

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 30. CONSUMER PROTECTION

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.

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.

"Bale certification inspection" means inspection of forage or mulch which has been baled prior to inspection.

"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.

"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.

"Noxious weeds" means those weeds, including any weed seed or propagative plant parts, 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;

"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 to identify noxious weeds pursuant to standards promulgated by the Board;

"Regional noxious weed free" means hay inspected for, and determined to be free of weeds designated as noxious by states participating in a 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; and

"Weed free hay certification" means hay inspected and certified as free of noxious weeds pursuant to standards adopted by the Board.

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) Sufficient tags will be provided to the applicant 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.

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.

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) 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.

(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 feet (150') into the field.

(e) Storage areas shall also be inspected and shall meet the same standards as field certifications.

(f) 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.

35:30-36-6. Baled hay certification inspection

(a) Hay that is already in bales may be inspected to determine if the bales are certified as weed free.

(b) Bales inspected shall be identified by the name of the applicant.

(c) When performing baled hay certification inspections, the qualified inspector shall inspect the following:

(1) The baled hay storage areas and surrounding areas;

(2) Any ditches, fence rows, roads, easements, rights-of-way, and buffer zones, as applicable, surrounding the baled hay storage area.

(3) Sample hay bales shall be broken apart and examined by the authorized inspector for any sign of noxious weeds.

(d) Baled hay that is identified with the presence of noxious weeds shall not be certified weed free.

(e) An inspection report shall be completed by the authorized inspector identifying the weeds present in the baled hay.

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.

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.

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.

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.

(b) The Department may post a list of all certified producers and commodities on its website.

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 attend a training session give by the Department 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

Department.

(f) A qualified inspector shall not inspect fields or bales in which the qualified inspector has ownership or a financial interest.

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.

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).

35:30-36-14. Regional noxious weed free certification

(a) The Department may certify hay as a noxious weed free pursuant to the North American Weed List certification standards. The Department shall follow the above standards during inspections, except where the North American Weed List standards are more strenuous.

(b) The North American Noxious Weed List shall be utilized for the regional noxious weed free certification and is available on the Department website.