the breed type represented, the pet shall be considered to have been unfit for sale at the time of sale.

(A) If the animal died, the purchaser shall provide necropsy and lab results to the commercial pet breeder.

(B) If the animal is ill, the commercial pet breeder may request an additional veterinary examination by a veterinarian in the vicinity of the purchaser selected by the commercial pet breeder.

(C) If the animal is not of the breed type represented, the purchaser shall provide DNA analysis verifying the determination.

(2) A purchaser shall be entitled to return to the commercial pet breeder a pet that was unfit for sale and obtain full reimbursement of the purchase price, except that if the unfit pet has died within one year of delivery the purchaser may obtain a reimbursement of the purchase price without returning the pet upon providing proof that the pet has died.

(3) For purposes of cost reimbursement under this subsection, purchaser shall also include the consumer who ultimately purchases the pet if the commercial pet breeder sells the pet to an intermediary or retailer if consumer obtains a veterinary statement indicating that the pet had pre-existing health problems, as described in subsection (c), and if the commercial pet breeder failed to disclose the pre-existing health problems to the intermediary that purchased the pet from the commercial pet breeder. In such case, recovery would be limited to the price paid to the commercial pet breeder. Commercial pet breeders shall not be liable to consumers if they disclose pre-existing health problems to the intermediary or retailer that ultimately sells the pet to the consumer.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-7-3. Sales invoice or statement

At the time of the sale, the commercial pet breeder or animal shelter operator shall provide the recipient a sales statement in which the commercial pet breeder or animal shelter operator shall describe the pet, list the date of the transaction, the sales price, the name of the recipient, the location of the sale and the method of delivery, the commercial pet breeder's license number where applicable, and list any health problem disclosures made to the recipient. If the commercial pet breeder or animal health operator transports or otherwise ships the pet to the recipient, the commercial pet breeder or animal shelter operator shall list the recipient's address on the sales statement.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-7-4. Location of sales

(a) Commercial pet breeders or animal shelter operators shall not market or sell or offer to sell any pets in retail parking lots or public parking lots, from the side of any road, or from any location that the person does not own if the person has not obtained the proper permit or credentials to sell from the location.

(b) Notwithstanding the foregoing, if while located at a location from which the commercial pet breeder or animal shelter operator may legally sell pets the commercial pet breeder or animal shelter operator communicates with a recipient, through phone, fax, email, or other form of communication, and agrees to sell and deliver a pet to a recipient, the commercial pet breeder or animal shelter operator may deliver the sold pet to the recipient to any location upon which the commercial pet breeder or animal shelter operator and recipient agree.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-7-5. Prohibition on the purchase, sale, or transportation of stolen pets

No commercial pet breeder or animal shelter operator shall buy, sell, or transport any stolen pet.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

35:55-7-6. Other requirements or acts prohibited

Commercial pet breeders or animal shelter operators shall comply with all applicable state and federal laws, municipal ordinances, and reasonable requirements of the Board.

[Source: Added at 29 Ok Reg 1747, eff 6-21-12 (emergency) - see Editor's Note at beginning of Chapter; Added at 30 Ok Reg 829, eff 7-1-13; Amended at 31 Ok Reg 749, eff 9-12-14]

SUBCHAPTER 9. SEIZURE AND IMPOUNDMENT

35:55-9-1. Seizure and impoundment

(a) The Department may seize and impound any animal in the possession, custody, or care of any person who violates the Commercial Pet Breeders and Animal Shelter Licensing Act if there is reason to believe that the health, safety, or welfare of the animal is endangered or the animal is believed to be in imminent danger pursuant to paragraph G of Section 30.13 of Title 4 of the Oklahoma Statutes.

(b) When the Department believes there is reason to seize and impound an animal under the Commercial Pet Breeders and Animal Shelter Licensing Act, the Department may obtain a court order through the district court in the county where the animal is located, take custody of the animal, and impound the animal in a safe and appropriate location, which may include shelter in place.

(1) The Department shall have seven (7) days from the date of seizure of the animal to petition the district court in the county where the animal was seized for a hearing regarding the health, safety and welfare of the animal and the costs of seizure and impound. The pet breeder or animal shelter shall be given notice of the hearing.

(2) The court may assess the costs of seizure and impound of an animal against the pet breeder or animal shelter who was in possession, custody, or care of the animal. Reasonable costs may include, but are not limited to, transportation, medical care, boarding of the animal during its impoundment, euthanasia if determined necessary by a licensed veterinarian of this state, and any cost associated with adoption of the animal.

(c) If the court finds the Department did not have a reasonable belief that the health, safety, or welfare of an animal was endangered or was in imminent danger, the court may order immediate return of the animal to the pet breeder or animal shelter and the Department may be ordered to bear the costs of seizure and impound and return of the animal.

(d) Nothing in this section shall prevent the euthanasia of a seized animal or the provision of any therapy or procedure to a seized animal as determined necessary by a licensed veterinarian of this state.

[Source: Added at 40 Ok Reg 1533, eff 9-11-23]

